

# Ainslie Park Cricket Club

## Racial Vilification Policy



### Commitment

- 1.1. The Ainslie Park Cricket Club is committed to an environment which promotes racial and religious tolerance by prohibiting certain conduct and providing a means of redress for victims of racial and religious vilification and/or racial discrimination.
- 1.2. The Club is bound by the Racial and Religious Tolerance Act 2001 (Vic), the Racial Discrimination Act 1975 (Commonwealth), and the Equal Opportunity Act 1995 (Vic) (the legislation). This Policy is consistent with the legislation and the Cricket Australia Racial and Religious Vilification Code. This Policy is not in substitution of the legislation.
- 1.3. The Club will ensure that this Policy is communicated to spectators and participants of the Club. It will also ensure that participants of the Club receive anti-racial and religious vilification and racial discrimination training on an annual basis.
- 1.4. Nothing in this Policy prevents a person lodging a complaint in relation to racial and religious vilification and/or racial discrimination under the legislation. In the event a complaint is made under this policy the Club shall ensure that the parties are informed of their rights.

### Definitions

In this Policy-

"complaints process" means the procedure outlined in sections 6, 7 and 8 of this Policy.

"Association" means the Ringwood and District Cricket Association Inc (RDCA).

"Club" means any cricket Club that is a member of the RDCA.

"engage in conduct" includes use of the internet or email to publish or transmit statements or other material.

"detriment" includes humiliation and denigration.

"discrimination" means for the purpose of this Policy, conduct based on a person's race, religion, colour, descent or national or ethnic origin. Discrimination may be direct or indirect. Direct discrimination means treating or proposing to treat another person less favourably on the basis of a person's race, religion, colour, descent or national or ethnic origin. Indirect discrimination means imposing or intending to impose a requirement that a person of a particular race, religion, colour, descent or national or ethnic origin cannot comply with, but which a higher proportion of people without that attribute (or with a different attribute) can, when it is not reasonable in the circumstances to do so.

"participant" includes a player, director, officer, employee, volunteer to an agent of a Cricket Club that participates in the Association.

"spectator" is a person that attends a cricket game or event conducted by a Club or the Association.

## **Prohibited Conduct**

- 3.1. Racial and Religious Vilification - No person in his/her capacity as a spectator or participant in the Association in the course of carrying out his/her duties or functions as or incidental to being a participant in the Association shall engage in conduct that offends, humiliates, intimidates, contempts, ridicules, incites, threatens, disparages, vilifies or insults another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.
- 3.2. Serious Racial and Religious Vilification - No person in his/her capacity as a spectator or participant in the Club in the course of carrying out his/her duties or functions as or incidental to being a participant in the Club shall intentionally engage in conduct that he/she knows is likely to incite hatred against another person, or threaten physical harm or incite hatred in others to cause physical harm to a person or to a person's property because of that person's race, religion, colour, descent or national or ethnic origin.
- 3.3. Racial and Religious discrimination - No person in his/her capacity as a spectator or participant in the Club in the course of carrying out his/her duties or functions as or incidental to being a participant in the Club shall engage in conduct that discriminates, directly or indirectly against another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.
- 3.4. Victimisation
  - 3.4.1. No person in his/her capacity as a spectator or participant in the Club in the course of carrying out his/her duties or functions as or incidental to being a participant in the Club shall victimise another person.
  - 3.4.2. A person will victimise another person (the victim) if:
    - a) the person subjects or threatens to subject the victim to any detriment because the victim (or a person associated with the victim) intends to or has lodged a complaint in contravention of this Policy; or
    - b) the person assists, requests, induces, encourages or authorises another person to subject the victim to any detriment because the victim (or a person associated with the victim) intends to or has lodged a complaint in contravention of this Policy.

## **Authorised Persons**

- 4.1. The Club will appoint a Complaints Officer usually the Vice President - (the Club's Complaints Officer - Vice President) to ensure that any breach of this Policy is responded to in an equitable and prompt manner.
- 4.2. The President of the Club (the President) is the senior decision-maker in the Club's Complaints Process. Therefore, should the President be absent for a significant period, they must nominate a person to act on their behalf should the process need to be enacted.

## **Confidentiality and Records**

- 5.1. Confidentiality must be maintained throughout the complaints process. All parties to a complaint, the President (or Delegate), the Club's Complaints Officer, any witnesses

and the Conciliator must all agree, in writing, to the maintenance of confidentiality. No person involved in the complaints process shall publicly comment on any aspect of the complaints process without the prior written agreement of all parties.

- 5.2. The Club shall ensure that any documents relating to a complaint shall remain confidential and be retained for 7 years from the date that the complaint is made.

### **Inter club Breach of the Policy**

In the event that it is alleged that a spectator or participant from another Club has contravened this Policy:

- 6.1 an Umpire, spectator or participant of the Club may by 5.00pm on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint in writing with Complaints Officer of the Club;
- 6.2 the Complaints Officer of the Club where the complaint was made shall, by 5.00pm on the next working day following the day that the complaint was lodged with the Club, lodge the complaint with the Association's Complaints Officer;
- 6.3 the Club's Complaints Officer will take no further action once the complaint has been lodged with the Association unless otherwise instructed by the Association's Complaints Officer.

### **Intra Club Breach of the Policy**

In the event that it is alleged that a participant of the Club has contravened this Policy an umpire, spectator or participant may by 5.00pm on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint in writing with the Club's Complaints Officer.

### **Management of Intra Club Complaints**

The Club's Complaints Officer shall:

- 8.1 make every effort to ensure that:
  - 8.1.1 confidentiality is maintained at all times during the complaints process and that the outcome of the complaints process remains confidential
  - 8.1.2 any breach of confidentiality is referred to the RDCA's Investigation Officer no later than 5:00pm on the next working day following the day that the breach was discovered;
- 8.2 inform the person alleged to have contravened the Policy (the respondent) of the complaint and provide the respondent with an opportunity to respond to it;
- 8.3 inform only the President of the Club or Nominee, that a Complaint has been received by the Complaints Officer;
- 8.4 obtain written statements from any witnesses identified by both parties to the complaint;
- 8.5 where available, obtain any other evidence;
- 8.6 arrange for the complaint to be conciliated, by an independent conciliator agreed upon by both parties;
- 8.7 take all steps necessary for the complaint to be conciliated within 5 working days from the day on which the incident is alleged to have occurred;

- 8.8 refer the complaint to the Association's Investigation Officer:
- 8.8.1 when the complainant informs the Complaints Officer that the matter has not been resolved through conciliation. The Complaints Officer will if requested by the complainant, take all steps necessary for the complaint to be referred to Association's Investigation Officer within 5 working days from when the conciliation failed;
  - 8.8.2 directly when a respondent has previously taken part in conciliation as a respondent of a complaint;
  - 8.8.3 when both the Club's Complaints Officer and President have determined that the complaint was lacking in substance and was made vexatiously;
  - 8.8.4 when both the Club's Complaints Officer and President determine that under sections 24 or 25 of the Racial and Religious Tolerance Act 2001 (Vic) the complaint could be considered as "serious", he/she will take all steps necessary for the complaint to be referred to the Association's Tribunal within 5 working days from the day on which the incident is alleged to have occurred;
- 8.9 ensure that any time limit referred to in this Policy may be extended by the Club if in the opinion of the President of the Club it is just and equitable to do so;
- 8.10 ensure that where a matter is resolved by conciliation the only public statement that shall be made shall be agreed to by both parties to the complaint and the Club's President and that the terms of any settlement are finalised to the satisfaction of the complainant and respondent and signed by the parties and the conciliator.

### **Club's Liability**

The Club may be vicariously liable for conduct engaged in by a participant which if found to have contravened this Policy, if the Club is unable to establish that it took reasonable precautions to prevent the participant from engaging in that conduct.

### **Policy Review**

To ensure this policy continues to be relevant for club operation and that it reflects both club and community expectations, the policy will be reviewed annually.

Signed: **The Ainslie Park Cricket Club Executive Committee**

Date: **21 September 2016**