



Ballarat Cricket Association Procedure 6A

VILIFICATION COMPLAINT PROCESS

This Vilification document should be read in conjunction with the Laws of Cricket, the Ballarat Cricket Association (BCA) Constitution and Code of Behaviour and is not intended to replace them

HOW TO MAKE A COMPLAINT

Any individual/s experiencing racial vilification and/or harassment should act immediately to address the situation if they believe that the action was directed at them.

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.

- Direct Approach. If the direct approach remains unresolved, this can lead to an Informal Complaint. If the informal complaint remains unresolved, this can lead to a Formal Complaint,
- Informal Complaint which, if unresolved, can lead to a Formal Complaint.

DIRECT APPROACH

Direct action by speaking directly to the offending person, or contacting them confidentially, can put a stop to the offensive behaviour. The person experiencing the harassment/vilification should explain to the offender that their behaviour is offensive and distressing, and that they are requesting the offender to stop.

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

If the request to stop does not result in the harassment/vilification ceasing, then the person experiencing the harassment should contact an Umpire, Captain, BCA Official or Club Administrator to assist in submitting an Informal Complaint.

INFORMAL COMPLAINT

An Informal Complaint may be made to any of the following people.

- Any member of the BCA Board or Pennant Committee.
- Any official appointed by the BCA to act on behalf of the BCA in a match or function organised by the BCA (for example, an umpire), or
- An official of any club affiliated with the BCA.

It is the responsibility of the person on receipt of the complaint ('Official') to act immediately and assist in making the harassment/vilification stop. 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.



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 with the complaint and the person who has allegedly offended.

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

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

If, after mediation, the person who has complained, determines that the outcome is acceptable, the notes are to be kept confidential and retained.

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. The Official will be requested to appear before the Conciliation Committee and the notes of the mediation will be useful in the recollection of the issues discussed.

FORMAL COMPLAINT

A formal complaint may ONLY be made to a member of the BCA Board, BCA Pennant Committee or through the BCA Operations Officer. Where a Formal Complaint is being lodged by an umpire, then such complaint is to be lodged on the normal report form, and the BCA Operations Officer will refer it to the Conciliation Committee. 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 details.

- Details regarding date, time and location of the offending.
- 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.
- Other issues or matters including any supporting documents.

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 BCA Operations Officer will be responsible for:

- advising the BCA Board of the Formal Complaint,
- collating all material relevant to the complaint and providing copies to the Conciliation Committee, and
- arranging and liaising with all parties as to a suitable meeting time and location.



CONCILIATION COMMITTEE

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

The members of the Conciliation Committee are to be selected by the BCA Board. These members may be drawn from the ranks of the BCA, Central Highlands Region 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 harassment/vilification. The Convenor (Chair) of the Conciliation Committee is to be selected by the BCA Board.

The investigation by the Conciliation 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), or
- disproven (i.e. the alleged incident did not happen).

The following process must be followed by the Conciliation Committee.

- Persons appearing before the Conciliation 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 other relevant party, however, must not be a legal representative.
- Persons appearing at the hearing may also bring witnesses to the alleged incident/s.
- Persons who are not appearing as witnesses will not be permitted into the hearing at any time.
- Depending on the outcome of the investigation, the Conciliation 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 Conciliation Committee has the power to recommend that either party to a Formal Complaint be counselled.
- The Convenor of the Conciliation 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 Conciliation Committee is required to advise the BCA Operations Officer of the outcome of the hearing, who is to then advise in writing all parties of the decision.
- The Convenor of the Conciliation Committee is required to provide a short-written report to the BCA 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 Conciliation Committee, that persons/s has 14 days from the date of the notice from the BCA Operations Officer to reply with an appeal to the decision.



APPEALS COMMITTEE

The following process must be followed by the Conciliation Appeals Committee.

- The Conciliation Appeals Committee is to consist of at least three persons who have been selected by the current BCA Board but shall not include any member whose club or former club is involved in the complaint being reviewed.
- The BCA Operations Officer 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 Convenor of the Conciliation Committee and may also seek guidance from a person who is expert in race relations and related legislation.
- Persons appearing before the Appeals Committee (ie 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 other relevant party however must not be a legal representative.
- Persons appearing at the hearing may also bring witnesses to the alleged incident/s.
- Persons who are not appearing as witnesses 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 BCA Board, the Convenor of the Conciliation Committee, and the parties to the complaint.

CONFIDENTIALITY AND DEFAMATION

The allegation of a complaint of harassment or vilification 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. 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.

Under no circumstances should the complaint be known to any media outlets and all parties are to strictly avoid social media platforms at all stages of the process. Failure to do so could compromise the process, cause undue distress to any party involved and have serious legal ramifications.

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 (eg 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.