

# **Cricket Australia**

## **Anti-Harassment Code**

*Effective from 1 October 2015*

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# ANTI-HARASSMENT CODE

## 1 Introduction

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

## 2 Definitions

- 2.1 Harassment takes many forms but can generally be defined as comment, conduct, or gesture directed toward an individual or group of individuals which is insulting, intimidating, humiliating, malicious, degrading or offensive.
- 2.2 For the purposes of this Code a person sexually harasses another person (the '*person harassed*') if the person:
  - (i) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

- (ii) engages in other unwelcome conduct of a sexual nature in relation to the person harassed, including without limitation when:
  - (I) submission to or rejection of this conduct is used as the basis for making decisions which affect the person harassed;
  - (II) such conduct has the purpose or effect of interfering with the person harassed's athletic performance; or
  - (III) such conduct creates an intimidating, hostile or offensive environment for the person harassed,

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

2.3 Types of behaviour which constitute harassment include but are not limited to:

- (i) written, verbal or physical abuse, threats or intimidation;
- (ii) the display of visual material which is offensive or which one ought to know is offensive;
- (iii) unwelcome remarks jokes, comments, innuendo or taunting about a person's looks, body, attire, age, race, religion, sex or sexual orientation;
- (iv) leering or other suggestive or obscene comments or behaviour;
- (v) condescending, paternalistic or patronising behaviour which undermines self esteem, diminishes performance or adversely affects working conditions;
- (vi) practical jokes which cause awkwardness or embarrassment, endanger a person's safety or negatively affect performance;
- (vii) unwanted physical contact including touching, petting, pinching or kissing;

(viii) unwelcome sexual flirtations, advance requests or invitations;  
or

(ix) physical or sexual assault.

2.4 Sexual harassment most commonly occurs in the form of behaviour by males towards females; however, sexual harassment can also occur between males, between females or as behaviour by females towards males and is proscribed by this Code.

2.5 For the purposes of this Code retaliation against a person:

(i) for having filed a complaint under this Code;

(ii) for having participated in any action under this Code; or

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

will also be treated as harassment and will not be tolerated.

2.6 For the sake of clarity, the application of this Code is not limited to “sexual harassment” and will cover any circumstances or types of behaviour that can constitute harassment pursuant to Article 2.1.

### **3 Responsibility and Procedure**

3.1 Cricket Australia in conjunction with the Code of Behaviour Commission (as established by Appendix 2 of the Cricket Australia Code of Behaviour) shall be responsible for the implementation of this Code, including:

(i) investigating formal complaints of harassment in a sensitive, responsible and timely manner and imposing appropriate disciplinary or corrective measures when a complaint of harassment has been substantiated, regardless of the position or authority of the offender (as set out in clauses 4 - 9 of this Code);

(ii) providing advice to persons who experience harassment;

(iii) informing both complainants and respondents of the procedures contained in this Code and of their rights under the law; and

- (iv) reviewing the terms of this Code at least annually to ensure that they adequately meet Cricket Australia's legal obligations and public policy objectives.

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

#### **4. Lodging a Complaint**

Where a person (“the **Complainant**”) believes he, she or another person has been subjected to harassment under this Code, the Complainant may lodge a complaint with the Cricket Australia Head of Integrity.

#### **5. What Must a Complaint Contain**

5.1 A Complaint must:

- (i) be in writing;
- (ii) outline the circumstances of the allegations made; and
- (iii) if possible, be accompanied by supporting documentation.

#### **6. Procedure Following Receipt of Complaint**

6.1 The Cricket Australia Head of Integrity shall upon receipt of a complaint:

- (i) 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; and
- (ii) conduct an investigation into the allegations made in the complaint, which investigation may include, but is not limited to:
  - (A) compiling a list of witnesses;
  - (B) obtaining a written statement from any available witness; and
  - (C) obtaining other evidence.

- 6.2 When the investigation is completed, the Cricket Australia Head of Integrity may:
- (i) dismiss the complaint if he/she believes it is frivolous or vexatious; or
  - (ii) refer the complaint direct to a Cricket Australia Code of Behaviour Commissioner (“the Commission”) to determine the complaint pursuant to Clause 7 of this Code.
- 6.3 The Cricket Australia Head of Integrity may delegate to an officer of Cricket Australia any of his or her powers or functions under this Code.

## **7. The Cricket Australia Commissioner**

- 7.1 Following referral of a complaint under clause 6.2(ii) of this Code, the Commission will:
- (i) be sent all material arising from the investigation of the Cricket Australia Head of Integrity; and
  - (ii) promptly arrange a hearing after considering the availability of the persons affected.
- 7.2 Hearings conducted by the Commission into complaints will not be open to members of the public.
- 7.3 All persons required at the hearing shall attend punctually at the time and place designated.
- 7.4 The Commission will hear and decide the complaint in a manner to be determined by it.

## **8. Penalty**

- 8.1 If the Commission finds the complaint or any part of it proven it may apply any one or more of the following penalties:
- (i) the imposition of a suspension of between one (1) suspension point up to a maximum of a lifetime’s suspension;
  - (ii) the imposition of a fine of no more than \$10,000;
  - (iii) banning the person from holding (or continuing to hold) any position within Cricket Australia or a State or Territory Cricket

Association (including any Big Bash League Team or Women's Big Bash League Team), including as an employee, contractor, official or officer;

- (iv) require the person undergo counselling for a specified time;
- (v) require the person perform voluntary service to cricket or the community; and/or
- (vi) reprimand the person.

8.2 The Commission will advise its decision and provide a written statement of the findings to the Respondent, the person who initiated the report and the Cricket Australia Head of Integrity as soon as practicable following the hearing.

8.3 Cricket Australia may, in its absolute discretion, issue a public announcement regarding any decision of the Commission made under this Code after the decision has been communicated to the parties pursuant to Article 8.2. The public announcement of the decision may include details of the offences committed under this Code and of the sanctions imposed, if any. Until such time as a public announcement is published, all parties and participants in the proceedings shall treat such proceedings as strictly confidential.

## **9. Appeal**

Any person found to be in breach of this Code has the right of appeal against the decision of the Commission. The appeal will be conducted in accordance with the appeals process set out in Article 8 of the Cricket Australia Code of Behaviour.