POLICY No.4 – VSDCA VILIFICATION POLICY

GENERAL:

There are two elements to the Victorian Sub-District Cricket Association (VSDCA) Vilification Policy and they are as follows:

i) A Policy Statement; and
ii) A Process for Resolution of Issues.

1. Policy Statement

1 Preamble

The Victorian Sub-District Cricket Association is strongly committed to ensuring that all Club officials and members, umpires and other representatives are able to participate in cricket in an environment free of racial and religious vilification.

Vilification at any level of our cricket, both on and off the field of play, will not be tolerated under any circumstances. Club officials and members have a responsibility to create and maintain a playing environment in which participants feel comfortable and where people respect and tolerate the rights, views and opinions of others.

Individuals who experience any form of vilification are entitled to the support of the VSDCA Board, other officials and representatives of the Association and of its Clubs and members.

All complaints of vilification will be treated seriously and will be investigated promptly and tactfully, including action being taken to ensure that the vilification stops.

The Victorian Sub-District Association will also take action to ensure that any person who lodges a complaint or who assists the investigation of a complaint is not victimised or disadvantaged in any way. Where such a situation occurs, the individual or club found to be in breach of this policy will be required to appear before a committee instigated by the Board to provide an explanation, and appropriate disciplinary action will be taken against any person or club deemed to have breached the policy.

Where it is found that the vilification alleged did not occur, all necessary action will be taken to ensure that the reputation of the accused person/s or club is not affected or impugned.

Furthermore any individual who deliberately fabricates or falsifies a complaint or falsely supports such a complaint of vilification will be required to appear before the VSDCA Board to provide an explanation, and if proven, subject to appropriate disciplinary action.

Any person who falsely lays a complaint should also be aware that the accused person/s or club has the right to pursue legal action for defamation.

Definitions and Terms:

What is Vilification?

Vilification is any form of behaviour which is uninvited, unwelcome and which humiliates, offends or intimidates another person, or makes the environment uncomfortable or unpleasant.

What is Racial Vilification?

Racial Vilification is the derogatory and offensive use of language and/or behaviour aimed at a person or groups of people based on their:

Colour;
Race;
Ethnic or Cultural background; or
Migration.

Racial Vilification is unlawful and ***will not be tolerated*** by the Victorian Sub-District Cricket Association under any circumstances. It can involve and affect players, umpires, club officials and supporters.

Examples of Racial Vilification

Examples of behaviour, which could form the basis for a complaint, include:

- Distribution or display of offensive racist or racially oriented material, such as posters, pictures, cartoons etc.;
- Jokes or derogatory comments referring to ethnicity or racial characteristics;
- Racially oriented verbal abuse;
- Repeated irrelevant references to a person's race, cultural or ethnic background;
- Practical jokes based on race or directed only at members of a particular ethnic group;
- Isolation or segregation of those from a particular racial or ethnic background;
- Campaigns of hate or silence based on race;
- and
- Physical assault based on race.

Making a Complaint:

If you wish to lodge a complaint or require information on the complaint process, refer to the Complaint Guidelines Policy attached (Attachment A).

Process for Resolution of Complaints

The process for resolution of complaints should proceed along the following lines:

Umpires, Captains, Administrators or Officials should at conclusion of the day's play **immediately** attempt to resolve the issue.

Prompt action as soon after the incident occurs as is possible will often result in resolution of the matter, before other parties can become involved.

If the matter can not be immediately be resolved to the satisfaction of those concerned, then any further action should be deferred until the conclusion of the proceedings to allow a "cooling-off" period on both sides.

THEN

i) Umpires, Captains, Administrators or Officials should again attempt to resolve the issue before formal lodgment of a complaint.

Action in mediating on the issue should be undertaken **BEFORE** any formal complaint proceeds, and if the matter can be satisfactorily dealt with then no report or further action is required.

If the matter can not be resolved it proceeds to the next stage.

THEN

ii) A Formal Complaint is laid by the Umpire using the normal report form, or if by an Official or Administrator then it should be in writing.

The complaint should set out the particulars of the incident, the names of the persons involved, any witnesses to the incident and any other considered pertinent to the matter.

Copies of the document are then given to the person alleging the harassment, the person alleged to have committed the harassment; a copy is retained by the Administrator, Official or Umpire and a copy mailed to the VSDCA CEO.

THEN

iii) The VSDCA CEO shall advise the Chairman of the Board Committee of the complaint and after consultation with the Chairman of the Committee proceed to arrange a meeting involving the Committee, the complainant, the defendant and the person who filed the report.

The VSDCA CEO shall act as the liaison person in setting up the conciliation meeting arrangements including forwarding all necessary information and advice to the parties, arranging the meeting time, location with the attending persons.

The VSDCA CEO shall also provide formal advice to the VSDCA Board at the following meeting of the issues concerning the incident.

The Board Committee shall convene and review the issues surrounding the alleged incident, hear the evidence from the respective parties and endeavour to reconcile the views with a primary intent to resolve the issue in the most

amicable way possible: if there can be resolution by mediation without involving a penalty then this should occur.

In the event that the matter can not be resolved to the satisfaction of all parties and particularly the complainant, then the Board Committee should, provided that it believes that there is sufficient justification, impose a penalty within the rules as set down in the Guidelines for the Proceedings.

The Complainant or Defendant may, if dissatisfied with the decision of the Board Committee, by notice in writing to the VSDCA CEO request a review of the decision by an Independent Body.

Where that occurs the CEO will engage three independent members to thoroughly review the decision and proceedings, and, subject to the Guidelines for the Proceedings, uphold, amend, or overturn the decision of the Board Committee.

* * * * * *

Attachment A

COMPLAINT GUIDELINES POLICY

Guidelines for Conduct of Hearings for Hearing of Complaints

How to Make A Complaint

Any individual/s experiencing any form of vilification and/or harassment should take action immediately to address the situation if he/she believes that the action was directed at him/her.

There are two approaches available in such a situation once the person has clearly established in their mind that the incident has occurred and they are as follows:

- By Direct Approach, which if unresolved can lead to an Informal Complaint, which if still unresolved can lead to a Formal Complaint; OR
- By an Informal Complaint which if unresolved can lead to a Formal Complaint.

1. Direct Approach

Direct action by speaking directly to the person involved, or writing to them confidentially, can put a stop to the offensive behaviour.

This course of action is to be preferred, as it will usually ensure that the matter remains between the two parties, and avoids the involvement of third parties, which can often lead to greater difficulties in resolving the matter.

Alternatively, if the person experiencing the vilification/harassment is not comfortable with this approach for whatever reason, then they may seek to have the matter addressed by either of the other two approaches,

The person experiencing the vilification/harassment should explain to the other person, that their behaviour is offensive and distressing, and that they are requesting the person offending, to stop.

If the behaviour continues, the person experiencing the vilification/harassment should again request that the offending person stop, and indicate that unless the behaviour stops immediately, could lead to a complaint being lodged with an official representative of the VSDCA.

If the request to stop does not result in the vilification/harassment ceasing, then the person experiencing the harassment should decide if the matter is to be pursued, and if so should approach or contact an Umpire, Captain, VSDCA Official or Club Administrator to assist in laying an Informal Complaint.

2. Informal Complaint

An Informal Complaint may be made to any of the following:

- Any member of the VSDCA Board; or
- Any official appointed by the VSDCA to act on behalf of the VSDCA in a match or function organised by the VSDCA e.g. an umpire; or
- An official of any club affiliated with the VSDCA.

It is the responsibility of the person ("Official") on receipt of the complaint to act immediately in response to the person making the complaint, to assist the person making the complaint in ensuring that the vilification/harassment stops.

The Official should discuss the concerns and issues involving the incident/s with the person making the complaint, and explore the possible options with both parties for resolving the complaint informally.

It is the official policy of the VSDCA that the Official is required to assist the person making the complaint to resolve the situation in a manner satisfactory to that person, and to treat the complaint as Private and Confidential between the Official, the person complaining and the person who has offended.

If notified that a person wishes to make an Informal Complaint, an Official should make brief notes of the following:

- Date, Time and Location;
- Match or Function ;
- Name of the person lodging the complaint;
- Name/s of the persons alleged to be offending;
- Brief points relating to the alleged incident/s.

Note: If after mediation the person who has complained, determines that the outcome is acceptable, and indicates that the complaint will not proceed any further the notes are to be kept confidential, but should be retained for 14 days and may then be destroyed. In the event that the person who has complained decides to proceed to a formal complaint, then the Official will be requested to appear before a Committee instigated by the Board, (and VSDCA Appeal Sub-committee) and the notes of the mediation will be useful in the recollection of the issues discussed.

If the above process fails to satisfy the person who has made the complaint and the problem remains unresolved, then the person who has lodged the complaint should be advised that he/she may lodge a formal complaint and has a further 72 hours from that time to decide whether to proceed with a formal complaint.

3. Formal Complaint

A formal complaint may ONLY be made to a member of the VSDCA Board, and it is preferred that this should, where possible, be the Secretary.

Where an umpire is lodging a Formal Complaint then such complaint is to be lodged on the normal complaint form (Attachment A-1), and the Secretary VSDCA then decides whether the matter is a case for the Investigation Committee or a Committee formed by the Board to deal with the specific complaint.

In all other circumstances where a Formal complaint is being lodged it is preferred, although not essential, that the complaint be lodged in writing.

The complaint should outline the following:

- Particulars as to date, time and location;
- The names of the individual/s involved, including the name of the Official who conducted the mediation at the Informal meeting;
- The nature of the incident/s, preferably in chronological order;
- Any witnesses; and
- Other issues or matters including any supporting documents.

Upon the lodgement of a Formal Complaint an investigation will be conducted by the Board Committee.

Note: In the interests of fairness, the person who is alleged to have committed the offence will be contacted and informed of the offence/s alleged, and may be given a copy of any written complaint.
That person/s alleged to have been involved will be entitled to respond to the complaint/s and to have an opportunity to respond to the allegations.

The CEO of the VSDCA will be responsible for:

- Advising the VSDCA Board of the Formal Complaint;
- Collating all material relevant to the complaint and providing copies to the Board Committee;
- Arranging and liaising with all parties as to a suitable meeting time and location.

4. Conciliation Committee

The Board Committee is to consist of at least three persons who are not currently members of the VSDCA Board nor are members of any of the clubs who are involved with the persons to the alleged complaint/s.

Note: The members of the Board Committee are to be selected by the VSDCA Board, and may be drawn from the ranks of Cricket Australia, Cricket Victoria, VSDCA or its affiliated clubs, or may be from areas outside the cricket community. Ideally, at least one person of the Committee would have knowledge of, or experience in dealing with the issue of racial vilification.

The Convenor (Chair) of this Committee is to be selected by the VSDCA Board.

The investigation by this Committee will establish whether the complaint is:

- Substantiated (i.e. the incident did happen);
- Unsubstantiated (i.e. there is insufficient proof to determine whether the alleged incident did happen);
- Disproven (i.e. the alleged incident did not happen).

Persons appearing before the Committee (i.e. those laying a complaint or those alleged to have offended) may bring a person to assist them at the hearing. That person may be a friend, club official or legal representative.

Persons appearing at the hearing may also bring witnesses to the alleged incident/s.

Persons who are not appearing as witnesses but may wish to attend as interested parties will not be permitted into the hearing at any time.

Depending on the outcome of the investigation the Committee has the power to suspend the offending person/s, issue a suspended sentence to the offending person/s or issue a caution to the offending person/s.

In all cases where there has been a finding which substantiates the complaint there is a mandatory requirement that all parties are to be counselled.

In cases where a complaint is Unsubstantiated the Committee has the power to recommend that either party to a Formal Complaint be counselled.

The Convenor of the Committee is required to appoint a person to keep a brief written summary of the meeting proceedings, which shall be kept confidential.

The Convenor of the Committee is required to advise the VSDCA CEO of the outcome of the hearing, who is to then advise in writing all parties of the decision.

The Convenor of the Committee is required to provide a short written report to the VSDCA Board within 14 days of the conclusion of any hearing (but should not provide any copies of the notes of the hearing in the event of an appeal).

Where a party to the proceedings does not wish to accept the finding/s of the Committee, that persons/s has 14 days from the date of the letter from the VSDCA CEO to lodge written notice to the Secretary of an appeal to the decision.

5. Appeals Committee

The Appeals Committee is to consist of at least three persons who have been selected by the current VSDCA Board, but shall not include any member whose club or former club is involved in the complaint being reviewed.

The VSDCA CEO is an ex-officio member of the Committee and will act as Minute Secretary for the Appeal hearing.

The Appeal Committee may call such witnesses and review evidence as it deems necessary including the Chair of the Board Committee, and may also seek guidance from a person who is expert in the area of race relations and related legislation.

Persons appearing before the Appeals Committee (i.e. those laying a complaint or those alleged to have offended) may bring a person to assist them at the hearing. That person may be a friend, club official or legal representative.

Persons appearing at the hearing may also bring witnesses to the alleged incident/s.

Persons who are not appearing as witnesses but may wish to attend as interested parties will not be permitted into the hearing at any time.

The decision of the Appeal Committee is final and may not be further appealed on any grounds.

The decision of the Appeals Committee is to be communicated in writing within 14 days to the VSDCA Board, the Convenor of the Conciliation Committee, and the parties to the complaint.

6. Confidentiality and Defamation

The allegation of a complaint of vilification or harassment is a serious issue for all concerned.

Such an allegation has the potential to cause great harm to a person's reputation and should not be taken unless there is a genuine belief that the incident/s has/have occurred.

Equally where such instances occur they should not be dismissed lightly or ignored, and need to be dealt with sensitively and confidentially.

Confidentiality is necessary to protect the integrity of the complaint process, and of the individual/s concerned; obviously the more widely the issue is known about in the early stages the more difficult is the process of reconciliation as third parties become involved.

The records and documents of all aspects relating to the hearing and any appeal process are to be kept strictly confidential and to only be seen by any person on a need to know basis.

If a person should lodge a complaint, or become involved in the investigation of a complaint (e.g. as a witness), they should be cautioned that any discussion that they may have in regard to the complaint should ONLY be with persons who are considered to be of assistance in the resolution of the complaint.

If a person is indiscreet or has discussed the complaint with other parties not directly involved in the complaint, the person/s alleged to have been the offender/s in the incident, may have grounds for legal action for defamation.

Reviewed August, 2020.