

[CURRENT AT 1 JULY 2003]

## CRICKET AUSTRALIA RACIAL AND RELIGIOUS VILIFICATION CODE

### 1. Purpose of Code

The purpose of this Code is to:

1. Recognise the commitment of Cricket Australia ("*Cricket Australia*") to the elimination of racial and religious vilification of players.
2. Establish a framework for handling complaints made by players who believe they have been subjected to racial or religious vilification by another player.

### 2. Conduct Covered By The Code

A player who is participating in a match under the jurisdiction or auspices of Cricket Australia will not engage in any conduct, act towards or speak to any other player in a manner which offends, insults, humiliates, intimidates, threatens, disparages or vilifies the other player on the basis of that player's race, religion, colour, descent or national or ethnic origin ("the conduct").

### 3. The Interrelationship Of This Code With Other Rules And Regulations Governing The Sport

This Code does not restrict any other action which may be taken in relation to the conduct covered by this Code under the International Cricket Council ("ICC") Code of Conduct.

### 4. Human Rights and Equal Opportunity Legislation

This Code does not restrict or prohibit any player from pursuing all other legal rights they may have in relation to racial and religious vilification.

### 5. Lodging a Complaint

Where a player ("the Complainant") believes he has been subjected to vilification under this Code or an officiating umpire in a match ("the Umpire") believes another player has breached the Code, the Complainant or Umpire may lodge a complaint with the Operations Manager of Cricket Australia by 5pm on the first business day following

the completion of the match in which the breach is alleged to have occurred.

## 6. What Must a Complaint Contain

A Complaint must:

- 6.1 be in writing;
- 6.2 outline the circumstances of the allegations made; and
- 6.3 if possible, be accompanied by any supporting documentation including witness statements or video evidence.

## 7. The Role Of The Operations Manager

- 7.1 The Operations Manager shall upon receipt of a complaint:
  - 7.1.1 inform the person alleged to have contravened the Code (“the Respondent”) of the complaint and provide that person with both a copy of the complaint and an opportunity to respond in writing;
  - 7.1.2 advise the Chief Executive Officer of Cricket Australia, both team captains, and the Cricket Australia Commissioner, as appointed by Cricket Australia under clause 3.1 of the Cricket Australia Code of Conduct, of the complaint;
  - 7.1.3 conduct an investigation into the allegations made in the complaint as s/he deems fit, which may include, but is not limited to:
    - 7.1.3.1 compiling a list of witnesses;
    - 7.1.3.2 obtaining a written statement from any available witness;
    - 7.1.3.3 obtaining a report from the officiating umpires and match referees, if applicable; and
    - 7.1.3.4 obtaining video or other evidence.
- 7.2 The investigation should be completed within 48 hours of receipt of the complaint, unless the Operations Manager, at his/her discretion, extends the time for investigation in the interests of fairness to all parties.
- 7.3 When the investigation is completed, the Operations Manager may:
  - 7.3.1 dismiss the complaint if s/he believes it is frivolous or vexatious;
  - 7.3.2 arrange for the complaint to be referred to conciliation; or

7.3.3 refer the complaint direct to the Cricket Australia Commissioner to determine the complaint pursuant to Clause 12, of this code if the Respondent has already appeared at conciliation in relation to previous breaches of this Code.

7.4 The Operations Manager may delegate to an officer of Cricket Australia any of his/her powers or functions under this Code, including the delegation of powers or functions to the Team Manager of any Australian Team on international tour.

## **8. Conciliation Procedure**

### **8.1 The Conciliator**

Any conciliation referred to in clause 7.3.2 of this Code will be conducted by a representative of the Equal Opportunity Commission of Victoria, or where the Commission is unable or unwilling to conciliate, a nominee of the Commission, provided that such nominee is not an official of or a player contracted to Cricket Australia or a State Cricket Association.

### **8.2 The Conciliation**

8.2.1 The Complainant, the Umpire who initiated the report (if any), and the Respondent, should attend the conciliation. Both Team Captains , or Vice Captain if the Captain is a party to the complaint, and Team Managers may attend with the consent of the Conciliator.

8.2.2 The Operations Manager must lodge with the Conciliator prior to conciliation:

8.2.2.1 a copy of the complaint;

8.2.2.2 the Respondents' response to the complaint;  
and

8.2.2.3 any evidence relevant to the complaint  
obtained during the course of the investigation.

8.2.3 Both parties and all those attending the conciliation must participate in good faith.

8.2.4 The Conciliator must adhere to and ensure the conciliation is conducted with reference to the principles of natural justice and procedural fairness.

8.2.5 The Complainant is the person who determines the course of redress to be pursued at any conciliation.

- 8.2.6 Except as stated in clause 8.3.4, both parties to the complaint and any other person aware of the details or circumstances of the conciliation, including the Operations Manager, Conciliator, ACB Officials and Team Captains, must at all times keep the particulars of the complaint and the conciliation confidential.
- 8.2.7 Except as stated in clause 8.3.4, no person referred to in clause 8.2.6 shall publicly comment on or disseminate any personal information concerning the complaint at any time prior to, during or after the conciliation.
- 8.2.8 Should a player breach Clause 8.2.6 he shall be subject to a penalty to be determined by Cricket Australia Commissioner up to a maximum of 100 per cent of the player's relevant match fee.
- 8.2.9 Any other person in breach of clause 8.2.6 shall be subject to a penalty to be determined by Cricket Australia Commissioner.

### 8.3 Resolution of the Complaint

- 8.3.1 If the complaint is resolved at the conciliation, the complaint will be deemed withdrawn and the Complainant cannot take any further action in respect of the complaint under this code.
- 8.3.2 Resolution of the complaint may be formalised by way of a verbal agreement or a formal written agreement signed by the parties.
- 8.3.3 The Conciliator must inform the Operations Manager the complaint has resolved.
- 8.3.4 Where a complaint is resolved, the parties may agree with the consent of Cricket Australia, to make a public statement concerning the resolution of the complaint.

### 8.4 If Conciliation is Unsuccessful.

Where the complaint has not been resolved successfully by conciliation, or where the conciliator believes that the complaint is not capable of successful resolution:

- 8.4.1 the Complainant, after notifying the Conciliator, may withdraw the complaint in which case no further action will be taken; or

8.4.2 the Conciliator must inform the Operations Manager that the conciliation has not been successful.

## **9. The Time Limit for Conciliation**

An attempt to conciliate a complaint must occur within 72 hours of the Conciliator receiving notification from the Operations Manager of the complaint.

## **10. Referral to Hearing Commissioner**

Upon notification of the failure of conciliation under Clause 8.4.2 the Operations Manager must refer the complaint to the Cricket Australia Commissioner who will then hear the complaint in accordance with Clause 12.

## **11. Evidence of the Conciliation**

In the event that a complaint is not successfully resolved and is referred to the Cricket Australia Commissioner, no evidence will be given to or be accepted by the Cricket Australia Commissioner in relation to anything said or done in any conciliation carried out pursuant to Clause 8.2.

## **12. The Cricket Australia Commissioner**

12.1 The Cricket Australia Commissioner will:

12.1.1 receive all material arising from the investigation from the Operations Manager upon referral of the complaint;

12.1.2 promptly arrange a hearing after considering the availability of the persons affected; and

12.1.3 advise his decision to both parties, both Team Captains, the Operations Manager and the Umpire who initiated the report (if applicable) within 24 hours of the hearing.

12.2 Hearings conducted by the Cricket Australia Commissioner into complaints will not be open to members of the public.

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

12.4 The Cricket Australia Commissioner may hear and decide the complaint in a manner to be determined by him/her.

12.5 After hearing the evidence, the Cricket Australia Commissioner may

12.5.1 find the complaint or any part of it not proven;

12.5.2 find the complaint or any part of it proven and if so:

12.5.2.1 refer to the Cricket Australia code of conduct register to ascertain any previous breach by the player; and

12.5.2.2 direct the Respondent to attend an education program conducted by the Commission at the Respondent's cost;

12.5.2.3 and determine a penalty which may include but which is not limited to:

12.5.2.3.1 the respondent to prepare a written apology;

12.5.2.3.2 a fine to a maximum of 100 per cent of the player's relevant match fee; or

12.5.2.3.3 suspension.

### **13. Legal Representation**

13.1 Parties may not be represented by a legal practitioner at conciliation under this Code

13.2 Where a complaint is referred to the Cricket Australia Commissioner under this code the parties may be represented by a legal practitioner.

### **14. Appeal**

Any player found to be in breach of the Code has the right of appeal against the decision of the Cricket Australia Commissioner to an Appeals Tribunal, consisting of three members, established by Cricket Australia for the purposes of this Code.

### **15. Australian Touring Teams**

15.1 Where an alleged breach of the Code occurs on an international tour, the same procedures as outlined in clauses 5 to 12 inclusive of this Code shall apply, except that the Team Manager shall act in place of the Operations Manager, and the Tour Executive (except the Team Manager) shall act in place of the Cricket Australia Commissioner.

- 15.2 If the Team Captain or Vice Captain are parties to the complaint they shall be excluded from decisions of the Tour Executive in relation to the complaint.
- 15.3 A Conciliator will be nominated by the Commission prior to the departure of the team for the purposes of conducting conciliations pursuant to clause 8 of the Code.

## **16. Continuous Education**

- 16.1 All players covered by the Code must attend an education program in relation to racial and religious vilification conducted by the Commission in 1998 at the expense of Cricket Australia.
- 16.2 Cricket Australia is committed to ongoing annual training of all players by the Commission in relation to the racial and religious vilification.