

CRICKET AUSTRALIA ANTI-HARASSMENT POLICY

1 Introduction

- (a) Harassment is a form of discrimination. Harassment is prohibited by certain Commonwealth legislation including the Human Rights and Equal Opportunity Act and the Sex Discrimination Act as well as by particular legislation in effect in the states and territories of the Commonwealth of Australia.
- (b) Harassment is offensive, degrading and threatening. In its most serious forms harassment can be an offence under state and federal criminal law.
- (c) Cricket Australia is committed to providing a sport environment free of harassment on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status and/or disability.
- (d) Harassment as defined in this Policy is prohibited.
- (e) Cricket Australia encourages the reporting of all incidents of harassment, regardless of who the offender may be.
- (f) This Policy applies to all persons subject to the Cricket Australia Code of Behaviour.
- (g) This Policy applies if a person is subjected to harassment which occurs during the course of any Cricket Australia business, activities or events.

2 Definitions

- 2.1 Harassment takes many forms but can generally be defined as comment, conduct, or gesture directed toward an individual or group of individuals which is insulting, intimidating, humiliating, malicious, degrading or offensive.
- 2.2 For the purposes of this policy a person sexually harasses another person (the '*person harassed*') if the person:
 - (i) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
 - (ii) engages in other unwelcome conduct of a sexual nature in relation to the person harassed, including without limitation when:
 - (I) submission to or rejection of this conduct is used as the basis for making decisions which affect the person harassed;
 - (II) such conduct has the purpose or effect of interfering with the person harassed's athletic performance; or

- (III) such conduct creates an intimidating, hostile or offensive environment for the person harassed,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated. In paragraph (ii), 'conduct of a sexual nature' includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

- 2.3 Types of behaviour which constitute harassment include but are not limited to:
 - (i) written, verbal or physical abuse, threats or intimidation;
 - (ii) the display of visual material which is offensive or which one ought to know is offensive;
 - (iii) unwelcome remarks jokes, comments, innuendo or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
 - (iv) leering or other suggestive or obscene comments or behaviour;
 - (v) condescending, paternalistic or patronising behaviour which undermines self esteem, diminishes performance or adversely affects working conditions;
 - (vi) practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
 - (vii) unwanted physical contact including touching, petting, pinching or kissing;
 - (viii) unwelcome sexual flirtations, advance requests or invitations; or
 - (ix) physical or sexual assault.
- 2.4 Sexual harassment most commonly occurs in the form of behaviour by males towards females; however, sexual harassment can also occur between males, between females or as behaviour by females towards males and is proscribed by this policy.
- 2.5 For the purposes of this policy retaliation against a person:
 - (i) for having filed a complaint under this policy;
 - (ii) for having participated in any action under this policy; or

- (ii) for having been associated with a person who filed a complaint or participated in any procedure under this policy,

will be treated as harassment and will not be tolerated.

3 Responsibility and Procedure

3.1 Cricket Australia in conjunction with the Code of Behaviour Commission shall be responsible for the implementation of this policy, including:

- (i) investigating formal complaints of harassment in a sensitive, responsible and timely manner and imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender (as set out in clauses 4 - # of this policy);
- (ii) providing advice to persons who experience harassment;
- (iii) informing both complainants and respondents of the procedures contained in this policy and of their rights under the law; and
- (iv) regularly reviewing the terms of this policy to ensure that they adequately meet Cricket Australia's legal obligations and public policy objectives.

3.2 In the event that a Code of Behaviour Commissioner is involved in a complaint which is made under this Policy, an alternative Commissioner shall be appointed for the purposes of dealing with the complaint.

4. Lodging a Complaint

Where a person ("the Complainant") believes he, she or another person has been subjected to harassment under this policy, the Complainant may lodge a complaint with the Chief Executive Officer of Cricket Australia.

5. What Must a Complaint Contain

A Complaint must:

- (a) be in writing;
- (b) outline the circumstances of the allegations made; and
- (c) if possible, be accompanied by supporting documentation.

6. Procedure Following Receipt of Complaint

6.1 The Chief Executive Officer of Cricket Australia shall upon receipt of a complaint:

- (i) inform the person alleged to have contravened the policy (“the Respondent”) of the complaint and provide that person with both a copy of the complaint and an opportunity to respond in writing; and
- (ii) conduct an investigation into the allegations made in the complaint, which investigation may include, but is not limited to:
 - (I) compiling a list of witnesses;
 - (II) obtaining a written statement from any available witness; and
 - (III) obtaining other evidence.

6.2 When the investigation is completed, the Chief Executive Officer of Cricket Australia may:

- (i) dismiss the complaint if he or she believes it is frivolous or vexatious; or
- (ii) refer the complaint direct to a Cricket Australia Code of Behaviour Commissioner (*the Commission*) to determine the complaint pursuant to Clause 7 of this policy.

6.3 The Chief Executive Officer may delegate to an officer of Cricket Australia any of his or her powers or functions under this Policy.

7. The Cricket Australia Commissioner

7.1 Following referral of a complaint under clause 6.2(ii) of this policy, the Commission will:

- (i) be sent all material arising from the investigation from the Chief Executive Officer; and
- (ii) promptly arrange a hearing after considering the availability of the persons affected.

7.2 Hearings conducted by the Commission into complaints will not be open to members of the public.

7.3 All persons required at the hearing shall attend punctually at the time and place designated.

7.4 The Commission will hear and decide the complaint in a manner to be determined by it.

8. Penalty

- 8.1 If the Commission finds the complaint or any part of it proven it may apply any one or more of the penalties set out in Rule 2 of Section 5 of the Cricket Australia Code of Behaviour.
- 8.2 The Commission will advise his decision and provide a written statement of the findings to the Respondent, the person who initiated the report and the Chief Executive Officer of Cricket Australia as soon as practicable following the hearing.

9. Appeal

Any person found to be in breach of this policy has the right of appeal against the decision of the Commission. The appeal will be conducted in accordance with the appeals process set out in Section 6 of the Cricket Australia Code of Behaviour.