
COMMUNITY CRICKET
MEMBER PROTECTION BY-LAW
EFFECTIVE FROM 1 JANUARY 2004*
AMENDED 16 JUNE 2008

CRICKET VICTORIA



* Note Part 1, Clause 3

PREFACE

Cricket is a game that owes much of its unique appeal to the fact that it is to be played not only within its Laws, but also within the spirit of the game. Any action seen as abusing this spirit causes injury to the game itself.

Embracing the spirit of the game means participating, either as a player or as an official, fairly and exhibiting respect for other players and officials and the game's traditional values such as graciousness in defeat and humility in victory.

Cricket has a distinct place in Australian society and history. As an element in Australia's national identity, cricket plays a significant role. This status brings with it particular responsibilities for players and officials to conform to high standards of fair play and personal behaviour on and off the field.

This By-law is intended to protect and enshrine such important qualities and standards so that all may continue to enjoy the game of cricket now and in the future.

The Community Cricket Peak Bodies are committed to the health, safety and well-being of all its members and participants and is dedicated to providing a safe environment for participating in the sport of cricket throughout Victoria.

The positive virtues of involvement in the sport of cricket are well heralded and evidenced by the thousands of young Victorians participating in cricket activities and competition across the State each week. The value of regular exercise gained through cricket to an individual's personal health and fitness should not be underestimated, nor the role that social interaction provided through the cricket club environment can play in developing a young person's self esteem and involvement in their local community.

However, harassment in sport can serve to drastically undermine these intrinsic benefits of involvement in cricket. The unfortunate reality is that cricket, as a sport, is not immune from acts of discrimination, harassment and abuse, rather to the contrary, sport provides an environment which in many cases lends itself to conduct which is not only inappropriate, but also unlawful.

Depending on the nature of the case, instances of harassment or abuse in sport can have devastating effects for not only the individuals involved, but also the sporting organisation itself. Apart from exposing the club or association to potential legal liability, officials may be faced with low morale, an unpleasant environment, higher turnover of volunteers and the prospect of long-term damage to the organisation's image and reputation.

The adoption of the Community Cricket Member Protection By-Law reflects the dedication of community cricket organisations to serving and protecting its members and participants throughout all levels of the sport. However, the adoption of the Member Protection By-Law itself is just the first step in affording our members and participants the protection they deserve. The successful implementation and enforcement of this Member Protection By-Law requires the cooperation and commitment of community cricket associations and participants at all levels.

The following Member Protection By-Law conveys a strong message to all community cricket associations and participants, and prospective members and participants, that as a sport, we are committed to ensuring the safety of our most valuable asset well into the future.

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PART I – INTRODUCTION

This Part sets out the purpose of this By-law, who it applies to, when it commences, what words mean and who has responsibilities under the By-law.

1. WHAT IS THE PURPOSE OF THIS BY-LAW?

- 1.1 The purpose of this By-law is to provide guidelines for the protection of the health, safety and well being of all persons who participate in the activities of Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations.
- 1.2 This By-law sets out the procedures to be followed in dealing with Harassment and other forms of inappropriate behaviour in an effective, appropriate and timely manner. The By-law provides a procedure for informal and formal resolution of complaints and a procedure for the appeal of such complaints.

2. WHO DOES THIS BY-LAW APPLY TO?

- 2.1 This By-law applies to the following organisations and individuals:
- (a) persons appointed or elected to boards of directors, executives and/or committees (including sub-committees) of Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations;
 - (b) employees of Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations;
 - (c) officials appointed or elected by Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations in relation to players and/or teams which represent such organisations including team management personnel such as managers, physiotherapists etc;
 - (d) coaches (including assistant coaches) who:
 - (i) are appointed and/or employed by Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations (whether paid or unpaid); or
 - (ii) have an agreement (whether or not in writing) with a Community Cricket Peak Body, Region or Affiliated Clubs and Associations to coach at a facility owned or managed by such organisation;
 - (e) umpires and other officials involved in the regulation of the sport appointed by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations;
 - (f) players who enter any competition, carnival, activity or events (including camps, training sessions etc) which are held or sanctioned by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations;
 - (g) Community Cricket Peak Bodies;
 - (h) Regions;
 - (i) Affiliated Clubs and Associations;

- (j) any other person or organisation, who or which is, a member of, or affiliated to, a Community Cricket Peak Body, Region or Affiliated Clubs and Associations; and
- (k) any other person or organisation (for example, a parent/guardian, spectator or sponsor) who or which agrees, in writing or otherwise (whether on a ticket, entry form etc) to be bound by this By-law.

3. WHAT IS THE STATUS OF THIS BY-LAW?

- 3.1 This By-law is issued by the Board of each Community Cricket Peak Body under their respective constitutions.
- 3.2 Except to the extent outlined in clause 3.3, this By-law comes into force on **1 January 2004**.
- 3.2A Regions and Affiliated Clubs and Associations shall not be required to comply with clauses 6 and 7 (screening and Prohibited Person Declaration) of this By-law until **1 July 2004** except where otherwise required by law.
- 3.3 The reference to Complaints in Part III shall only include Complaints which arise out of incident(s) occurring on or after **1 January 2004**, **unless** the Complaint is of Harassment in which case it must arise out of an incident(s) which occurred on or after **1 July 2003**.
- 3.4 This By-law may be changed from time to time by the respective Community Cricket Peak Bodies in accordance with their respective constitutions, provided that such changes must be notified to each other Community Cricket Peak Body.

4. WHAT DO WORDS IN THIS BY-LAW MEAN?

In this By-law, words appearing with a capital shall be have the meaning set out in Attachment A and Attachment A will form part of this By-law.

5. RESPONSIBILITIES UNDER THE BY-LAW

- 5.1 Community Cricket Peak Bodies and Regions must:
 - (a) adopt and comply with this By-law (by adopting this By-law, each Community Cricket Peak Body, Region and the respective members of such Community Cricket Peak Body or Region, will be bound by the terms of this By-law);
 - (b) recognise and enforce any penalty imposed under this By-law;
 - (c) publish, distribute and promote this By-law (and any amendments made to it from time to time) to its members and make this By-law available for inspection, or provide a copy;
 - (d) make such amendments to its constitution, rules or by laws in order for this By-law to be enforceable;
 - (e) use any forms, contracts and clauses recommended by Cricket Victoria in order to give effect to this By-law in such documents as contracts, entry forms and player registration forms, as recommended by Cricket Victoria;

- (f) appoint at least one Member Protection Officer and one Mediator to fulfil the functions set out in clauses 13, 14 and 15, and to publish and display the names and contact details of such persons to its members;
- (g) appoint a Hearings Convenor to fulfil the functions set out in clause 16 and to publish and display the name of such person to its members; and
- (h) establish a Hearings Tribunal in accordance with clause 16, to fulfil the functions set out in clauses 16 and 17.

5.2 Affiliated Clubs and Associations must:

- (a) adopt and comply with this By-law (by adopting this By-law, all Affiliated Clubs and Associations, and the respective members of such Affiliated Clubs and Associations, will be bound by the terms of this By-law);
- (b) recognise and enforce any penalty imposed under this By-law;
- (c) publish, distribute and promote this By-law (and any amendments made to it from time to time) to their members and make this By-law available for inspection, or provide a copy;
- (d) make such amendments to their constitution, rules or by laws in order for this By-law to be enforceable, as required by a Community Cricket Peak Body;
- (e) use any forms, contracts and clauses prescribed by a Community Cricket Peak Body in order to give effect to this By-law in such documents as contracts, entry forms and player registration forms, as directed by a Community Cricket Peak Body.

5.2A Notwithstanding clauses 5.1 and 5.2 above, Affiliated Clubs and Associations are not required to establish procedures for dealing with Complaints and hearings under this By-law. Such Complaints and hearings are to be dealt with at the Community Cricket Peak Body and Region level.

5.3 All other organisations and persons (for example, administrators, employees, officials, coaches, players, parents) to which this By-law applies, must:

- (a) comply with this By-law;
- (b) comply with the Codes of Behaviour (as applicable).

5.4 The Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations are responsible for taking all reasonable steps to ensure implementation, compliance and enforcement of this By-law.

PART II – PREVENTATIVE ACTION

This Part sets out the requirement for mandatory screening and declarations for certain roles.

6. WHAT IS SCREENING?

6.1 One of the ways Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations seek to protect the health, safety and well being of people participating in their activities is to screen people for certain roles.

6.2 Subject to clause 3.2A, screening (as set out in clause 6.4) is **mandatory** for Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations for Preferred Applicants and Existing Appointees in the following types of roles:

- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations for **reward**;
- (b) volunteer personnel appointed or seeking appointment by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations, who will or are likely to travel away with teams of players **under** 18 years of age; and
- (c) persons appointed or seeking appointment by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations to a role in which that person is likely to have individual and unsupervised contact with players **under** 18 years of age.

6.3 Screening is **highly recommended**, but not mandatory, for Preferred Applicants and Existing Appointees in the following types of roles:

- (a) volunteer coaches appointed or seeking appointment by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations who will or are likely to travel away with teams of players **over** 18 years of age; and
- (b) persons appointed or seeking appointment by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations to a role in which that person is likely to have contact with players **under** 18 years of age but where such contact is supervised at all times by another adult.

Screening under this By-law is **not** a replacement for any similar requirement prescribed by law. If Victorian working with children legislation sets an equivalent or higher standard of screening to that set under this By-law, the requirement to screen under this By-law need not be followed as it would be superseded by any similar requirement prescribed by law. See below and **Attachment G** for further details about the Working with Children Check.

6.4 For the purposes of this By-law, screening shall mean:

- (a) Checking the Preferred Applicant's referees; and
- (b) Interviewing the Preferred Applicant as to their suitability for the proposed role and their suitability for involvement with children under 18 years of age.

6.5 Checking the Preferred Applicant's referees includes making verbal or written inquiries of their nominated referees (preferably at least 2) as to the Preferred

Applicant's suitability for the proposed role and their suitability for involvement with children under 18 years of age.

6.6 In addition to the screening procedures above, Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations will have to conduct a Working with Children Check of Preferred Applicants and Existing Appointees where the person will have direct and unsupervised contact with people under the age of 18 years. The purpose of a Working with Children Check is to see whether the person has any previous relevant criminal convictions and is suitable to work with children.

6.7 The Working with Children Check:

- (a) is valid for five years (unless revoked) and generally will not need to be updated or amended within this term if a person changes employer or organisation;
- (b) only considers some offences, not all on a person's criminal record (although it also considers any relevant findings made against a person by a professional disciplinary body);
- (c) is monitored in an ongoing manner by the Department of Justice;
- (d) is free for volunteers.

See **Attachment G** for further details about the Working with Children Check.

6.8 Individuals working with children that are required to undergo a Working with Children Check will still be required to undergo the Working with Children Check even if they have previously completed a Police Check.

6.9 If a Preferred Applicant or Existing Appointee is not willing to agree to a screening, Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations shall:

- (a) in the case of a Preferred Applicant, not appoint the person to any of the roles;
- (b) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 6.2 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**

6.10 All information obtained during the course of screening (including any Working with Children Check) must be kept confidential to the persons or committee within the Community Cricket Peak Body, Region or Affiliated Club and Association who has been delegated the task of investigating and/or making the appointment for the role. Information collected during screening about a Preferred Applicant who is not appointed to the role must be returned to the Preferred Applicant and not retained unless the Preferred Applicant agrees.

6.11 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the President or the CEO (or in their absence their Nominee) of the organisation that appointed them if they are convicted of a criminal offence.

7. PROHIBITED PERSON DECLARATION

7.1 In addition to screening, Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations require a Prohibited Person Declaration of all Preferred Applicants and Existing Appointees appointed to a role set out in clause 7.3.

7.2 In this By-law, the following words shall mean:

“Prohibited Person” means a person who has been convicted of a Serious Sex Offence.

“Prohibited Person Declaration” means a declaration in relation to Serious Sex Offences as set out in Attachment F.

“Serious Sex Offence” means an offence involving sexual activity or acts of indecency including but not limited to:

- (a) Rape
- (b) Indecent assault
- (c) Sexual assault
- (d) Assault with intent to have sexual intercourse
- (e) Incest
- (f) Sexual penetration of child under the age of 16
- (g) Indecent act with child under the age of 16
- (h) Sexual relationship with child under the age of 16
- (i) Sexual offences against people with impaired mental functioning
- (j) Abduction and detention
- (k) Procuring sexual penetration by threats or fraud
- (l) Procuring sexual penetration of child under the age of 16
- (m) Bestiality
- (n) Soliciting acts of sexual penetration or indecent acts
- (o) Promoting or engaging in acts of child prostitution
- (p) Obtaining benefits from child prostitution
- (q) Possession of child pornography
- (r) Publishing child pornography and indecent articles.

7.3 Subject to clause 3.2A, it is mandatory for Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations to obtain a Prohibited Person Declaration from Preferred Applicants and Existing Appointees in the following types of roles:

- (a) coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations for **reward**;
- (b) volunteer personnel appointed or seeking appointment by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations, who will or are likely to travel away with teams of players **under** 18 years of age; and
- (c) persons appointed or seeking appointment by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations to a role in which that person is likely to have individual and unsupervised contact with players **under** 18 years of age.

7.4 It is a breach of this By-law for a Prohibited Person to work or seek work in the roles set out in clause 7.3.

7.5 It is also a breach of this By-law for Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations to:

- (a) in the case of a Preferred Applicant, appoint the Preferred Applicant in any of the roles set out in clause 7.3 without first obtaining a Prohibited Person Declaration or to appoint a Preferred Applicant who is a Prohibited Person;
- (b) in the case of an Existing Appointee, to continue to appoint a Prohibited Person in the roles set out in clause 7.3.

7.6 The Prohibited Person Declaration must be obtained, in the case of:

- (a) a Preferred Applicant, prior to the appointment;
- (b) an Existing Appointee:
 - (i) in the case of Community Cricket Peak Bodies by **31 June 2004**;
 - (ii) in the case of Regions and Affiliated Clubs and Associations, **31 June 2005**.

7.7 If the Prohibited Person Declaration is not provided in accordance with clause 7.6, or the Prohibited Person Declaration reveals that the person is a Prohibited Person, Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations must:

- (a) in the case of a Preferred Applicant, not appoint the person to any of the roles set out in clause 7.3;
- (b) in the case of an Existing Appointee, steps must be taken to transfer the person to another role which is not set out in clause 7.3 or if no such alternatives exist, to end the appointment of the person. **Note: legal advice should be sought before the process of termination begins.**

7.8 All information in the Prohibited Person Declaration must be kept confidential to the persons or committee within the Community Cricket Peak Body, Region or Affiliated Club and Association who has been delegated the task of requesting and reviewing the Prohibited Person Declaration.

- 7.9 Successful Preferred Applicants or Existing Appointees must immediately advise, in writing, the President or the CEO (or in their absence their Nominee) of the organisation that appointed them, upon becoming a Prohibited Person.
- 7.10 Obtaining a Prohibited Person Declaration under this By-law is **not** a replacement for any similar requirement prescribed by law. If State legislation sets an equivalent or higher standard to that set under this By-law the requirement to obtain a Prohibited Person Declaration under this By-law need not be followed as it would be superseded by any similar requirement prescribed by law.

PART III – BREACHES

This Part outlines what constitutes a breach of this By-law.

8. WHAT IS HARASSMENT?

8.1 Harassment is any behaviour by a person or organisation to whom this By-law applies which is offensive, abusive, belittling or threatening and which is directed at a person or a group of people because of a particular characteristic of that person or group of people. The behaviour must be unwelcome and the sort of behaviour a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated. Whether or not the behaviour is Harassment is to be determined from the point of view of the person receiving the Harassment.

8.2 Harassment includes:

- (a) Sexual Harassment (clauses 8.3 to 8.6);
- (b) Racial Harassment (clauses 8.7 and 8.8);
- (c) Sexuality Harassment (clauses 8.9 to 8.11);
- (d) Disability Harassment (clauses 8.12 and 8.13);
- (e) Abuse (clauses 8.14 to 8.16);
- (f) Vilification (clauses 8.17 and 8.18); and
- (g) Discrimination (clause 9).

8.3 Sexual Harassment includes:

- (a) an unwelcome sexual advance; or
- (b) an unwelcome request for sexual favours; or
- (c) unwelcome conduct of a sexual nature (including a statement, orally or in writing, of a sexual nature),

in circumstances where a reasonable person would have anticipated that the person being harassed would be offended, humiliated or intimidated.

8.4 Sexual Harassment is often, but need not be, behaviour which either:

- (a) involves blackmail, in that the harassment is accompanied by a direct or implied threat, promise or benefit. For example, a coach who implies that a player's selection to a team is dependent on compliance with a sexual proposition; or
- (b) creates a hostile or sexually permeated environment, in that the harassment consists of crude remarks, jokes, the display of offensive material or makes the environment uncomfortable.

8.5 Examples of Sexual Harassment may include:

- (a) Uninvited touching, kissing, embracing, massaging;
- (b) Staring, leering, ogling;
- (c) Smutty jokes and comments;
- (d) Persistent or intrusive questions about people's private lives;
- (e) Repeated invitations to go out, especially after prior refusal;
- (f) The use of promises or threats to coerce someone into sexual activity;
- (g) The display of sexually explicit material eg internet use, computer screen savers, calendars, posters, sms text phone messages;
- (h) Getting undressed in front of others of the opposite sex;
- (i) Invading the privacy of others while showering or toileting;
- (j) Photographing others while undressing, showering or toileting.

8.6 Sexual Harassment may be a criminal offence, for example indecent assault, rape, sex with a minor, obscene telephone calls or letters. If you believe that a criminal offence may have been committed you should seek legal advice and/or notify the police.

8.7 Racial Harassment includes harassment based on colour, descent, national or ethnic origin, cultural activity and sometimes religion.

8.8 Examples of Racial Harassment include:

- (a) Jokes in which race is a significant characteristic of the "butt" of the joke;
- (b) Hostile comments about food eaten, dress or religious or cultural practices;
- (c) Inferences that all members of a racial or cultural group have particular negative characteristics, such as laziness, drunkenness, greed or sexual promiscuity;
- (d) Parodying accents.

8.9 Sexuality Harassment includes harassment based on actual or assumed homosexuality, heterosexuality, bi-sexuality or transsexuality.

8.10 Examples of Sexuality Harassment include:

- (a) Jokes in which sexuality is a significant characteristic of the "butt" of the joke;
- (b) Hostile comments about assumed sexual practices or social activities;
- (c) Hostility based on assumed AIDS or HIV infection.

- 8.11 In severe cases, such as threats or acts of violence against a homosexual person, Sexuality Harassment may be a criminal offence. If you believe that a criminal offence may have been committed you should seek legal advice and/or notify the police.
- 8.12 Disability Harassment includes harassment based on physical, mental or psychological disability or harassment of an associate or aide of a person with a disability.
- 8.13 Examples of Disability Harassment include:
- (a) Jokes where a particular disability is a significant characteristic of the “butt” of the joke;
 - (b) Interfering with a disability aid (eg hearing aid);
 - (c) Obstructing a person in a manner that compounds his or her disability (eg putting obstacles in the path of a person with a vision impairment);
 - (d) Mocking a person’s disability.
- 8.14 Abuse is a form of Harassment. It includes:
- (a) physical abuse (eg assault);
 - (b) emotional abuse, (eg blackmail, repeated requests or demands);
 - (c) neglect (eg failure to provide the basic physical and emotional necessities of life);
 - (d) abuse of power, which the harasser holds over the harassed.
- Examples of relationships in (d) that involve a power disparity include a coach-player, manager-player, employer-employee, doctor-patient. People in such positions of power need to be particularly wary not to exploit that power.
- 8.15 Examples of abusive behaviour include:
- (a) Bullying and humiliation of players by coaches, spectators, parents;
 - (b) Verbal abuse and insults directed by players or parents at opposing participants;
 - (c) Verbal and/or physical abuse of coaches by players, spectators, parents and umpires.
 - (d) Verbal and/or physical abuse of umpires by players, coaches and spectators.
- 8.16 Some forms of Abuse may constitute a criminal offence, for example assault and child abuse. If you believe that a criminal offence may have been committed you should seek legal advice and/or notify the police.
- 8.17 Vilification involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by public act. Public acts that may amount to vilification include any form of communication to the public and any conduct

observable by the public. Vilification is a breach of this By-law where it is based on any of the attributes or characteristics set out in clause 9.2.

- 8.18 Some forms of Vilification may be a criminal offence, for example where harm is threatened. If you believe that a criminal offence may have been committed you should seek legal advice and/or notify the police.
- 8.19 Community Cricket Peak Bodies take the view that intimate relationships between coaches and players, while not necessarily constituting Harassment, can have harmful effects on the individual player involved, on other players, and on the sport's public image. Such relationships may be perceived to be exploitative because there is usually a disparity between coaches and players in terms of authority, maturity, status and dependence. Given there is always a risk that the relative power of the coach has been a factor in the development of such relationships, they should be avoided by coaches at all levels. In the event that a player attempts to initiate an intimate relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such actions.

9. WHAT IS DISCRIMINATION?

- 9.1 Discrimination is treating or proposing to treat a person less favourably than someone else in certain areas of public life on the basis of an attribute or personal characteristic they have.
- 9.2 The applicable attributes or characteristics are:
- (a) Age;
 - (b) Disability;
 - (c) Marital status;
 - (d) Parental/Carer status;
 - (e) Physical features;
 - (f) Political belief/activity;
 - (g) Pregnancy;
 - (h) Race;
 - (i) Religious belief/activity;
 - (j) Sex or gender;
 - (k) Sexual orientation;
 - (l) Transgender orientation.
- 9.3 The areas in which discrimination under this By-law are not permitted are in:
- (a) employment (including unpaid employment) by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations;

- (b) the provision of goods and services by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations;
- (c) the selection or otherwise of any person for competition or a team (domestic or international) by or on behalf of Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations;
- (d) the entry or otherwise of any player or other person to any competition held or sanctioned by Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations; Community Cricket Peak Body(note the exception in clause 9.9);
- (e) obtaining or retaining membership (including the rights and privileges of membership) of Community Cricket Peak Bodies, Regions or Affiliated Clubs and Associations.

9.4 Not only is Discrimination unlawful, but Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations also consider it is wrong because it denies people a chance by judging them on the basis of stereotypes or assumptions about what they can or cannot achieve.

9.5 Discrimination includes direct discrimination and indirect discrimination. Direct Discrimination occurs if a person treats, or proposes to treat, someone with an attribute or characteristic (as outlined in clause 9.2) less favourably than the person treats or would treat, someone without that attribute or characteristic, in the same or similar circumstances. Indirect Discrimination occurs where a person imposes or intends to impose a requirement, condition or practice which on its face is not discriminatory, but has the effect of discriminating against a person(s) with a particular attribute.

9.6 Discrimination also includes victimisation. Victimisation is where a person is subject to, or is threatened to suffer, any detriment or unfair treatment, because that person has or intends to pursue their legal rights under anti-harassment legislation or under this By-law.

9.7 Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination, is also Discrimination.

9.8 Any behaviour or conduct that is discrimination under any Federal or State legislation is also Discrimination for the purposes of this By-law.

9.9 Discrimination under this By-law may be permitted if an exemption under the applicable Federal or State legislation applies.

10. CODES OF BEHAVIOUR

10.1 To protect the health, safety and well being of all the people participating in the activities of Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations, the Community Cricket Peak Bodies have developed and issued Codes of Behaviour. The Codes of Behaviour are set out in Attachment E and Attachment E will form part of this By-law.

11. WHAT IS A BREACH OF THIS BY-LAW?

- 11.1 It is a breach of this By-law for any person or organisation to whom this By-law applies to:
- (a) Fail to comply with any of the responsibilities set out in clauses 5.1, 5.2, 5.2A and 5.4;
 - (b) Appoint, or continue to appoint, a person to a role set out in clause 6.2:
 - (i) without first undertaking screening (see clause 6.4); and
 - (ii) where the Police Check reveals the person has committed an offence of the type set out in clause 6.6(a);
 - (c) Appoint, or continue to appoint, a person to a role set out in clause 7.3:
 - (i) without first obtaining a Prohibited Person Declaration; or
 - (ii) where the Prohibited Person Declaration reveals the person is a Prohibited Person;
 - (d) Where the person is a Prohibited Person, to work or seek work in the roles set out in clause 7.3;
 - (e) Engage in any form of Harassment;
 - (f) Make a frivolous, vexatious or malicious Complaint under this By-law;
 - (g) Fail to enforce a penalty imposed by a Hearings Tribunal under clause 17 or an appeal body under clause 18.
- 11.2 Any circumstances that may be a breach may be the subject of a Complaint and/or referred to a hearing under clause 16.
- 11.3 If there is any confusion or uncertainty arising as to whether a particular incident, complaint, act, omission or breach ought be dealt with in accordance with this By-law or alternatively, as a disciplinary matter under the disciplinary procedures of a Community Cricket Peak Body, Region or Affiliated Club and Association, the matter shall be referred to the Member Protection Officer of the relevant Community Cricket Peak Body for determination in the discretion of that person.

12. COMPLAINT RESOLUTION PROCEDURE

- 12.1 Any person or organisation may make a complaint about a person or organisation to whom this By-law applies, if they consider that person or organisation has, or may have, committed a breach of any part of this By-law (a "Complaint").
- 12.2 The Complaint always belongs to the complainant, who will also determine how their Complaint is dealt with and is not divulged to another person without the complainant's agreement, except in the case where a person is required by law to report the matter to governmental authorities (for example, in the case of suspected child abuse).

13. INFORMAL COMPLAINT RESOLUTION PROCEDURE

- 13.1 It is not necessary to provide a written Complaint under this clause.
- 13.2 A person or organisation that has a Complaint (“a complainant”) may seek to resolve the Complaint informally. The complainant **may** make an initial approach to:
- (a) a Member Protection Officer;
 - (b) the President or General Manager (or in their absence their Nominee) of a Community Cricket Peak Body or Region; or
 - (c) another appropriate person within the organisation (eg team manager, coach etc).
- 13.3 If the person approached is a Member Protection Officer, they may:
- (a) listen to and inform the complainant about their possible options; and/or
 - (b) act as a support person for the complainant, including supporting them through any mediation process undertaken to resolve the Complaint.
- 13.4 The Member Protection Officer will:
- (a) keep the matter confidential and only discuss it with those people whom the complainant has authorised them to speak to about the Complaint;
 - (b) inform the relevant governmental authority, if required by law.
- 13.5 If the complainant wishes to try and resolve the Complaint by mediation, the Member Protection Officer will arrange for a mediator (being the Mediator of the relevant Community Cricket Peak Body or Region or a relevant third person) to mediate the Complaint.
- 13.6 The Mediator shall:
- (a) notify the person complained about that an informal Complaint has been made and provide them with details of the Complaint;
 - (b) attempt to mediate a resolution between the complainant and the person complained about.
- 13.7 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been withdrawn and no further action in relation to that Complaint may be taken (except for that which is agreed) under this By-law.
- 13.8 If following the process in clause 13.6 the Complaint is not resolved informally, the complainant may make a formal Complaint under clause 14.
- 13.9 Nothing in this By-law prevents the complainant taking action under State or Federal legislation.

14. FORMAL COMPLAINT RESOLUTION PROCEDURE

- 14.1 In order for a Complaint to be dealt with in accordance with this clause, a Complaint must be made in writing (however it need not be called or referred to as a Complaint).

- 14.2 A written Complaint must be made to one of the following people:
- (a) a Member Protection Officer of the relevant Community Cricket Peak Body or Region. (A list of the Member Protection Officers must be made available to any person requesting such list and shall be displayed at the premises of Community Cricket Peak Bodies and Regions, or on their respective internet websites); or
 - (b) the President or General Manager (or in their absence their Nominee) of the relevant Community Cricket Peak Body or Region.
- 14.3 If a person listed in clause 14.2 receives a Complaint and that Complaint alleges Harassment, then they must do the following:
- (a) If such person is not a Member Protection Officer, they shall forward such Complaint as soon as possible to a Member Protection Officer at the Community Cricket Peak Body or Region, whichever organisation the person complained about holds the highest role.
 - (b) The Member Protection Officer must then ask the complainant whether s/he wishes them to:
 - (i) listen to and inform the complainant about their possible options; and/or
 - (ii) act as a support person for the complainant, including supporting them through any mediation process undertaken to resolve the Complaint; or
 - (iii) refer the Complaint to the Hearings Convenor at the relevant Community Cricket Peak Body or Region, whichever organisation the person complained about holds the highest role, for a hearing to be held under clause 16 (if mediation is not a relevant/appropriate option).
 - (c) Having determined the complainant's wishes in clause 14.3(b), the Member Protection Officer will:
 - (i) act in accordance with the complainant's direction in relation to the options set out in clause 14.3(b);
 - (ii) keep the matter confidential and only discuss it with those people whom the complainant has authorised them to speak to about the Complaint;
 - (iii) inform the relevant governmental authority, if required by law.
- 14.4 If the complainant wishes to try and resolve the Complaint by mediation, the Member Protection Officer shall immediately notify the Mediator of the relevant Community Cricket Peak Body or Region that a Complaint has been made and provide them with a copy of the written Complaint. If an attempt to mediate was made under clause 13.6, the Mediator under this clause cannot be the same person.
- 14.5 The Mediator shall:

- (a) notify the person complained about, in writing, that a Complaint has been made and provide them with a copy of the written Complaint;
 - (b) attempt to mediate a resolution between the complainant and the person complained about.
- 14.6 If an agreed resolution is reached between the complainant and the person complained about, the Complaint shall be deemed to have been withdrawn and no further action in relation to that Complaint may be taken (except for that which is agreed) under this By-law.
- 14.7 If following the process in clause 14.5 an agreed resolution is not reached and with the complainant's agreement, the Mediator shall refer the Complaint to the Hearings Convenor at the relevant Community Cricket Peak Body, or Region, whichever organisation the person complained about holds the highest role, for a hearing to be held under clause 16.
- 14.8 If a complainant withdraws the Complaint (which alleges Harassment), no further action in relation to that Complaint may be taken (unless required by law) under this By-law.
- 14.9 To avoid any doubt, any Complaint relating to:
- (a) a Community Cricket Peak Body shall be referred to the Member Protection Officer and/or Hearings Convenor of the Community Cricket Peak Body;
 - (b) a Region, shall be referred to the Member Protection Officer and/or Hearings Convenor of the Region. If a Region has not appointed at least one Member Protection Officer and a Hearings Convenor, the Complaint shall be referred to the Member Protection Officers and/or Hearings Convenor of the relevant Community Cricket Peak Body;
 - (c) an Affiliated Club and Association, shall be referred to the Member Protection Officer and/or Hearings Convenor of the Region of which the Affiliated Club and Association is a member. If a Region has not appointed at least one Member Protection Officer and a Hearings Convenor, the Complaint shall be referred to the Member Protection Officers and/or Hearings Convenor of the relevant Community Cricket Peak Body.
- 14.10 Nothing in this By-law prevents the complainant taking action under State or Federal legislation.

15. SUSPECTED BREACHES

- 15.1 If a Complaint is not received, but the President, General Manager (or in their absence their Nominee) or Member Protection Officer of a Community Cricket Peak Body or Region receives information (whether or not in writing) which gives them reasonable cause to suspect that a breach of this By-law may have been committed, then he or she shall use their reasonable endeavors to advise the person who is suspected of being subject to Harassment, of the complaints procedures under this By-law.
- 15.2 Clause 13.9 also applies to this clause.

- 15.3 Except as otherwise provided in this By-law, all information obtained by the President, the General Manager, their Nominee, the Member Protection Officer, the Mediator or the Hearings Convenor in accordance with this clause must be kept confidential.

16. HEARINGS

- 16.1 Where the Hearings Convenor at a Community Cricket Peak Body or Region receives a Complaint referred to it under clause 14.3(b)(iii) or 14.7 he or she shall follow the procedures set out in this clause.
- 16.2 Upon receipt of the Complaint or the information, the Hearings Convenor shall as soon as possible do the following:
- (a) Determine the composition of the Hearings Tribunal, as detailed in clause 16.3;
 - (b) Send to the person complained about:
 - (i) a notice setting out the alleged breach including details of when/where it is alleged to have occurred; and
 - (ii) a notice setting out the date, time and place for the hearing of the alleged breach which shall be as soon as reasonably practicable after receipt of the Complaint or information;
 - (iii) a copy of the Complaint or the information received if in writing; ("referred to as Notice of Alleged Breach");
 - (c) Send to the complainant(s) and the Chairperson of the Hearings Tribunal a copy of the Notice of Alleged Breach.
- 16.3 The Hearings Tribunal for each hearing shall be appointed by the Board of Directors (however described) of the relevant Community Cricket Peak Body or Region and shall comprise of the following persons:
- (a) a barrister or solicitor (who shall be the Chairperson) or, if after reasonable attempts have been made to obtain one without success, then a person with considerable previous experience in the legal aspects of a disciplinary/hearings tribunal;
 - (b) a person with a thorough knowledge of the sport;
 - (c) one other person of experience and skills suitable to the function of the Hearings Tribunal,
- provided that** such persons do not include:
- (i) a person who is a member of the Board of Directors (however described) of the organisation which appoints the Hearings Tribunal; or
 - (ii) a person who would, by reason of their relationship with the complainant or the person complained about, be reasonably considered to be other than impartial.

- 16.3A In appointing a Hearing Tribunal, the Board of Directors of the relevant Community Cricket Peak Body or Region shall have regard to the desirability of drawing upon members of the Community Cricket Hearings Panel to hear and determine the matter in accordance with this By-law.
- 16.3B Each Community Cricket Peak Body shall be required to nominate two persons to be members of the Community Cricket Hearings Panel who shall comply with one or more of the criteria set out in clause 16.3. Such persons shall be notified to the Community Cricket Department at Cricket Victoria which shall maintain a register of names and contact details of the members of the Community Cricket Hearings Panel from time to time. The members of the Community Cricket Hearings Panel shall be available to hear and determine matters on behalf of Community Cricket Peak Bodies and Regions in accordance with this By-law.
- 16.4 Frivolous, vexatious or malicious Complaints
- (a) If within 48 hours of sending the Notice of Alleged Breach, the person complained about alleges in writing to the Hearings Convenor that the Complaint is frivolous, vexatious or malicious, the Chairperson shall as a preliminary issue, determine whether or not such Complaint is frivolous, vexatious or malicious and shall advise the parties of his or her determination.
 - (b) The Hearings Convenor shall provide to the other parties to the hearing (see clause 16.6) a copy of the written allegation made by the person complained about, that the Complaint is frivolous, vexatious or malicious.
 - (c) The Chairperson shall determine such preliminary issue as soon as practicable and in whatever manner the Chairperson considers appropriate in the circumstances provided that he or she does so in accordance with the principles of natural justice.
 - (d) The decision of the Chairperson under this clause 16.4 may be appealed within 72 hours of the determination to the relevant appeal body under clause 18.
- 16.5 The Hearings Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. **The purpose of the hearing shall be to determine whether the person complained about has committed a breach of this By-law.** If the Hearings Tribunal considers that the person complained about has committed a breach of this By-law, it may impose any one or more of the penalties set out in clause 17.
- 16.6 The parties to the hearing shall include the complainant, the person complained about and the relevant organisation (being the relevant Community Cricket Peak Body, Region or Affiliated Club and Association) and any witnesses, which any such party wishes to have participate in the hearing.
- 16.7 If upon receipt of the Notice of Alleged Breach, the Chairperson considers that pending the determination of the matter the person complained about may put at risk the safety and welfare of the complainant or others, he/she may order that the person complained about be:

- (a) suspended from any role they hold with the relevant Community Cricket Peak Body, Region or Affiliated Club and Association; and/or
- (b) banned from any event or activities held by or sanctioned by the relevant Community Cricket Peak Body, Region, Affiliated Clubs and Associations; and/or
- (c) required not to contact or in any way associate with the complainant or other person about whom the alleged breach relates,

pending the determination of the hearing.

- 16.8 There is no right of appeal of the decision by a Chairperson under clause 16.7.
- 16.9 Any party to the hearing may be represented at the hearing by any person, excluding a legal representative.
- 16.10 Each party to the hearing shall bear their own costs in relation to the hearing.
- 16.11 The Hearings Tribunal shall give its decision as soon as practicable after the hearing and will deliver to the following a statement of its written reasons:
- (a) the President or the CEO of the organisation which established the Hearings Tribunal;
 - (b) the complainant;
 - (c) the person complained about; and
 - (d) any other party represented in the hearing.
- 16.11A Each member of each Hearings Tribunal established under this By-law shall be indemnified by the organisation which appointed them, from any claim or action for loss, damages, or costs made against them arising out of, or in connection with, their function as a member of the Hearings Tribunal under this By-law.
- 16.12 Except as otherwise provided in this By-law, all members of the Hearings Tribunal shall keep all matters relating to the hearing (including but not limited to the nature of the Complaint, information obtained before and during the hearing and the decision of the Hearings Tribunal) confidential.
- 16.13 To the extent of any inconsistency between the hearing procedure set out in the constitution of the relevant Community Cricket Peak Body or Region and the hearing procedure set out in this By-law, this By-law shall prevail in relation to all Complaints under this By-law.

17. WHAT PENALTIES MAY BE IMPOSED?

- 17.1 If the Hearings Tribunal considers that a person or organisation to whom this By-law applies, has breached this By-law, it may impose any one or more of the following penalties:
- (a) **For breaches committed by organisations:** If the Hearings Tribunal considers that a Community Cricket Peak Body, Region or Affiliated Club and Association, or any other organisation has breached this By-law, it may impose any one or more of the following penalties on such organisation:

- (i) direct that any funding granted or given to it by a Community Cricket Peak Body, a Region, or an Affiliated Club and Association cease from a specified date;
 - (ii) impose a monetary fine for an amount determined by the Hearings Tribunal;
 - (iii) impose a warning;
 - (iv) recommend to the relevant Community Cricket Peak Body and/or the relevant Region and/or the relevant Affiliated Club and Association that its membership of such organisation be suspended or terminated in accordance with their applicable constitution;
 - (v) direct that any rights, privileges and benefits provided to that organisation by a Community Cricket Peak Body, a Region, or an Affiliated Club and Association be suspended for a specified period and/or terminated;
 - (vi) direct that a Community Cricket Peak Body and/or a Region, and/or an Affiliated Club and Association cease to sanction events held by or under the auspices of that organisation;
 - (vii) any other such penalty as the Hearings Tribunal considers appropriate.
- (b) **For breaches committed by individual persons:** If the Hearings Tribunal considers that an individual person to whom this By-law applies has breached this By-law, it may impose any one or more of the following penalties on such person:
- (i) direct that the offender attend counselling to address their conduct;
 - (ii) recommend that the relevant Community Cricket Peak Body, Region or Affiliated Club and Association terminate the appointment of the role which the offender holds with such organisation;
 - (iii) recommend that the relevant Community Cricket Peak Body, Region or Affiliated Club and Association suspend the individual from participating in further activities, fixtures, competitions or events of the relevant Community Cricket Peak Body, Region or Affiliated Club and Association for a period determined appropriate by the Hearings Tribunal;
 - (iv) where there has been damage to property, direct that the offender pay compensation to the relevant organisation which controls or has possession of the property;
 - (v) impose a monetary fine for an amount determined by the Hearings Tribunal;
 - (vi) impose a warning;

- (vii) in the case of a coach, direct the relevant organisation to de-register the accreditation of the coach for a period or indefinitely;
- (viii) withdraw any awards, placings, records won in any competitions, carnivals, activities or events held or sanctioned by a Community Cricket Peak Body, a Region or an Affiliated Club and Association;
- (ix) direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by a Community Cricket Peak Body, a Region or an Affiliated Club and Association, or any other organisation which has provided funding;
- (x) any other such penalty as the Hearings Tribunal considers appropriate.

17.2 If an organisation or individual commits a second or subsequent breach under this By-law, then the Hearings Tribunal shall have regard to the previous breach, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent breach.

17.3 If a penalty is imposed by the Hearings Tribunal under clause 17.1, the President or the General Manager of the organisation from which the Hearings Tribunal is established shall as soon as possible notify in writing Cricket Victoria and each Community Cricket Peak Body and Region of such penalty.

18. HOW CAN A DECISION BE APPEALED?

18.1 Any party to a hearing held under clause 16 (including an organisation) may appeal a decision of a Hearings Tribunal.

18.2 An appeal shall be made to the relevant Community Cricket Peak Body or Region, which shall convene a Hearings Tribunal comprising three members of the Community Cricket Hearings Panel (none of whom may have been members of the initial Hearings Tribunal which determined the matter at first instance) (referred to as the "Appeal Body").

- (a) an appeal against a decision of a Hearings Tribunal established by a Region shall be made to the Hearings Tribunal of the relevant Community Cricket Peak Body;
- (b) an appeal against a decision of a Hearings Tribunal established by a Community Cricket Peak Body shall be made to an independent appeal tribunal convened by the Community Cricket Peak Body;

(referred to as the "Appeal Body").

18.3 There is only one right of appeal following the decision of the initial Hearings Tribunal. Any appeal must be solely and exclusively resolved by the Appeal Body and the decision of such Appeal Body is final and binding on the parties. It is agreed that no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant Appeal Body. **Note: This provision does not prevent any person or organisation taking action under State or Federal legislation.**

18.4 The process for such appeal is as follows:

- (a) the party wishing to appeal ("the Appellant") shall within 72 hours of the Hearings Tribunal delivering its decision advise, in writing, the President or the General Manager of the organisation of the relevant Community Cricket Peak Body or Region of their intention to appeal ("Notice of Intention to Appeal"); and
- (b) for all appeals, as soon as possible after receipt of the Notice of Intention to Appeal, the Hearings Convenor of the organisation of the relevant Community Cricket Peak Body or Region shall appoint an Appeal Body to hear and determine the appeal, which shall comprise of persons in accordance with clauses 18.2 and 16.3; and
- (c) within 5 days of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the Appeal Body if there is urgency) the Appellant shall:
 - (i) pay the appeal fee to the Chairperson of the Appeal Body, which shall be \$110.00 (including GST) which is non-refundable; and
 - (ii) submit to the Chairperson of the Appeal Body the grounds of the appeal in writing and provide copies to the other party, to the President or the General Manager of the relevant Community Cricket Peak Body or Region.

If either of the requirements in this sub-clause are not met by the due time the appeal shall be deemed to be withdrawn;

- (d) on completion of the procedures in (a) to (c), the Chairperson of the Appeal Body shall determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details; and
- (e) the procedure for the appeal shall be the same as the procedure for the Hearings Tribunal set out in clause 16.

18.5 Upon hearing the appeal, the Appeal Body may do any one or more of the following:

- (a) dismiss the appeal;
- (b) uphold the appeal;
- (c) impose any of the penalties set out in clause 17;
- (d) reduce, increase or otherwise vary any penalty imposed by the initial Hearings Tribunal.

18.6 The President or the General Manager of the organisation from which the Appeal Body is established shall as soon as possible notify in writing Cricket Victoria, each Community Cricket Peak Body and Region of the outcome of the appeal.

18.7 The Appeal Body has no power to award costs and each party shall bear their own costs in relation to any appeal.

- 18.8 To the extent of any inconsistency between the hearing appeal procedure set out in the constitution of a Community Cricket Peak Body or Region and the hearing appeal procedure set out in this By-law, this By-law shall prevail in relation to all Complaints under this By-law.

19. RECOGNITION OF PENALTIES ACROSS COMMUNITY CRICKET

- 19.1 Every organisation to which this By-law applies shall recognise and enforce any decision and penalty imposed by a Hearings Tribunal under this By-law.
- 19.2 The following details of any person suspended shall be forwarded to the relevant Community Cricket Peak Body:
- (a) Player's name;
 - (b) Player's national registration number;
 - (c) Suspension expiry date;
 - (d) Reason for suspension; and
 - (e) The name of the suspending organisation.
- 19.3 The Community Cricket Peak Body's responsible officer shall endorse the suspension and forward the details to Cricket Victoria's General Manager, Game Development (GMGD) or his nominee, provided that the responsible officer has no reason to believe that the player has been dealt with inappropriately. The GMGD shall arrange for the player's name, National registration number and date of suspension expiry to be added to the "Suspended Players" page on the Cricket Victoria website
- 19.4 For the avoidance of doubt:
- (a) no organisation to which this By-law applies shall register a person, club or association which would be ineligible to be registered by another organisation to which this By-law applies by virtue of that person, club or association receiving a penalty under this By-law; and
 - (b) any person who is currently serving a suspension or disqualification imposed upon that person by an organisation affiliated with or recognised by Cricket Australia (ie Community Cricket Peak Body, Region or Affiliated Clubs or Association) shall not be eligible to play or be registered as a player or coach of any other organisation affiliated with or recognised by Cricket Australia, until that suspension or disqualification has been served. For the purposes of this rule, the appearance of the person's name and suspension expiry date on the "Suspended Players" page on the Cricket Victoria website shall constitute prima facie evidence that the player is legitimately suspended.

ATTACHMENT A - POLICY DEFINITIONS

“Abuse” means a form of Harassment, as more specifically set out in clauses 8.14 to 8.16.

“Affiliated Clubs and Associations” means a member of a Community Cricket Peak Body, which may include leagues, associations, clubs or teams (howsoever described).

“By-law” and **“this By-law”** means this Member Protection By-law.

“General Manager” means the general manager of an organisation, howsoever described (may include the chief executive and executive officer or other similar title).

“Codes of Behaviour” means the codes of behaviour developed and issued by the Community Cricket Peak Bodies as set out in Attachment E.

“Complaint” means a complaint made under clauses 12 to 14.

“Community Cricket Peak Bodies” means the Victorian Country Cricket League, Victorian Metropolitan Cricket Union, Sub-District Cricket Association and Victorian Women's Cricket Association.

“Community Cricket Hearings Panel” means the group of persons nominated by the Community Cricket Peak Bodies to comprise Hearing Tribunals and / or Appeal Bodies in accordance with clauses 17 and 18.

“Cricket Victoria” means the Victorian Cricket Association Limited.

“Disability Harassment” means a form of Harassment, as more specifically set out in clauses 8.12 and 8.13.

“Discrimination” means a form of Harassment, as more specifically set out in clause 9.

“Existing Appointee” means a person currently elected, appointed or holding a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

“Harassment” has the meaning set out in clause 8.

“Hearings Convenor” means a person appointed in accordance with clauses 5.1(g) and 5.2A(b), who is responsible for the administration of hearings by the Hearings Tribunal.

“Hearings Tribunal” means the tribunal of a Community Cricket Peak Body or a Region established to hear and determine alleged breaches and appeals under this By-law.

“Mediator” means a person appointed in accordance with clauses 5.1(f) and 5.2A(a) to mediate disputes and concerns in relations to Complaints under this By-law.

“Member Protection Officer” means a person appointed in accordance with clauses 5.1(f) and 5.2A(a), who may be the first point of contact for someone bringing a Complaint under this By-law.

“Preferred Applicant” means a person short listed for a position, whether by way of employment, contract or otherwise and whether paid or unpaid.

“Racial Harassment” means a form of Harassment, as more specifically set out in clauses 8.7 and 8.8.

“Region” means an entity (whether incorporated or not) comprised of a number of Affiliated Clubs and Associations and recognised by Cricket Victoria or a Community Cricket Peak Body as being responsible for the development and conduct of the sport of cricket within a designated geographical area.

“Sexual Harassment” means a form of Harassment, as more specifically set out in clauses 8.3 to 8.6.

“Sexuality Harassment” means a form of Harassment, as more specifically set out in clauses 8.9 to 8.11.

“Spirit of Cricket” means the philosophy developed by the Marleybone Cricket Club and adopted by cricket associations throughout the world which recognises that the game should be played in accordance with its traditional ‘spirit’ as well as within its laws.

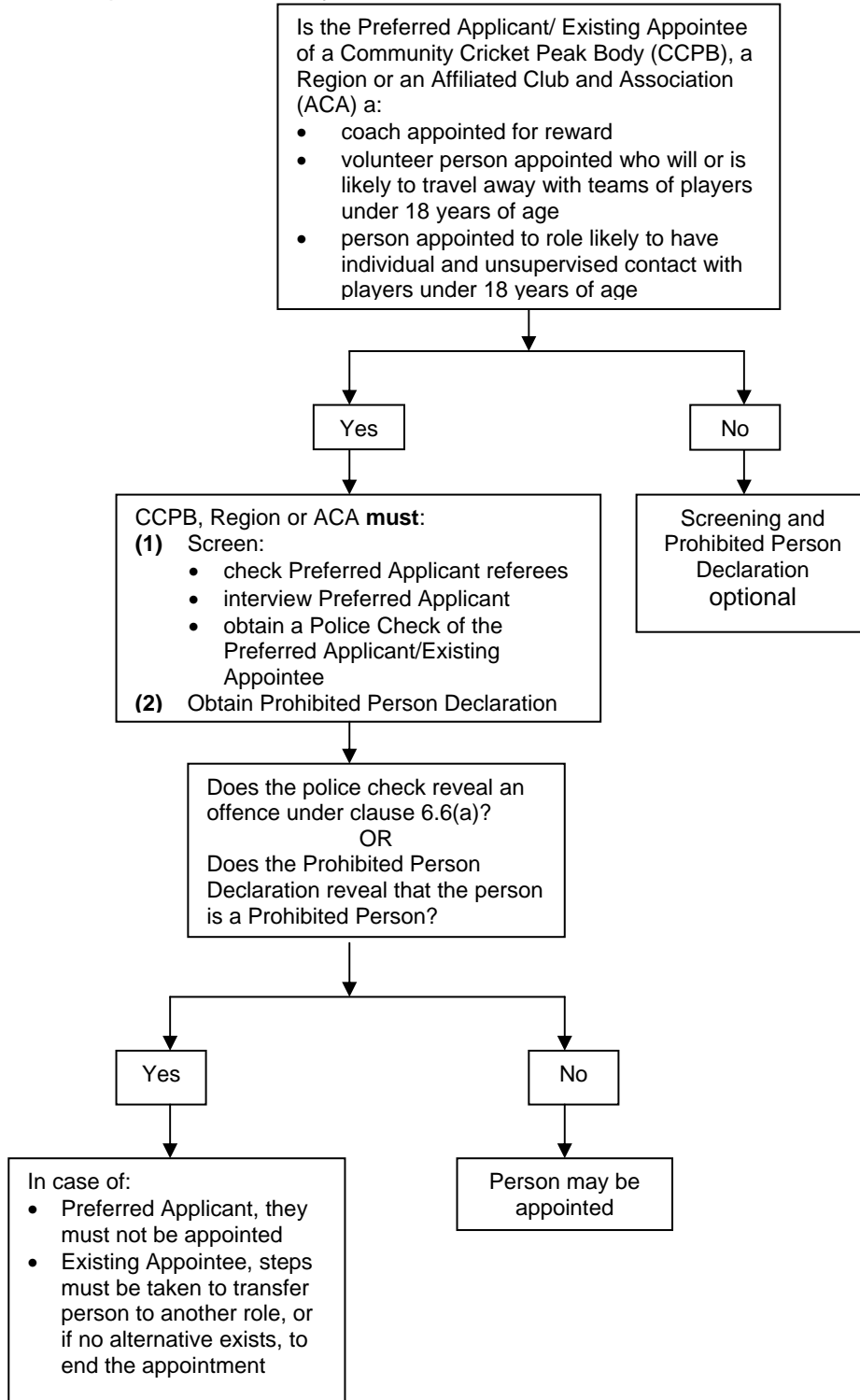
“their Nominee” means the person who is, under the constitution of the relevant organisation, empowered to act in the President’s or the General Manager’s absence. In the case of the President, it may include a Vice-President, Deputy Chairperson or other similar title, however described and in the case of the General Manager it may include the acting General Manager, acting chief executive, acting executive officer or other similar title, however described.

“Vilification” means a form of Harassment, as more specifically set out in clauses 8.17 and 8.18.

“Working with Children Check” means the formal check conducted through the Department of Justice to ascertain if a person is appropriate to work with children under 18 years of age in a direct and unsupervised manner.

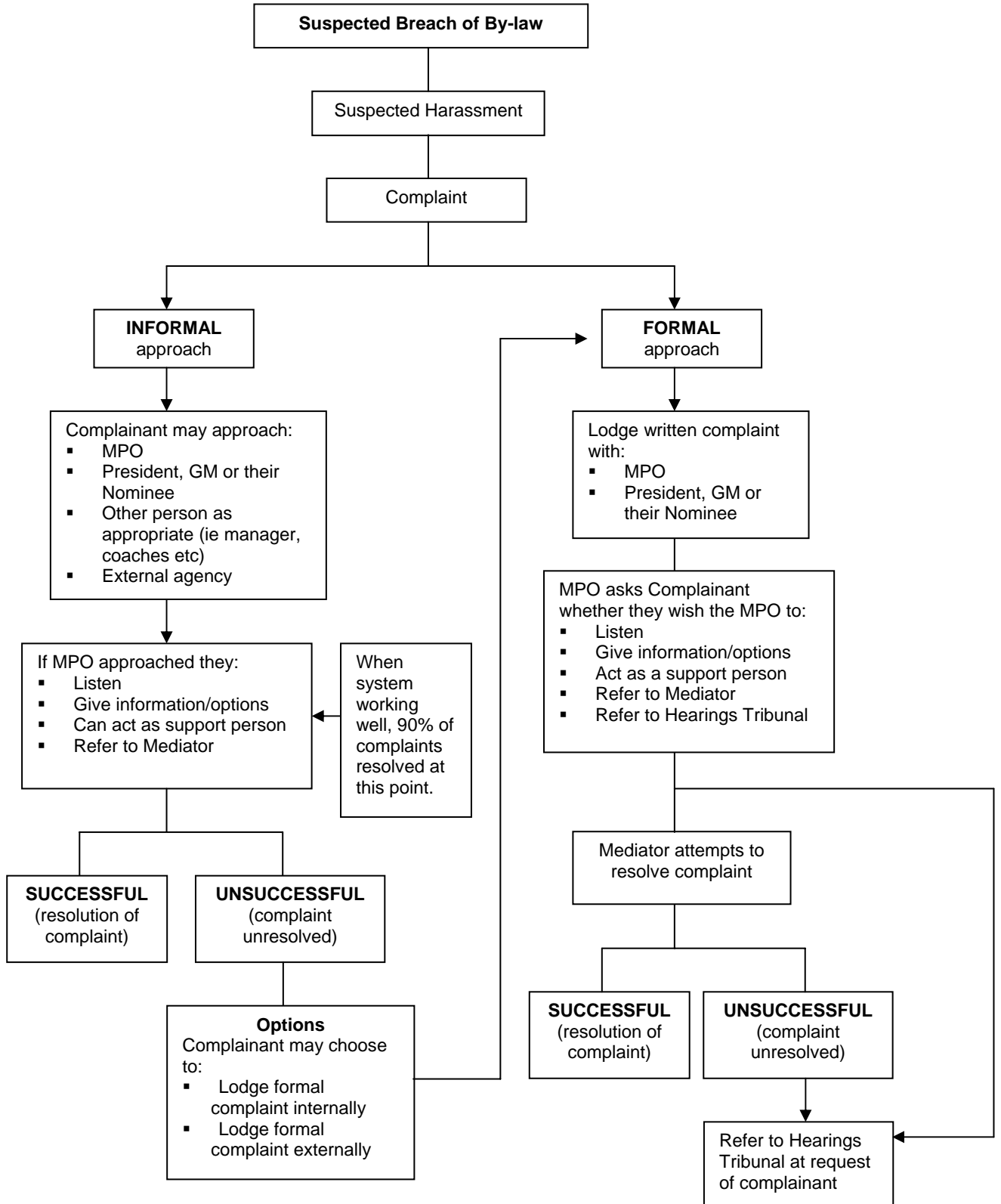
ATTACHMENT B - PREVENTATIVE ACTION (CLAUSES 6 AND 7) FLOW DIAGRAM

Attachment B has been included in this By-law by way of summary and it is not to be used for the interpretation of this By-law.



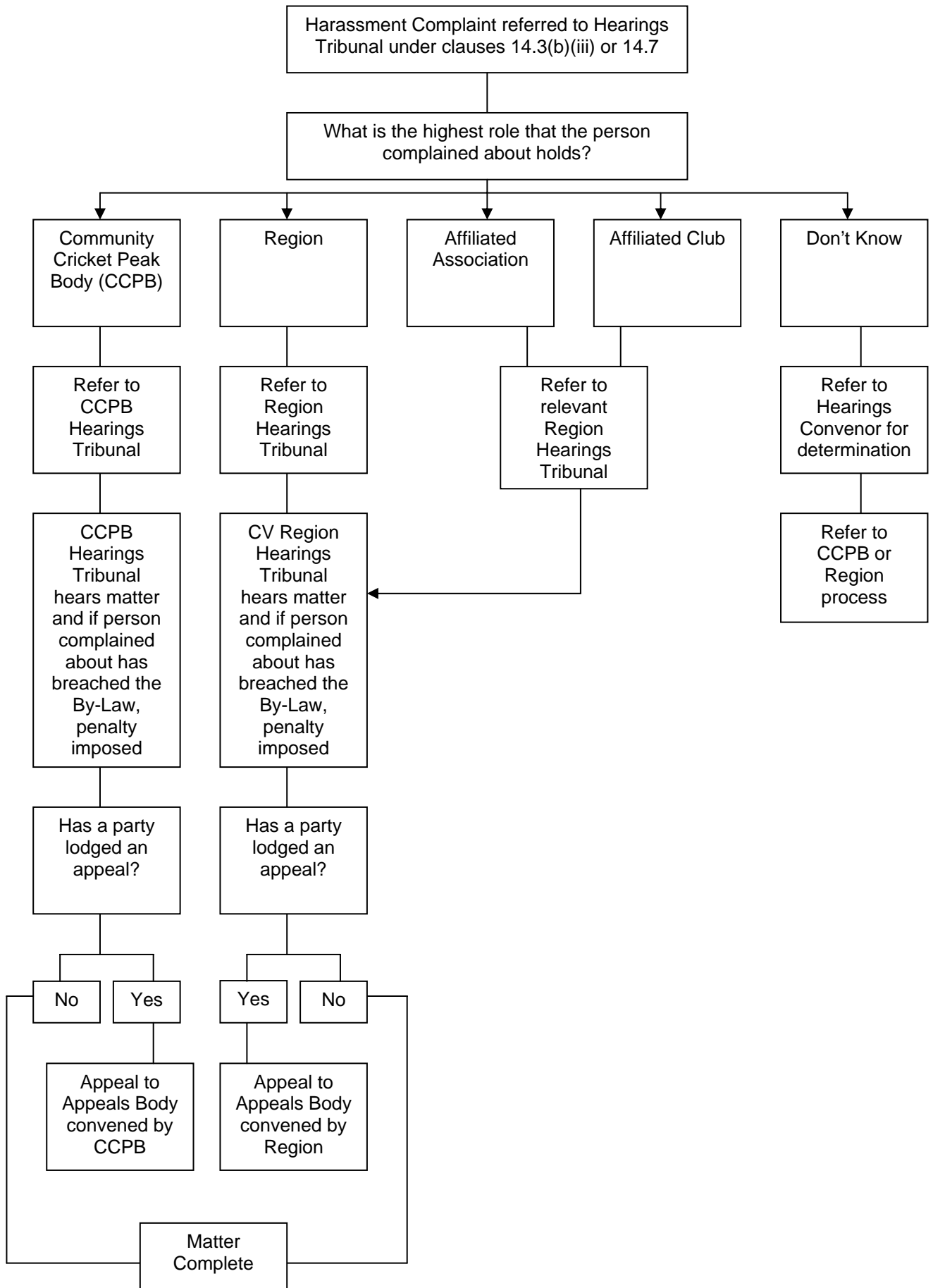
**ATTACHMENT C - COMPLAINT RESOLUTION PROCEDURE (CLAUSES 13 AND 14)
FLOW DIAGRAM**

Attachment C has been included in this By-law by way of summary and it is not to be used for the interpretation of this By-law



ATTACHMENT D – HEARING TRIBUNAL PROCESS (CLAUSE 16) FLOW DIAGRAM

Attachment D has been included in this Regulation by way of summary and it is not to be used for the interpretation of this Regulation



ATTACHMENT E - CODES OF BEHAVIOUR**GENERAL CODE OF BEHAVIOUR**

As a person required to comply with this By-law, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by a Community Cricket Peak Body, a Region, an Affiliated Association or an Affiliated Club:

- 1 Respect the rights, dignity and worth of others.
- 2 Be fair, considerate and honest in all dealings with others.
- 3 Be professional in, and accept responsibility for your actions.
- 4 Make a commitment to providing quality service.
- 5 Operate within the rules of the sport including state guidelines which govern Cricket Victoria, the Community Cricket Peak Bodies, the Regions and Affiliated Clubs and Associations.
- 6 Do not use your involvement with a Community Cricket Peak Body, a Region or Affiliated Club and Association to promote your own beliefs, behaviours or practices where these are inconsistent with those of Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations.
- 7 Demonstrate a high degree of individual responsibility especially when dealing with persons under 18 years of age, as your words and actions are an example.
- 8 Avoid unaccompanied and unobserved activities with persons under 18 years of age, wherever possible.
- 9 Refrain from any behaviour that may bring the sport of cricket, a Community Cricket Peak Body, a Region or Affiliated Club and Association into disrepute.
- 10 Provide a safe environment for the conduct of the activity.
- 11 Show concern and caution towards others who may be sick or injured.
- 12 Be a positive role model.
- 13 Understand the repercussions if you breach, or are aware of any breaches of this Code of Behaviour.
- 14 Act at all times to protect and promote the sport of cricket in accordance with the Spirit of Cricket.

ADMINISTRATOR CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, you must meet the following requirements in regard to your conduct during any activity held by or under the auspices of a Community Cricket Peak Body, a Region or an Affiliated Club and Association and in your role as an administrator of a Community Cricket Peak Body, a Region or an Affiliated Club and Association:

- 1 Be fair, considerate and honest in all dealings with others.
- 2 Be professional in, and accept responsibility for your actions. Your language, presentation, manners and punctuality should reflect high standards.
- 3 Resolve conflicts fairly and promptly through established procedures.
- 4 Maintain strict impartiality.
- 5 Be aware of your legal responsibilities.
- 6 Develop a positive sport environment by allowing for the special needs of the players (especially children), by emphasising enjoyment and by providing appropriate development and competitive experiences.
- 7 Involve players in the planning, leadership, evaluation and decision making relating to the activity.
- 8 Ensure activities, equipment and facilities are safe and appropriate to the ability level of participating players. Activities, rules, equipment, lengths of games and training schedules should take into consideration the age, ability and maturity level of participating players.
- 9 Ensure that everyone (administrators, coaches, players, umpires, parents, spectators, sponsors and physicians) emphasise fair play in Cricket activities and games.
- 10 Where appropriate, distribute a Code of Behaviour sheet to coaches, players, umpires, parents, spectators and the media.
- 11 Protect and promote the sport of Cricket in accordance with the Spirit of Cricket.

COACH CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, you must meet the following requirements in regard to your conduct during any activity held by or under the auspices of a Community Cricket Peak Body, a Region or an Affiliated Club and Association and in your role as a coach of, a Community Cricket Peak Body, a Region or an Affiliated Club and Association:

- 1 Operate within the rules and Spirit of Cricket and teach your players to do the same.
- 2 Remember that young people participate for pleasure and winning is only part of the fun.
- 3 Never ridicule or yell at a young player for making a mistake or not coming first.
- 4 Be reasonable in your demands on players' time, energy and enthusiasm.
- 5 Avoid overplaying the talented players; all young players need and deserve equal time, attention and opportunities.
- 6 Ensure that equipment and facilities meet safety standards and are appropriate to the age and ability of all players.
- 7 Display control and respect to all those involved in Cricket. This includes opponents, coaches, umpires, administrators, parents and spectators. Encourage your players to do the same.
- 8 Show concern and caution toward sick and injured players. Follow the advice of a physician when determining whether an injured player is ready to recommence training or competition.
- 9 Obtain appropriate qualifications and keep up to date with the latest Cricket coaching practices and principles of growth and development of young people. Be honest and ensure that qualifications are not misrepresented.
- 10 Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.
- 11 Promote a climate of mutual support among your players. Encourage players to respect one another and to expect respect for their worth as individuals regardless of their level of play.
- 12 Encourage and facilitate players' independence and responsibility for their own behaviour, performance, decisions and actions.
- 13 Determine, in consultation with the players, what information is confidential and respect that confidentiality.
- 14 Provide feedback to players in a caring sensitive manner to their needs. Avoid overly negative feedback.
- 15 Refrain from any form of personal abuse towards your players. This includes verbal, physical and emotional abuse. Be alert to any forms of abuse directed toward your

- players from other sources while they are in your care. (Abide by Community Cricket Member Protection By-law).
- 16 Refrain from any form of harassment towards your players. Treat all players fairly within the context of their sporting activities, regardless of gender, race, place of origin, athletic potential, colour, sexual orientation, religion, political beliefs, socio-economic status, and other condition. (Abide by Community Cricket Member Protection By-law).
 - 17 Be acutely aware of the power that you as a coach develop with your players in the coaching relationship and avoid any sexual intimacy with players that could develop as a result.
 - 18 Avoid situations with your players that could be construed as compromising. Any physical contact with a young person should be appropriate to the situation and necessary for the player's skill development.
 - 19 At all times use appropriate training methods which will benefit the players and avoid those which could be harmful. Ensure that the tasks, trainings, equipment and facilities are safe and suitable for age, experience, ability and physical and psychological conditions of the players.
 - 20 Ensure the players time spent with you is a positive experience. All players are deserving of equal attention and opportunities. Provide training and game opportunities that ensure everyone has a reasonable chance to succeed and to improve/acquire skills and develop confidence.
 - 21 Actively discourage the use of performance enhancing drugs, the use of alcohol and tobacco and illegal substance. (Abide by the Cricket Victoria Anti-Doping Policy).
 - 22 Recognise individual differences in players and always think of the player's long-term best interests.
 - 23 Set challenges for each player which are both achievable and motivating.
 - 24 Respect the fact that your goal as a coach for the player may not always be the same as that of the player. Aim for excellence based upon realistic goals and due consideration for the participant's growth and development.
 - 25 At all times act as a role model that promotes the positive aspects of sport and of Cricket by maintaining the highest standards of personal conduct and projecting a favourable image of Cricket and of coaching at all times.
 - 26 Recognise your player's rights to consult with other coaches and advisers. Cooperate fully with other specialists (eg. sports scientists, doctors, physiotherapists etc).
 - 27 Do not exploit any coaching relationship or information gained through Cricket Victoria Programs, to further personal, political, or business interests.
 - 28 Encourage players and coaches to develop and maintain integrity in their relationship with others.

JUNIOR PLAYER CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, as a player in any activity held by or under the auspices of a Community Cricket Peak Body, a Region or an Affiliated Club and Association you must meet the following requirements in regard to your conduct during any such activity or event:

- 1 Play by the rules and within the Spirit of Cricket.
- 2 Never argue with an umpire. If you disagree, have your captain, coach or manager approach the umpire during a break or after the game.
- 3 Control your temper. Verbal abuse of officials and sledging other players, deliberately distracting or provoking an opponent are not acceptable or permitted behaviours in Cricket.
- 4 Work equally hard for yourself and your teammates. Your team's performance will benefit and so will you.
- 5 Be a good sport. Applaud all good plays whether they are made by your team or the opposition.
- 6 Treat all participants in Cricket as you like to be treated. Do not bully or take unfair advantage of another competitor.
- 7 Cooperate with your coach, teammates and opponents. Without them there would be no competition.
- 8 Participate for your own enjoyment and benefit, not just to please parents and coaches.
- 9 Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.
- 10 Participate because you enjoy it, not just to please parents and coaches.
- 11 Participate fairly and safely.
- 12 Do not engage in practises that affect sporting performance (alcohol, tobacco and drug use.)
- 13 Respect and acknowledge the contribution of those who create the opportunity for you to play.
- 14 Respect your coach and train and play to the best of your ability and develop your participation in accordance with the Spirit of Cricket.

SENIOR PLAYER CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, as a player in any activity held by or under the auspices of a Community Cricket Peak Body, a Region or an Affiliated Club and Association you must meet the following requirements in regard to your conduct during any such activity or event:

- 1 Play by the rules and abide by the Spirit of Cricket.
- 2 Never argue with an umpire. If you disagree, have your captain, coach or manager approach the umpire during a break or after the game.
- 3 Control your temper. Verbal abuse of officials and sledging other players, deliberately distracting or provoking an opponent are not acceptable or permitted behaviours in Cricket.
- 4 Work equally hard for yourself and your teammates. Your team's performance will benefit and so will you.
- 5 Be a good sport. Applaud all good plays whether they are made by your team or the opposition.
- 6 Treat all participants in Cricket as you like to be treated. Do not bully or take unfair advantage of another competitor.
- 7 Cooperate with your coach, teammates and opponents. Without them there would be no competition.
- 8 Respect the rights, dignity and worth of fellow players, coaches, officials and spectators.
- 9 Refrain from conduct which could be regarded as sexual or other harassment.
- 10 Respect the talent, potential and development of fellow players and competitors.
- 11 Care and respect the uniform and equipment provided to you.
- 12 Be frank and honest with your coach concerning illness and injury and your ability to train and play fully.
- 13 Conduct yourself in a responsible manner relating to language, temper and punctuality.
- 14 Maintain a high standard of personal behaviour at all times.
- 15 Be honest in your attitude and preparation to training. Work equally hard for yourself and your team.
- 16 Cooperate with coaches and staff in relation to programs that adequately prepare you for competition.
- 17 Do not engage in practises that affect sporting performance (alcohol, tobacco and drug use.)

UMPIRE CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, you must meet the following requirements in regard to your conduct during any activity held or sanctioned by a Community Cricket Peak Body, a Region or an Affiliated Club and Association and in your role as an umpire appointed by a Community Cricket Peak Body, a Region or an Affiliated Club and Association:

- 1 Compliment and encourage all participants.
- 2 Be consistent, objective and courteous when making decisions.
- 3 Condemn unsporting behaviour and promote respect for all opponents.
- 4 Emphasise the spirit of the game rather than the errors.
- 5 Be a good sport yourself- actions speak louder than words.
- 6 Keep up to date with the latest available resources for umpiring and the principles of growth and development of young people.
- 7 Remember, you set an example. Your behaviour and comments should be positive and supportive.
- 8 Place the safety and welfare of participants above all else.
- 9 Treat all players with respect at all times.
- 10 Accept responsibility for all actions taken. Exercise reasonable care to prevent injury by ensuring players play within the rules. Reasonable care consists of advising the players of illegal body movements, showing due diligence in detecting infringements and penalising rule breakers.
- 11 Umpires must be impartial and maintain integrity in their relationship with other umpires, players and coaches.
- 12 Avoid situations which may lead to a conflict of interest.
- 13 Value the individual in sport. Ensure the players have the opportunity for discussion with you after the match.
- 14 Encourage inclusivity and access to all areas of officiating. Aim for excellence based upon realistic goals and due consideration for growth and development.
- 15 Be a positive role model in behaviour and personal appearance by maintaining the highest standards of personal conduct and projecting a favourable image of Cricket and umpiring at all times.
- 16 Refrain from any form of personal abuse towards players. This includes verbal, physical and emotional abuse. Be alert to any forms of abuse directed towards the players from other sources while they are playing. (Abide by Community Cricket Member Protection By-law).

- 17 Refrain from any form of harassment towards players. Treat all players fairly within the context of their sporting activities, regardless of gender, race, place of origin, athletic potential, colour, sexual orientation, religion, political beliefs, socio-economic status, and other conditions. (Abide by Community Cricket Member Protection By-law).
- 18 Show concern and caution towards ill and injured players. You should enforce the blood rule and apply procedures regarding ill or injured players according to the rule book. Common sense must be applied in all cases.
- 19 In accordance with ACB and Cricket Victoria guidelines, modify rules and regulations to match the skill levels and needs of young people.
- 20 Encourage and promote rule changes which will make participation more enjoyable.
- 21 Give all young people a 'fair go' regardless of their gender, ability, cultural background or religion.
- 22 Institute disciplinary procedures when necessary without fear or favour in accordance with the rules of the competition and the Spirit of Cricket.
- 23 Participate in ongoing training, be aware of rule changes, be a member of an Umpires Association wherever possible and promote the Spirit of Cricket.

PARENT/GUARDIAN CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, as a parent/guardian of a player in any activity held by or under the auspices of a Community Cricket Peak Body, a Region or an Affiliated Club and Association you must meet the following requirements in regard to your conduct during any such activity or event:

- 1 Do not force an unwilling child to participate in Cricket.
- 2 Remember, children are involved in Cricket for their enjoyment, not yours.
- 3 Encourage your child to play by the rules at all times.
- 4 Focus on the child's efforts and performance rather than winning or losing.
- 5 Never ridicule or yell at a child for making a mistake or losing a game. Positive comments are motivational.
- 6 Remember that children learn best by example. Appreciate good performances and skillful plays by all participants.
- 7 Support all efforts to remove verbal and physical abuse from sporting activities.
- 8 Respect officials' decisions and teach children to do likewise. If you disagree with an umpire or coach raise the issue through the appropriate channels rather than question their judgement and honesty in public.
- 9 Show appreciation for volunteer coaches, officials and administrators. Without them, your child could not participate.
- 10 Respect the rights, dignity and worth of every young person regardless of their gender, ability, cultural background or religion.
- 11 Teach your child that an honest effort is as important as victory, so that the result of each game is accepted without undue disappointment.
- 12 Support all efforts to remove verbal and physical abuse.
- 13 Be a model of good sports behaviour for children to copy.
- 14 Be courteous in communication with administrators, coaches, players and umpires. Teach children to do likewise.
- 15 Support the use of age appropriate development activities and modified rules.
- 16 Do not undermine the efforts of coaches.
- 17 Encourage junior players to participate in the sport of cricket in a safe manner.

SPECTATOR CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, as a spectator in any activity held by or under the auspices of a Community Cricket Peak Body, a Region or an Affiliated Club and Association you must meet the following requirements in regard to your conduct during any such activity or event:

- 1 Most players (in particular children) participate in Cricket activities for fun. They are not participating for entertainment of spectators only.
- 2 Applaud good performance and efforts by all players. When watching a game congratulate both teams upon their performance regardless of the game's outcome.
- 3 Respect the umpires' and coaches decisions. If there is a disagreement, follow the appropriate procedure in order to question the decision and teach children to do likewise.
- 4 Never ridicule or scold a player for making a mistake during a competition. Positive comments are motivational.
- 5 Condemn the use of violence in any form, be it by administrators, coaches, players, umpires or parents/guardians.
- 6 Show respect for your team's coach, the umpire and opponents. Without them there would be no game.
- 7 Encourage players to play according to the rules and the official decisions, and develop your own knowledge of the rules.
- 8 Demonstrate appropriate social behaviour by not using foul language, and not harassing administrators, coaches, players or umpires.
- 9 Support the use of age appropriate development activities and modified rules.

MEDIA CODE OF BEHAVIOUR

In addition to the General Code of Behaviour set out in this By-law, as a media representative in any activity held by or under the auspices of a Community Cricket Peak Body, a Region, or an Affiliated Club and Association, you must meet the following requirements in regard to your conduct during any such activity or event:

- 1 Provide coverage of all player's Cricket activities, including development programs, competitive and non-competitive Cricket.
- 2 Be aware of the difference between adult Cricket programs and children's Cricket programs.
- 3 Place in proper perspective the isolated incidents of unsportsmanlike behaviour rather than make such incidents the "highlight" of the event.
- 4 Focus upon player's fair play and their honest effort.
- 5 Identify and report on the problems of players participating in organised Cricket and report the violations and distortions of their rights as players.
- 6 Recognise the sporting achievements of players from disadvantaged groups, including adolescent girls, people with disabilities, Koories and Torres Strait islanders, people from non-English speaking backgrounds and rural population.
- 7 Recognise and report the achievements of volunteers as administrators, coaches, officials and mentors of cricket.

ATTACHMENT F - PROHIBITED PERSON DECLARATION

The Community Cricket Member Protection By-law makes it a breach of the policy for a Prohibited Person (defined as a person who has been convicted of a Serious Sex Offence) to work or seek work in the following roles:

- coaches who are appointed or seeking appointment (whether employed, contracted or otherwise) for reward;
- volunteer personnel appointed or seeking appointment, who will or are likely to travel away with teams of players under 18 years of age; and
- persons appointed or seeking appointment to a role in which that person is likely to have individual and unsupervised contact with players under 18 years of age.

The Community Cricket Member Protection By-law also makes it a breach of the policy to appoint, or continue to appoint, a person to a role set out above:

- without first obtaining this declaration; or
- where this declaration reveals the person is a Prohibited Person.

The Community Cricket Member Protection By-law defines a Serious Sex Offence to mean an offence involving sexual activity or acts of indecency including but not limited to:

- Rape
- Indecent assault
- Sexual assault
- Assault with intent to have sexual intercourse
- Incest
- Sexual penetration of child under the age of 16
- Indecent act with child under the age of 16
- Sexual relationship with child under the age of 16
- Sexual offences against people with impaired mental functioning
- Abduction and detention
- Procuring sexual penetration by threats or fraud
- Procuring sexual penetration of child under the age of 16
- Bestiality
- Soliciting acts of sexual penetration or indecent acts
- Promoting or engaging in acts of child prostitution

- Obtaining benefits from child prostitution
- Possession of child pornography
- Publishing child pornography and indecent articles.

ATTACHMENT G

VICTORIA CHILD PROTECTION REQUIREMENTS

This information is subject to change at any time. Refer to the Working with Children Check website <http://www.justice.vic.gov.au/workingwithchildren> or contact 1300 652 879. The Working with Children Check is administered by the Department of Justice who can also be contacted for more information. This information was updated 5 June 2008.

Under the *Working With Children Act (2005)* (“**Act**”), the Victorian Working with Children Check (“**Check**”) will require individuals who work or volunteer with children in certain capacities in identified occupations and activities to undergo screening for criminal offences.

A person who has no relevant criminal or professional disciplinary history will be granted an assessment notice. That notice will entitle the person to undertake child-related work. A person deemed unsuitable to work or volunteer with children will be given a negative notice and cannot work in child-related work. A negative notice can be appealed to Victorian Civil and Administrative Tribunal (VCAT) provided the individual is not listed on the Sex Offenders Register or subject to an extended supervision order.

Who needs to apply for a Check

Under the Act, any person who works in, or in connection with, in a paid or voluntary capacity, certain child-related occupational fields (listed in the Act) must apply for the Check. This work must also usually involve (or be likely to involve) regular, direct contact with a child where that contact is not directly supervised. The following child-related categories are relevant to our sport:

- educational institutions for children (such as schools and some TAFE programs);
- clubs, associations or movements that provide services or conduct activities for or directed at children or whose Membership is mainly comprised of children;
- coaching or private tuition services of any kind for children; and
- direct commercial provision (and not incidental or in support of other business activities) of gym or play facilities specifically for children.

Cricket Victoria will have a policy about who should apply for the Check and this should be consulted from time to time.

Exemptions

The following people will not need to have a Check:

- individuals aged under 18;
- volunteers involved in an activity in which their child ordinarily participates;
- individuals working only with children who are close family relations;
- secondary school students aged under 20 performing volunteer work arranged through the school where they are studying;

- members of Victoria Police;
- teachers registered with the Victorian Institute of Teaching; and
- a visiting worker who does not ordinarily reside and perform child-related work in Victoria.

Phasing-in Arrangements

Checks are being phased into different industries at different times. **The commencement of the “phase in” period for cricket is July 2008.** Cricket Victoria strongly recommends that all people required to have the Check have their Check completed either as part of their appointment process or if they already a relevant position, as soon as practical. In any event, all people involved in cricket that are required to have the Check must have it completed by the end of June 2009.

Again, see Cricket Victoria’s policy or contact the Department of Justice for further guidance.

Employer requirements

As an employer or volunteer organisation you must:

- ensure all employees or volunteers who are required to get a Check do so;
- where your employees or volunteers are not required to get a Check because their contact with children is directly supervised, ensure the supervisor has a Check unless an exemption applies. For example, the supervisor may be a registered teacher with the Victorian Institute of Teaching, making them exempt; and
- ensure that employees or volunteers issued with a Negative Notice do not undertake child-related work as defined by the Act.

As an employer or volunteer organisation you should:

- record your employee’s and volunteer’s unique Application Receipt Number received when they submit their application. The Act enables a person to continue or commence work while their application is pending;
- confirm that your employees and volunteers have been issued with an Assessment Notice after Check applications have been assessed by the Department of Justice;
- sight your employee’s or volunteer’s Working with Children Check Card and confirm the status of their Card Number to verify that they have passed the Check. You can do this online from 1 July 2006, or by calling 1300 652 872;
- record your employee’s or volunteer’s Card Number, which is different from their Application Receipt Number; and
- develop internal processes in the event of an existing employee or volunteer being issued with an Interim Negative Notice or Negative Notice.