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**MEMBER PROTECTION POLICY**  
**A BY-LAW OF CRICKET VICTORIA**

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## PART I – INTRODUCTION

### 1. WHAT IS THE PURPOSE OF THIS BY-LAW?

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- 1.1 The purpose of this By-law is to provide guidelines for the protection of the health, safety and wellbeing of all persons who participate in the activities of CV Organisations, including more specifically to:
- (a) assist CV Organisations to create a safe, fair and inclusive environment for participants in cricket in Victoria, free from all forms of Unlawful Discrimination, Bullying, Abuse, Harassment and Sexual Harassment;
  - (b) ensure that all persons within the scope of this By-law are treated with respect and dignity and protected from harm by those persons and organisations bound by this By-law;
  - (c) set out key rights, responsibilities and expected standards of behaviour of those persons and organisations bound by this By-law; and
  - (d) provide a clear framework and procedure for addressing Complaints or breaches under this By-law and any disciplinary outcomes.
- 1.2 This By-law replaces the previous member protection policy by-law dated 28 November 2016.

### 2. WHO DOES THIS BY-LAW APPLY TO?

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- 2.1 This By-law applies to the following organisations and individuals (each a **Bound Person** or **Bound Organisation** as applicable):
- (a) persons appointed or elected to boards of directors, executives and/or committees (including sub-committees) of a CV Organisation;
  - (b) employees of a CV Organisation;
  - (c) officials appointed or elected by a CV Organisation in relation to players and/or teams which represent such organisations including team management personnel such as managers, physiotherapists and other support personnel (whether paid or unpaid);
  - (d) coaches (including assistant coaches) who:
    - (i) are appointed and/or employed by a CV Organisation (whether paid or unpaid); or
    - (ii) have an agreement (whether or not in writing) with a CV Organisations to coach at a facility (whether owned or managed by such organisation or otherwise);
  - (e) umpires and other officials involved in the regulation of Cricket appointed by a CV Organisation;
  - (f) players who enter any competition, carnival, activity or events (including camps, training sessions etc) which are held or sanctioned by or under the auspices of a CV Organisation;

- (g) CV Organisations;
- (h) any other person or organisation, who or which is, a member of, or affiliated to a CV Organisation (such as club members); and
- (i) any other person or organisation (for example, a parent/guardian, spectator or sponsor) who or which agrees, in writing or otherwise (whether on a ticket, entry form, venue terms and conditions etc.) to be bound by this By-law or to whom this By-law otherwise applies.

### **3. WHEN THIS BY-LAW APPLIES**

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- 3.1** All Bound Persons and Bound Organisations must always comply with this By-law (whilst they are a Bound Person or Bound Organisation), including:
- (a) in relation to any dealings they have with Bound Organisations or their staff, contractors, and representatives;
  - (b) when dealing with other Bound Persons or Bound Organisations in their capacity as a Bound Person/Bound Organisation; and
  - (c) in relation to their membership or standing as a Bound Person or Bound Organisation in general.
- 3.2** The following is not within the scope of this By-law:
- (a) where an interaction (including social media interactions) occurs involving one or more Bound Persons or Bound Organisations, and the only link or connection between the interaction and Cricket is the fact that one or more individuals are Bound Persons or Bound Organisations)<sup>1</sup>;
  - (b) where conduct occurs in contravention of this By-law, any subsequent conduct or interaction(s) that, whilst related to the original conduct, no longer directly relates to Cricket (even where such conduct or interaction(s) would otherwise be conduct in breach of this By-law)<sup>2</sup>; and
  - (c) where the Bound Organisation determines, in their absolute discretion, that the alleged conduct would be more appropriately dealt with under a different CV Organisation policy, code, rule or regulation (including competition management rules).

### **4. CONFIDENTIALITY**

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- 4.1** All Complaints, and all information disclosed in relation to them, including the outcomes of any resolution process, will be kept confidential by the CV

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<sup>1</sup> Such as two Bound Persons getting into a verbal or physical argument at a shopping centre, or two members sending abusive social media messages to each other that have no direct link to Cricket.

<sup>2</sup> Such as where a member of a Bound Organisation allegedly breaches this Policy by physically assaulting another member at a match, but then the personal grievance(s) between those two individuals spills into issues not directly related to Cricket, such as social media abuse or trolling.

Organisation(s), and will not be disclosed to any third parties, except as provided in this clause or otherwise in this By-law.

**4.2** A CV Organisation may make the following disclosures:

- (a) to the parties to a Complaint in relation to the resolution process;
- (b) to any person to facilitate the proper handling of a Complaint;
- (c) to external agencies so they can deal with the alleged conduct (eg law enforcement agencies, government or regulatory authorities, a child protection agency);
- (d) to members or other sport organisations, including Australian Cricket Entities, to inform them of a penalty imposed under this By-law;
- (e) in accordance with clause 15 where a penalty is to be publicly disclosed;
- (f) to any third party including Australian Cricket Entities and CV Organisations for the primary purpose of:
  - (i) preventing or lessening a risk to the safety, health, or wellbeing of a person; or
  - (ii) protecting children participating in Cricket; or
  - (iii) protecting the safety of participants in Cricket; and
- (g) as required by law or any court.

## **PART II – BREACHES**

### **5. WHAT IS A BREACH OF THIS BY-LAW?**

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**5.1** A Bound Person or Bound Organisation commits a breach of this By-law when they, either alone or in conjunction with another or others, engage in any of the following conduct against one or more Bound Persons or Bound Organisations, in the circumstances outlined in clause 3.1:

- (a) Abuse;
- (b) Bullying;
- (c) Child Protection Matters;
- (d) Harassment;
- (e) Sexual Misconduct;
- (f) Unlawful Discrimination;
- (g) Victimisation;
- (h) Vilification;
- (i) breaching the mandated Screening Requirements;
- (j) breaching the Code of Behaviour;
- (k) making a frivolous, vexatious or malicious Complaint under this By-law;
- (l) failing to enforce or abide by a penalty imposed by a Hearings Tribunal or an Appeal Body;
- (m) referred conduct under the Rules of Premier Cricket; and
- (n) a breach of any other by-law, policy, procedure or requirement of Cricket Victoria (such as prohibited person declarations and prohibited person requirements) that is expressly stated in that document to constitute a breach of this By-law.

**5.2** Where a breach of a separate Cricket Victoria document constitutes a breach of this By-law under clause 5.1(n), the alleged breach is taken to be an alleged breach of this By-law in the same manner as allegations covered under (a) - (j) in clause 5.1.

**5.3** Attachment B sets out examples of what may constitute a breach of this By-law.

### **6. WHAT IS NOT A BREACH OF THIS BY-LAW?**

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**6.1** The following matters do not constitute a breach of this By-law:

- (a) allegations or information:
  - (i) concerning any matter not expressly referred to in clause 5.1;
  - (ii) that is mischievous, vexatious or knowingly untrue;

- (iii) that has been the subject of a previous Complaint, whether resolved or ongoing under a previous process in this By-law;
- (b) Personal Grievances;
- (c) Minor Breaches;
- (d) Protected Disclosures;
- (e) Employment Matters;
- (f) selection disputes except to the extent there is an alleged breach of this By-law as outlined in clause 5.1; and
- (g) breaches of field of play rules, regulations and requirements unless expressly referred by those rules, regulations and requirements.

## PART III – COMPLAINT RESOLUTION PROCEDURE

### 7. COMPLAINT

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- 7.1** Any person or organisation (including, but not limited to, a Bound Person or Bound Organisation) may make a complaint about a Bound Person or Bound Organisation, if they consider that the Bound Person or Bound Organisation has committed a breach of this By-law under clause 5.1 (a **Complaint**), by completing a Complaint Form and lodging in accordance with clause 8.1.
- 7.2** A Complaint Form may only be submitted on behalf of a CV Organisation by the President, General Manager/Secretary (or in their absence their Nominee) or a director of the CV Organisation.
- 7.3** A Complaint Form may be submitted by a parent or guardian on behalf of a Vulnerable Person.
- 7.4** A Complaint Form cannot be submitted anonymously.

### 8. COMPLAINT RESOLUTION PROCEDURE

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- 8.1** A Complaint Form must be lodged (which may include by email) with one of the following:
- (a) a Member Protection Information Officer of the relevant CV Organisation (a list of the Member Protection Information Officers must be made available to any person requesting such list and shall be displayed at the premises of CV Organisations, or on their respective internet websites); or
  - (b) the President or General Manager/Secretary (or in their absence their Nominee) of the relevant CV Organisation.
- 8.2** If a person listed in clause 8.1 receives a Complaint, then they must do the following:
- (a) If such person is not a Member Protection Information Officer, they shall forward such Complaint as soon as possible to a Member Protection Information Officer.
  - (b) The Member Protection Information Officer must then determine whether the Complaint:
    - (i) is a Protected Disclosure, in which case it must be dealt with under the Cricket Victoria whistleblower policy;
    - (ii) is not an alleged breach of this By-law;
    - (iii) is primarily an Employment Matter; and/or
    - (iv) requires mandatory reporting to occur under applicable child protection legislation or other laws, in which case the Member Protection Information Officer must do so in accordance with the Safeguarding Policy.



- (c) If the Complaint falls within the circumstances set out in clauses 8.2(b)(i) - 8.2(b)(iii), the process under this By-law is permanently discontinued. If a Complaint falls within the circumstances set out in clause 8.2(b)(iv), the prescribed process under this By-law must be continued after the requirements of the Safeguarding Policy with respect to mandatory reporting have been met, with timing of the continuance subject to consultation with the relevant authorities, having regard to any investigation or legal process on foot.
- (d) If the Member Protection Information Officer determines the Complaint is within the scope of this By-law, the Member Protection Information Officer must then ask the Complainant whether they wish the Member Protection Information Officer to:
- (i) listen to and inform the Complainant about their possible options; and/or
  - (ii) act as a support person for the Complainant, including supporting them through any mediation process undertaken to resolve the Complaint if the Complainant wishes to resolve the Complaint by mediation in accordance with clause 8.3; or
  - (iii) refer the Complaint to the Hearings Convenor at the relevant CV Organisation, whichever organisation the person complained about holds the highest role, for a hearing to be held under clause 9 (if mediation is not a relevant/appropriate option).
- (e) Having determined the Complainant's wishes in clause 8.2(d), the Member Protection Information Officer will:
- (i) act in accordance with the Complainant's direction in relation to the options set out in clause 8.2(d);
  - (ii) keep the matter confidential and only discuss it with those people whom the Complainant has authorised them to speak to about the Complaint, except as otherwise permitted in this By-law; and
  - (iii) inform the relevant government authority, if required by law.

Nothing in this By-law prevents a Member Protection Information Officer referring a Complaint to a CV Organisation for Interim Action (including of the nature set out in clause 11.6) on an urgent basis, should this be regarded as necessary or appropriate in all the circumstances.

**8.3** If the Complainant wishes to try and resolve the Complaint by mediation, the Member Protection Information Officer shall immediately notify the Mediator appointed (with the prior approval of the relevant CV Organisation) in respect of the relevant CV Organisation that a Complaint has been made and provide them with a copy of the written Complaint.

**8.4** The Mediator shall:

- (a) notify the person complained about, in writing, that a Complaint has been made and provide them with a copy of the written Complaint;

- (b) attempt to mediate a resolution between the Complainant and the person complained about.

**8.5** If an agreed resolution is reached between the Complainant and the person complained about, the Complaint shall be deemed to have been withdrawn and no further action in relation to that Complaint may be taken (except for that which is agreed) under this By-law.

**8.6** If a Complainant withdraws the Complaint, no further action in relation to that Complaint may be taken (unless required by law) under this By-law.

**8.7** If following the process in clause 8.4 an agreed resolution is not reached within fourteen business days then with the Complainant's agreement, the Mediator shall refer the Complaint to the Hearings Convenor at the relevant CV Organisation, whichever organisation the person complained about holds the highest role, for a hearing to be held under clause 9.

**8.8** To avoid any doubt, any Complaint from any Complainant relating to:

- (a) a Premier Club shall be referred to the Hearings Convenor of the CV Tribunal;
- (b) a Community Cricket Peak Body shall be referred to the Hearings Convenor of the Community Cricket Peak Body;
- (c) a Region, shall be referred to the Hearings Convenor of the Region. If a Region has not appointed at least one Hearings Convenor, the Complaint shall be referred to the Hearings Convenor of the relevant Community Cricket Peak Body;
- (d) an Affiliated Club and Association, unless granted approval to conduct hearings under clause 21.3, shall be referred to the Hearings Convenor of the Region of which the Affiliated Club and Association is a member. If a Region has not appointed at least one Hearings Convenor, the Complaint shall be referred to the Hearings Convenor of the relevant Premier Club or Community Cricket Peak Body.

**8.9** Nothing in this By-law prevents:

- (a) the Complainant taking action under State or Federal legislation; or
- (b) the applicable CV Organisation, at any time before or while dealing with a Complaint, referring the Complaint to a relevant external organisation (which may include a law enforcement agency, government or regulatory authority or child protection agency).

**8.10** CV Organisations must keep records of all Complaints made under this clause 8. Records must be maintained in a secure and confidential place – whether in electronic or hard copy (if any) versions. All Hearings Convenors will share records of Complaints with Cricket Victoria as soon as practicable after receipt and otherwise within 3 days. Such records are to be maintained regardless of whether the Complaint proceeds to a Complaint resolution procedure (e.g. a Hearings Tribunal) or not.

## **9. HEARINGS**

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- 9.1** Where the Hearings Convenor at a Community Cricket Peak Body or Region receives a Complaint referred to it under clause 8, they shall follow the procedures set out in clause 11.
- 9.2** Where the Hearings Convenor receives a Complaint in relation to a Premier Club referred to it under clause 8.8 they shall follow the procedures set out in clause 12.
- 9.3** Bound Persons and Bound Organisations must cooperate fully with a hearings process they are involved in.
- 9.4** Subject to clause 9.5, a Hearings Tribunal or an Appeal Body may draw an inference adverse to the respondent based on a respondent's failure or refusal, after a request has been made in a reasonable time in advance, to answer any relevant question, provide relevant documentation and/or participate in the hearings process. The respondent must be made aware of such an inference being drawn in relation to any particular allegation forming part of a Complaint.
- 9.5** No Bound Person or Bound Organisation is required to answer a question or provide information where to do so would be a breach of any applicable law, and no adverse inference (such as those in clause 9.4) may be drawn where that Bound Person or Bound Organisation discloses the relevant law.
- 9.6** If a respondent fails to attend a Hearings Tribunal or Appeal Body without reasonable cause, the hearing may proceed, and a determination may be made by the relevant tribunal in the absence of the respondent.
- 9.7** Unless otherwise specified, the standard of proof that applies to all decisions made under this By-law (including by a Hearings Tribunal or Appeal Body) is "balance of probabilities".
- 9.8** Where a respondent has been convicted or found guilty in a criminal, disciplinary or professional proceeding of engaging in conduct that would be a breach of this By-law, the respondent is deemed under this By-law to have committed a breach without requiring further investigation. A Hearings Tribunal shall be convened, as per clauses 11 or 12, to determine the applicable penalty, if any and, to avoid doubt, any such penalty may be recognised in accordance with clause 18.

## **10. VULNERABLE PERSONS**

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- 10.1** Where a complainant, respondent or witness is a Vulnerable Person, the parent or guardian of the Vulnerable Person may act on behalf of the Vulnerable Person and accompany them throughout the hearings process, including at any interview, mediation, hearing or appeal.
- 10.2** CV Organisations will have regard to the guide entitled "Complaint Handling Guide: Upholding the rights of children and young people" issued by the National Office for Child Safety in managing Complaints made on behalf of or involving Vulnerable Persons, currently available at [Complaint Handling Guide: Upholding the rights of children and young people](https://www.pmc.gov.au/complaint-handling-guide-upholding-the-rights-of-children-and-young-people) (pmc.gov.au), or such other guide that may replace it.
- 10.3** Cricket Victoria may at any time, in extenuating circumstances and in consultation with the relevant CV Organisation, having regard to the seriousness of the matters alleged and involvement of any Vulnerable Person, determine whether it will assist

in managing the Complaint, or whether the Complaint remains entirely with the CV Organisation to resolve in accordance with clause 8.

## **11. COMMUNITY CRICKET PEAK BODY OR REGION HEARINGS**

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**11.1** Upon receipt of the Complaint or the information in relation to a matter involving any CV Organisation other than Premier Clubs, the Hearings Convenor shall as soon as possible do the following:

- (a) determine the composition of the Hearings Tribunal, as detailed in clause 11.2;
- (b) send to the person complained about:
  - (i) a notice setting out the alleged breach including details of when/where it is alleged to have occurred; and
  - (ii) a notice setting out the date, time and place for the hearing of the alleged breach which shall be as soon as reasonably practicable after receipt of the Complaint or information;
  - (iii) a copy of the Complaint or the information received if in writing;
 (referred to as “**Notice of Alleged Breach**”);
- (c) send to the Complainant(s) and the Chairperson of the Hearings Tribunal a copy of the Notice of Alleged Breach.

**11.2** The Hearings Tribunal for each hearing shall be comprised of members previously approved by the board or committee (however described) of the relevant Community Cricket Peak Body or Region and shall comprise the following persons:

- (a) a Legal Representative (who shall be the Chairperson) or, if after reasonable attempts have been made to obtain a Legal Representative without success, then a person with considerable previous experience in the legal aspects of a disciplinary/hearings tribunal;
- (b) a person with a thorough knowledge of Cricket; and
- (c) one other person of experience and skills suitable to the function of the Hearings Tribunal and/or the nature of the Complaint,

**provided that** such persons do not include:

- (i) a person who is a member of the board or committee (however described) of the organisation which appoints the Hearings Tribunal; or
- (ii) a person who would, by reason of their relationship with the Complainant or the person complained about, be reasonably considered to be other than impartial.

**11.3** Preliminary threshold issues

- (a) Upon receipt of the Notice of Alleged Breach, the:

- (i) Chairperson alone, if they are a Legal Representative; or
- (ii) the Hearings Tribunal members collectively, if the Chairperson is not a Legal Representative,

(each in this clause 11.3, the “**Preliminary Decision Maker**”) must determine whether the Complaint fails any of the preliminary issues under clause 11.3(b), and shall advise the parties of their determination.

- (b) The Preliminary Decision Maker must determine whether the Complaint:
  - (i) is solely a Personal Grievance;
  - (ii) is a Minor Breach;
  - (iii) is frivolous, vexatious or malicious; and/or
  - (iv) relates to an alleged breach of this By-law that also falls under another applicable Cricket Victoria policy, procedure or requirement.
- (c) The Preliminary Decision Maker shall determine such preliminary issues as soon as practicable and in whatever manner the Preliminary Decision Maker considers appropriate in the circumstances provided that they do so in accordance with the principles of Natural Justice.
- (d) Upon a determination by the Preliminary Decision Maker that the Complaint fails any of the preliminary issues under clause 11.3(b), the Complaint is permanently discontinued. There is no right of appeal of the decision by a Preliminary Decision Maker under this clause 11.3.
- (e) Where the Preliminary Decision Maker finds a Complaint falls within clause 11.3(b)(ii), they must direct the Bound Person or Bound Organisation complained about to make a written apology to the Complainant or person affected (as applicable).
- (f) The Preliminary Decision Maker may refer Complaints that fall under clause 11.3(b)(iv) to Cricket Victoria or another CV Organisation to be dealt with under the appropriate process.

**11.4** The Hearings Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of Natural Justice. **The purpose of the hearing shall be to determine whether the person complained about has committed a breach of this By-law.** If the Hearings Tribunal considers that the person complained about has committed a breach of this By-law, it may impose any one or more of the penalties set out in clause 14.

**11.5** The parties to the hearing shall include the Complainant, the person complained about and the relevant CV Organisation and any witnesses, which any such party wishes to have participate in the hearing.

- 11.6** If upon receipt of the Notice of Alleged Breach, the Preliminary Decision Maker considers that pending the determination of the matter the person complained about may put at risk the safety and welfare of the Complainant or others and no Interim Action has previously been taken by any relevant CV Organisation, they may order that the person complained about be:
- (a) suspended from any role they hold with the relevant CV Organisation;
  - (b) banned from any event or activities held by or sanctioned by the relevant CV Organisation; and/or
  - (c) required not to contact or in any way associate with the Complainant or other person about whom the alleged breach relates, pending the determination of the hearing.
- 11.7** There is no right of appeal of the decision by a Preliminary Decision Maker under clause 11.6.
- 11.8** Any party to the hearing may be represented at the hearing by any person, excluding a Legal Representative.
- 11.9** Each party to the hearing shall bear their own costs in relation to the hearing.
- 11.10** The Hearings Tribunal shall give its decision as soon as practicable after the hearing and will deliver to the following a statement of its reasons in writing:
- (a) the President, General Manager/Secretary or the CEO of the CV Organisation which established the Hearings Tribunal;
  - (b) the Complainant;
  - (c) the person complained about; and
  - (d) any other party represented in the hearing.
- 11.11** Where their appointment is pre-approved by the board or committee of the relevant CV Organisation, each member of each Hearings Tribunal established under this By-law shall be indemnified by the CV Organisation which appointed them, from any claim or action for loss, damages, or costs made against them arising out of, or in connection with, their function as a member of the Hearings Tribunal under this clause 11.
- 11.12** Except as otherwise provided in this By-law, all members of the Hearings Tribunal shall keep all matters relating to the hearing (including but not limited to the nature of the Complaint, information obtained before and during the hearing and the decision of the Hearings Tribunal) confidential.
- 11.13** The relevant CV Organisation must keep records of all Complaints that proceed to a Hearings Tribunal process for a minimum of 7 years.
- 11.14** Records must be maintained in a secure and confidential place – whether in electronic or hard copy (if any) versions.
- 11.15** When recording details at the finalisation of a Complaint, the person from the relevant CV Organisation recording the Complaint must:

- (a) file all materials lodged by each party to the Complaint in a confidential and secure location;
- (b) document the decision made with respect to the Complaint;
- (c) document any disciplinary measures arising out of the Complaint; and
- (d) record any additional outcomes of the Complaint.

**11.16** As soon as possible after the Complaint is resolved, the relevant CV Organisation must also notify CV of the outcome of the Complaint.

**11.17** To the extent of any inconsistency between the hearing procedure set out in the constitution of the relevant Community Cricket Peak Body or Region and the hearing procedure set out in this By-law, this By-law shall prevail in relation to all Complaints under this By-law.

## **12. PREMIER CLUBS HEARINGS**

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**12.1** Upon receipt of the Complaint or the information in relation to a matter involving Premier Clubs, the relevant Hearings Convenor shall as soon as possible do the following:

- (a) make arrangements for the CV Tribunal to be empanelled, including the applicable CV Tribunal member as appointed by the Hearings Convenor;
- (b) send to the person complained about:
  - (i) a notice setting out the alleged breach including details of when/where it is alleged to have occurred; and
  - (ii) a notice setting out the date, time and place for the hearing of the alleged breach which shall be as soon as reasonably practicable after receipt of the Complaint or information;
  - (iii) a copy of the Complaint or the information received if in writing;
 (referred to as "**Notice of Alleged Breach**"); and
- (c) send to the Complainant(s) and the Chairperson of the CV Tribunal a copy of the Notice of Alleged Breach.

### **12.2** Preliminary threshold issues

Upon receipt of the Notice of Alleged Breach, the CV Tribunal must determine whether the Complaint fails any of the preliminary issues under clause 12.2(a), and shall advise the parties of the determination.

- (a) The CV Tribunal must determine whether the Complaint:
  - (i) is solely a Personal Grievance;
  - (ii) is a Minor Breach;
  - (iii) is frivolous, vexatious or malicious; and/or

- (iv) relates to an alleged breach of this By-law that also falls under another applicable Cricket Victoria policy, procedure or requirement.
  - (b) The CV Tribunal shall determine such preliminary issue as soon as practicable and in whatever manner the CV Tribunal considers appropriate in the circumstances provided that they do so in accordance with the principles of Natural Justice.
  - (c) Upon a determination by the CV Tribunal that the Complaint fails any of the preliminary issues under this clause, the Complaint is permanently discontinued. There is no right of appeal of the decision by the CV Tribunal under this clause 12.2.
  - (d) Where the CV Tribunal finds a Complaint falls within clause 12.2(a)(ii), they must direct the Bound Person or Bound Organisation complained about to make a written apology to the Complainant or person affected (as applicable).
  - (e) The CV Tribunal may refer Complaints that fall under clause 12.2(a)(iv) to Cricket Victoria to be dealt with under the appropriate process.
- 12.3** The CV Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of Natural Justice. **The purpose of the hearing shall be to determine whether the person complained about has committed a breach of this By-law.** If the CV Tribunal considers that the person complained about has committed a breach of this By-law, it may impose any one or more of the penalties set out in clause 14.
- 12.4** The parties to the hearing shall include the Complainant, the person complained about and the relevant CV Organisation (being the relevant Premier Club) and any witnesses, which any such party wishes to have participate in the hearing.
- 12.5** If upon receipt of the Notice of Alleged Breach, the Preliminary Decision Maker of the CV Tribunal considers that pending the determination of the matter the person complained about may put at risk the safety and welfare of the Complainant or others and no previous Interim Action has been taken by any relevant CV Organisation, they may order that the person complained about be:
- (a) suspended from any role they hold with the relevant Premier Club;
  - (b) banned from any event or activities held by or sanctioned by the relevant Premier Club; and/or
  - (c) required not to contact or in any way associate with the Complainant or other person about whom the alleged breach relates, pending the determination of the hearing.
- 12.6** Any party to the hearing may be represented at the hearing by any person, excluding a Legal Representative.
- 12.7** Each party to the hearing shall bear their own costs in relation to the hearing.



**12.8** The CV Tribunal shall give its decision as soon as practicable after the hearing and will deliver to the following a brief statement of its reasons in writing:

- (a) the CEO of Cricket Victoria;
- (b) the President or the CEO of the relevant Premier Club(s) involved in the matter;
- (c) the Complainant;
- (d) the person complained about; and
- (e) any other party represented in the hearing.

**12.9** Each member of each CV Tribunal established under this clause 12 shall be indemnified by Cricket Victoria, from any claim or action for loss, damages, or costs made against them arising out of, or in connection with, their function as a member of the CV Tribunal under this By-law, subject always to the Board of Cricket Victoria first approving the appointment of the panel members of any such CV Tribunal.

**12.10** Except as otherwise provided in this By-law, all members of the CV Tribunal shall keep all matters relating to the hearing (including but not limited to the nature of the Complaint, information obtained before and during the hearing and the decision of the CV Tribunal) confidential.

**12.11** The record keeping requirements provided in clauses 11.13 to 11.15 in relation to a Hearings Tribunal procedure under clause 11 apply equally to a CV Tribunal hearing conducted under this clause 12.

**12.12** To the extent of any inconsistency between the hearing procedure of the CV Tribunal set out in the Cricket Victoria constitution and the hearing procedure set out in this By-law, the Cricket Victoria constitution shall prevail in relation to all Complaints made under this By-law to the extent of the inconsistency.

### **13. ADDITIONAL SUPPORT FROM CRICKET VICTORIA**

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**13.1** Notwithstanding anything in this By-law, a Hearings Convener may, with Cricket Victoria's prior written approval, seek from Cricket Victoria a list of appropriately qualified individuals that may be appointed to a Hearings Tribunal by the Hearings Convener or an Appeal Body by the Hearings Convener. To avoid doubt, the board or committee of the relevant CV Organisation must approve the appointment of the recommended individuals to any such Hearings Tribunal or Appeal Body.

### **14. WHAT PENALTIES MAY BE IMPOSED?**

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**14.1** If the Hearings Tribunal or the CV Tribunal (as the case may be) considers that a person or organisation, to whom this By-law applies, has breached this By-law, it may impose any one or more of the following penalties:

- (a) **For breaches committed by Bound Organisations:**
  - (i) direct that any funding granted or given to it by a CV Organisation cease from a specified date;

- (ii) impose a monetary fine for an amount determined by the Hearings Tribunal;
  - (iii) impose a warning;
  - (iv) recommend to the relevant CV Organisation that its membership of such CV Organisation be suspended or terminated in accordance with their applicable constitution;
  - (v) direct that any rights, privileges and benefits provided to that Bound Organisation by a CV Organisation be suspended for a specified period and/or terminated;
  - (vi) direct that a CV Organisation cease to sanction events held by or under the auspices of that Bound Organisation; or
  - (vii) any other such penalty as the Hearings Tribunal considers appropriate.
- (b) **For breaches committed by Bound Persons:**
- (i) direct that the offender attend counselling to address their conduct;
  - (ii) recommend that the relevant CV Organisation terminate the appointment of the role which the Bound Person holds with such organisation;
  - (iii) recommend that the relevant CV Organisation expel the Bound Person from membership of the relevant CV Organisation;
  - (iv) recommend that the relevant CV Organisation suspend the Bound Person from participating in further activities, fixtures, competitions or events of the relevant CV Organisation for a period determined appropriate by the Hearings Tribunal;
  - (v) where there has been damage to property, direct that the Bound Person pay compensation to the relevant CV Organisation which controls or has possession of the property;
  - (vi) impose a monetary fine for an amount determined by the Hearings Tribunal;
  - (vii) impose a warning;
  - (viii) in the case of a coach, direct the relevant CV Organisation to de-register the accreditation of the coach for a period or indefinitely;
  - (ix) withdraw any awards, placings, records won by the Bound Person in any competitions, carnivals, activities or events held or sanctioned by a CV Organisation;
  - (x) direct the Bound Person to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by a CV Organisation, or any other organisation which has provided funding; or

- (xi) any other such penalty as the Hearings Tribunal considers appropriate.

- 14.2** If a CV Organisation or person commits a second or subsequent breach under this By-law, then the Hearings Tribunal or CV Tribunal (as the case may be) shall have regard to the previous breach, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent breach.
- 14.3** When the Hearings Tribunal or CV Tribunal imposes a penalty under clause 14.1, the Hearings Tribunal may consider, but is not limited to considering, the following factors:
- (a) nature and seriousness of the breach;
  - (b) whether the CV Organisation or person knew or ought to have known that the behaviour constituted a breach;
  - (c) the CV Organisation's or person's level of contrition;
  - (d) the effect of the proposed penalty on the person, including any personal, professional or financial consequences;
  - (e) if the CV Organisation or person has received any relevant prior warnings or disciplinary actions;
  - (f) the ability to enforce the penalty; and
  - (g) any other mitigating factors.
- 14.4** When the Hearings Tribunal imposes a penalty under clause 14.1, the penalty must be:
- (a) consistent with any contractual and employment rules and requirements;
  - (b) fair and reasonable;
  - (c) based on the evidence and information presented and the seriousness of the breach; and
  - (d) compliant with Cricket Victoria's Constitution and By-laws (including this By-law)
- 14.5** If a penalty is imposed by the Hearings Tribunal under clause 14.1, the President or the General Manager/Secretary of the CV Organisation (or in their absence their Nominee) from which the Hearings Tribunal is established shall as soon as possible notify in writing Cricket Victoria and each relevant Premier Club, Community Cricket Peak Body and/or Region of such penalty.
- 14.6** Any penalty imposed by a Hearings Tribunal under this clause 14 are to be recorded in the record maintained in accordance with either clauses 11.15 or 12.11.

## **15. PUBLIC DISCLOSURE OF PENALTIES**

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- 15.1** Where a Complaint is found to have been substantiated and a penalty is imposed, Cricket Victoria may, subject to this clause 15, give a direction to the relevant CV Organisation that the penalty imposed and the name of the person on whom the

penalty is imposed is to be publicly disclosed where Cricket Victoria reasonably considers that this is necessary to give full effect to the penalty.

**15.2** Penalties that may be subject to a direction of public disclosure include, but are not limited to:

- (a) suspension of membership or from certain activities;
- (b) removal of accreditation; and/or
- (c) expulsion of membership.

**15.3** CV Organisations will maintain a register of persons subject to publicly disclosable penalties on their websites. The public register will include the name of the individual or organisation being sanctioned, the penalty imposed, and the period of the penalty. CV Organisations will remove penalties from the public register when the penalty has expired.

**15.4** Details of breaches will not be published on CV Organisation websites, but where appropriate, may be disclosed to third parties in accordance with clauses 4.2(e) and 4.2(f) of this By-law (as applicable).

**15.5** Penalties will not be publicly disclosed until the Complaint has been finalised in accordance with this By-law.

**16. HOW CAN A DECISION BE APPEALED - COMMUNITY CRICKET PEAK BODY OR REGION?**

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**16.1** Each of a Complainant or respondent to a hearing held under clauses 11 (including an organisation, and for the avoidance of doubt, being a matter related to a Community Cricket Peak Body or Region) may appeal a decision of a Hearings Tribunal on a ground of appeal specified in clause 16.2.

**16.2** The decision of a Hearings Tribunal can only be appealed on the following grounds of appeal:

- (a) the Hearing Tribunal failed to abide by this By-law and such failure resulted in a denial of Natural Justice; and/or
- (b) no reasonable decision maker in the position of the Hearings Tribunal, based on the material before them, could reasonably make such a decision.

**16.3** An appeal shall be made to the relevant Community Cricket Peak Body or Region, which shall convene a Hearings Tribunal comprising three members as outlined in clause 11.2 (none of whom may have been members of the initial Hearings Tribunal which determined the matter at first instance) (referred to as the "**Appeal Body**").

- (a) an appeal against a decision of a Hearings Tribunal established by a Region shall be made to the Hearings Tribunal of the relevant Community Cricket Peak Body; and
- (b) an appeal against a decision of a Hearings Tribunal established by a Community Cricket Peak Body shall be made to an independent appeal tribunal convened by the Community Cricket Peak Body,

(referred to as the "**Appeal Body**").

- 16.4** There is only one right of appeal following the decision of the initial Hearings Tribunal. Any appeal must be solely and exclusively resolved by the Appeal Body and the decision of such Appeal Body is final and binding on the parties. It is agreed that no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant Appeal Body. **Note: This provision does not prevent any person or organisation taking action under State or Federal legislation.**
- 16.5** The process for such appeal is as follows:
- (a) the party wishing to appeal (the "**Appellant**") shall within 72 hours of the Hearings Tribunal delivering its decision advise, in writing, the President or the General Manager/Secretary (or in their absence their Nominee) of the relevant Community Cricket Peak Body or Region, of their intention to appeal ("**Notice of Intention to Appeal**"), which must include the ground(s) of appeal on which the appeal is based; and
  - (b) for all appeals, as soon as possible after receipt of the Notice of Intention to Appeal, the Hearings Convenor of the relevant Community Cricket Peak Body or Region (as applicable) shall appoint an Appeal Body to hear and determine the appeal; and
  - (c) within five days of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the Appeal Body if there is urgency) the Appellant shall:
    - (i) pay an appeal fee to the Chairperson of the Appeal Body, which shall be \$250.00 (including GST, if any) which is non-refundable; and
    - (ii) submit to the Chairperson of the Appeal Body the grounds of the appeal in writing and provide copies to the other party, via the President or the General Manager/Secretary (or in their absence their Nominee) of the relevant Community Cricket Peak Body or Region (as applicable).

If either of the requirements in this sub-clause is not met by the due time, the appeal shall be deemed to be withdrawn;
  - (d) on completion of the procedures in (a) to (c), the Chairperson of the Appeal Body shall:
    - (i) determine whether the appeal raises a valid ground of appeal, failing which the appeal is automatically dismissed; or
    - (ii) where the appeal raises a valid ground of appeal, determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details; and
  - (e) the procedure for the appeal shall be the same as the procedure for the Hearings Tribunal set out in clause 11.

- 16.6** The Appeal Body's arbitration of the appeal must determine, on the balance of probabilities, whether one or both grounds of appeal (as applicable) are proven, and must not rehear the matter or the facts of the Complaint.
- 16.7** Upon hearing the appeal, the Appeal Body may do any one or more of the following:
- (a) dismiss the appeal;
  - (b) uphold the appeal;
  - (c) impose any of the penalties set out in clause 14;
  - (d) reduce, increase or otherwise vary any penalty imposed by the initial Hearings Tribunal.
- 16.8** The President or the General Manager/Secretary (or in their absence their Nominee) of the CV Organisation from which the Appeal Body is established shall as soon as possible notify in writing Cricket Victoria, and each relevant Community Cricket Peak Body and Region of the outcome of the appeal.
- 16.9** The Appeal Body has no power to award costs and each party shall bear their own costs in relation to any appeal.
- 16.10** Any appeals conducted by an Appeal Body under this clause 16 are to be recorded in accordance with clause 11.15.
- 16.11** To the extent of any inconsistency between the hearing appeal procedure set out in the constitution of a Community Cricket Peak Body or Region and the hearing appeal procedure set out in this By-law, this By-law shall prevail in relation to all Complaints under this By-law.

## **17. HOW CAN A DECISION BE APPEALED - PREMIER CLUBS?**

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- 17.1** Each of a Complainant or respondent to a hearing held under clause 12 (including an organisation, and for the avoidance of doubt, being a matter related to a Premier Club) may appeal a decision of the CV Tribunal in accordance with clause 24.3 of the Cricket Victoria Constitution<sup>3</sup>.
- 17.2** The decision of the CV Tribunal can only be appealed on the grounds specified in clause 24.3(d) of the Cricket Victoria Constitution.
- 17.3** The Cricket Victoria Constitution governs the process and procedure for an appeal, including timing for lodgment of the appeal and the process to be adopted by the CV Appeals Tribunal.
- 17.4** Any appeal conducted by a CV Appeals Tribunal under this clause 17 is to be recorded in the record maintained in accordance with clause 11.15.
- 17.5** To the extent of any inconsistency between the appeal procedure set out in the Cricket Victoria Constitution and the appeal procedure set out in this By-law, the Cricket Victoria Constitution shall prevail.

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<sup>3</sup> A copy of the Cricket Victoria Constitution is available [here](#).

**18. RECOGNITION OF PENALTIES**

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- 18.1** Every CV Organisation shall recognise and enforce any decision and penalty imposed by a Hearings Tribunal, a CV Tribunal or Appeal Body under this By-law.
- 18.2** The following details of any person suspended or expelled shall be forwarded to the relevant Premier Club or Community Cricket Peak Body:
- (a) player's name;
  - (b) player's national registration number;
  - (c) suspension expiry date;
  - (d) reason for suspension or expulsion; and
  - (e) the name of the suspending/expelling organisation.
- 18.3** The Premier Club or Community Cricket Peak Body's responsible officer shall endorse the suspension/expulsion and forward the details to Cricket Victoria, provided that the responsible officer has no reason to believe that the person complained about has been dealt with inappropriately. Where relevant, Cricket Victoria shall arrange for the individual's name, national registration number (if any) and date of expulsion or suspension expiry to be added to the "Suspended Players" page on the Cricket Victoria website.
- 18.4** For the avoidance of doubt:
- (a) no CV Organisation shall register a person, club or Association which would be ineligible to be registered by another CV Organisation by virtue of that person, club or Association receiving a penalty under this By-law; and
  - (b) any person who is currently serving a suspension or disqualification imposed upon that person by an organisation affiliated with or recognised by Cricket Australia (CV Organisations and/or otherwise) shall not be eligible to play or be registered as a player or coach of any other organisation affiliated with or recognised by Cricket Australia, until that suspension or disqualification has been served. For the purposes of this rule, the appearance of the person's name and suspension expiry date on the "Suspended Players" page on the Cricket Victoria website shall constitute prima facie evidence that the player is legitimately suspended.

## **PART IV - GENERAL**

### **19. WHAT IS THE STATUS OF THIS BY-LAW?**

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- 19.1** This By-law is issued by the Board of each Premier Club, Community Cricket Peak Body and Regions under their respective constitutions and comes into force on the date of adoption.
- 19.2** This By-law may be changed from time to time by the respective Premier Clubs and Community Cricket Peak Bodies in accordance with their respective constitutions, provided that such changes must have received prior written approval from Cricket Victoria.

### **20. WHAT DO WORDS IN THIS BY-LAW MEAN?**

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- 20.1** In this By-law, words appearing with a capital shall be have the meaning set out in Attachment A or as defined elsewhere in this By-law, and Attachment A will form part of this By-law.
- 20.2** In this By-law, unless the context requires otherwise;
- (a) Words denoting the singular shall include the plural and vice versa;
  - (b) Including means including without limitation and include shall be construed accordingly; and
  - (c) Words denoting a gender shall include a reference to any other gender.

### **21. RESPONSIBILITIES UNDER THE BY-LAW**

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- 21.1** Premier Clubs, Community Cricket Peak Bodies and Regions must:
- (a) adopt, implement and comply with this By-law (by adopting this By-law, each Premier Club, Community Cricket Peak Body, Region and the respective members of such Premier Club, Community Cricket Peak Body or Region, will be bound by the terms of this By-law);
  - (b) comply with the Screening Requirements;
  - (c) promote and model appropriate standards of behaviour at all times;
  - (d) recognise and enforce any penalty imposed under this By-law;
  - (e) publish, distribute and promote this By-law (and any amendments made to it from time to time) to its members and make this By-law available for inspection, or provide a copy on request;
  - (f) make such amendments to its constitution, rules and/or by laws in order for this By-law to be enforceable;
  - (g) use any forms, contracts and clauses recommended by Cricket Victoria in order to give effect to this By-law in such documents as contracts, entry forms and player registration forms, as recommended by Cricket Victoria;



- (h) promptly deal with any breaches or complaints made under this By-law in a sensitive, fair, timely and confidential manner;
- (i) apply this By-law consistently; and
- (j) seek advice and refer serious issues to Cricket Victoria.

**21.2** Community Cricket Peak Bodies and Regions must also, with the approval of their respective board or committee:

- (a) appoint at least one Member Protection Information Officer and one Mediator to fulfil the functions set out in clause 8, and to publish and display the names and contact details of such persons to its members. For the avoidance of doubt, Cricket Victoria will appoint a Member Protection Information Officer in matters related to Premier Clubs;
- (b) formally appoint (with board/committee approval) a Hearings Convenor to fulfil the functions set out in this By-law (including those set out in clause 9) and to publish and display the name of such person to its members; and
- (c) establish a Hearings Tribunal in accordance with clause 11.2, to fulfil the functions set out in clauses 9 and 11.

**21.3** Affiliated Clubs and Associations must:

- (a) adopt, implement and comply with this By-law (by adopting this By-law, all Affiliated Clubs and Associations, and the respective members of such Affiliated Clubs and Associations, will be bound by the terms of this By-law);
- (b) comply with the Screening Requirements;
- (c) recognise and enforce any penalty imposed under this By-law;
- (d) publish, distribute and promote this By-law (and any amendments made to it from time to time) to their members and make this By-law available for inspection, or provide a copy on request;
- (e) make such amendments to their constitution, rules and/or by laws in order for this By-law to be enforceable, as required by a Community Cricket Peak Body or Region; and
- (f) use any forms, contracts and clauses prescribed by a Community Cricket Peak Body in order to give effect to this By-law in such documents as contracts, entry forms and player registration forms, as directed by a Community Cricket Peak Body or Region.

**21.4** Notwithstanding clauses 21.1, 21.2 and 21.3 above, Affiliated Clubs and Associations are not required to establish procedures for dealing with Complaints and hearings under this By-law. Such Complaints and hearings are to be dealt with at the Premier Club, Community Cricket Peak Body and Region level. However, nothing prevents association from establishing procedures for dealing with Complaints and hearings under this By-law with the approval of the relevant Community Cricket Peak Body, having regard to the available resources and capacity to do so, and if so, the association would be required to comply with the

requirements of clause 21.1 as if this clause applied to Affiliated Clubs and Associations.

- 21.5** All other organisations and persons (for example, administrators, employees, officials, coaches, players, parents) to which this By-law applies, must:
- (a) make themselves aware of this By-law and comply with its standards of behaviour;
  - (b) place the safety and welfare of Children above other considerations;
  - (c) follow the procedures outlined in Part III of this By-law when lodging a Complaint and comply with any decision or measure imposed under this By-law; and
  - (d) comply with all codes and policies (including the Code of Behaviour) (as applicable).
- 21.6** The CV Organisations are responsible for taking all reasonable steps to ensure implementation, compliance and enforcement of this By-law.
- 21.7** Cricket Victoria must monitor and review this By-law at least annually.

## ATTACHMENT A - POLICY DEFINITIONS

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**Abuse** means any type of abuse (including physical, emotional, psychological, sexual and inappropriate use of power) that has caused, is causing or is likely to cause harm to a person's wellbeing, whether in person or as the result of a publication viewable by any other person by any means.

**Affiliated Clubs and Associations** means a member of a Community Cricket Peak Body, which may include leagues, associations, clubs or teams (howsoever described).

**Appeal Body** means a body comprising of three members of the CV Appeals Tribunal panel or appeals panel of a Community Cricket Peak Body or Region (none of whom may have been members of the initial Hearings Tribunal which determined the matter at first instance).

**Appellant** means a person that makes an appeal under clause 16.5.

**Australian Cricket Entities** mean Cricket Australia, the recognised state and territory cricket associations (including Cricket Victoria) and any women's and/or men's big bash league entities under the auspices of Cricket Australia, as these may vary.

**Bullying** means a person or group of people repeatedly and intentionally using words or actions, or the inappropriate use of power, against someone or a group of people to cause distress and risk to their wellbeing.

**By-law** and **this By-law** mean this Member Protection By-law.

**Child** is a person under the age of eighteen years and **Children** mean more than one Child.

**Child Protection Matter** means allegations or information that relate to a breach of the Safeguarding Policy.

**Code of Behaviour** means the code of behaviour set out in Attachment C.

**Complaint** means a complaint made under clause 7.

**Complaint Form** means the form prescribed by Cricket Victoria from time to time.

**Complainant** means a person or organisation that makes a Complaint.

**Community Cricket Peak Bodies** means the Victorian Country Cricket League, Victorian Metropolitan Cricket Union, Victorian Sub-District Cricket Association, and Cricket Victoria to the extent a Complaint relates to 'Harmony in Cricket', 'Women's Community Cricket' or other Competition auspiced by Cricket Victoria (other than Premier Cricket).

**Cricket Victoria** means the Victorian Cricket Association.

**CV Organisation** means all of Cricket Victoria, Premier Clubs, Community Cricket Peak Bodies, Regions and Affiliated Clubs and Associations.

**CV Tribunal** means the first instance tribunal appointed under the Cricket Victoria Constitution.

**CV Appeal Tribunal** means the appeal tribunal appointed under the Cricket Victoria Constitution.

**Discrimination** – refer **Unlawful Discrimination**.

**Employment Matter** means a Complaint relating to the conduct of an employee in the course of their employment duties and in the case of Cricket Victoria, may include persons contracted or appointed to provide similar services or duties, whether paid or unpaid.

**General Manager/Secretary** means the general manager/secretary of an organisation, howsoever described (may include the chief executive and executive officer or other similar title).

**Grooming** means the process where an adult establishes a trusting relationship with a Child or young person and those close to them, to create an environment in which abuse can occur, including without limitation at training, at a match, in social settings, text messages, social media, online chatrooms or any other means of communication.

**Harassment** means any type of behaviour towards a person that they do not want and that is offensive, abusive, belittling or threatening and is reasonably likely to cause harm to the person who is the subject of the harassment.

**Hearings Convenor** means a person who is responsible for the administration of hearings by the Hearings Tribunal (in the case of a matter involving a Community Cricket Peak Body or a Region) or the CV Tribunal (in the case of a Premier Club).

**Hearings Tribunal** means:

- (a) in the case of a matter involving a Premier Club (or an individual from a Premier Club) means the CV Tribunal; and
- (b) in the case of matter involving a Community Cricket Peak Body or a Region, means the Hearing Tribunal established to hear and determine alleged breaches and appeals under this By-law.

**Interim Action** means any action taken prior to any mediation or hearing under this By-law to ensure the safety of any person (and in particular any Vulnerable Person) and/or to support the needs of a person complained about.

**Intimidation** means an intentional approach by any means (including virtually) that causes a person to fear for their safety or any conduct that would cause a reasonable person to apprehend violence, injury or damage to any person or property.

**Legal Representative** means a person who holds, or has held in the past five years, a practising certificate as a lawyer or barrister in any Australian jurisdiction.

**Mediator** means a person appointed to mediate disputes and concerns in relations to Complaints under this By-law.

**Member Protection Information Officer** means:

- (a) in the case of a matter involving a Community Cricket Peak Body, Region or Affiliated Club and Association, a person appointed by a Community Cricket Peak Body, Region or Affiliate who may be the first point of contact for someone bringing a Complaint under this By-law.
- (b) in the case of a matter involving a Premier Club, a person appointed by Cricket Victoria and who may be the first point of contact for someone to bring a complaint against a Premier Club under this By-Law.

**Minor Breach** means an alleged breach of this By-law that, if proven, would likely only result in a warning (whether informal or formal) being imposed on the respondent as the applicable sanction.

**Natural Justice** means and comprehends a person's right to:

- (a) a decision by a disinterested and unbiased adjudicator (the hearing rule); and
- (b) adequate notice of the case against them, and a right to respond (the bias rule).

**Notice of Alleged Breach** means a notice setting out the alleged breach including details of when/where it is alleged to have occurred;

- (a) a notice setting out the date, time and place for the hearing of the alleged breach which shall be as soon as reasonably practicable after receipt of the Complaint or information; and
- (b) details of the Complaint or the information received in writing.

**Notice of Intention to Appeal** means a notice, letter or document in writing by the Appellant to the President or the General Manager/Secretary of the relevant Community Cricket Peak Body or Region, stating the Appellant's intention to appeal a decision of the Hearings Tribunal.

**Nominee** means the person who is, under the constitution of the relevant organisation, empowered to act in the President's or the General Manager/Secretary's absence. In the case of the President, it may include a Vice-President, Deputy Chairperson or other similar title, however described and in the case of the General Manager/Secretary it may include the acting General Manager/Secretary, acting chief executive, acting executive officer or other similar title, however described.

**Personal Grievance** means any form of grievance between two or more people (including Bound Persons and Bound Organisations) that does not concern or allege a breach of this By-law, including but not limited to personality clashes.

**Premier Clubs** means the clubs participating in Victorian Premier Cricket as may from time to time be amended by Cricket Victoria.

**Protected Disclosure** means a disclosure of information to Cricket Victoria that qualifies for protection under the whistleblower laws<sup>4</sup> in the *Corporations Act 2001* (Cth).

**Region** means an entity comprised of a number of Affiliated Clubs and Associations and recognised by Cricket Victoria or a Community Cricket Peak Body as being responsible for the development and conduct of Cricket within a designated geographical area.

**Safeguarding Policy** means Australian Cricket's Policy for Safeguarding Children and Young People.

**Screening Requirements** mean the mandated screening requirements under the Safeguarding Policy, including in particular Annexure C of the Safeguarding Policy.

**Sexual Misconduct** means:

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<sup>4</sup> Refer to section 1317AAB of the *Corporations Act 2001* (Cth).

- (a) **Sexual Harassment**, which is any unwanted or unwelcome sexual behaviour where a reasonable person would anticipate the possibility that the person being harassed would feel offended, humiliated, or intimidated; and
- (b) **Sexual Offences**, which include any criminal offence involving sexual activity or actions of indecency.

**Unlawful Discrimination** includes:

- (a) **Direct Discrimination**, when a person or group of people is treated less favourably than another person or group, because of a personal characteristic; and
- (b) **Indirect Discrimination**, when an unreasonable rule or policy applies to everyone but has the effect of disadvantaging some people because of a personal characteristic they share, where such personal characteristic is protected by applicable anti-discrimination legislation.

**Victimisation** means subjecting a person, or threatening to subject a person, to any unfair treatment because the person has made, or intends to pursue their right to make, a complaint or lawful disclosure, including under applicable legislation or this Policy, or for supporting another person to take such action.

**Vilification** means a public act, conduct or behaviour that incites hatred, serious contempt for, or revulsion or severe ridicule of, a person or group of people because of a particular characteristic they hold, as covered by applicable legislation, including their race or religion, or homosexuality, transgender or HIV/AIDS status.

**Vulnerable Person** means person who is (a) a Child; or (b) aged 18 or over, but is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation, by reason of age, illness, trauma or disability, or any other reason.

## ATTACHMENT B - EXAMPLES OF BREACHES OF THIS BY-LAW

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1 **Abuse** may include:

- (c) physical abuse and assault including hitting, slapping, punching, kicking, and destroying property, sleep, and food deprivation, forced feeding, unreasonable physical restraint, spitting at another person or biting;
- (d) sexual abuse including rape and assault, using sexually degrading insults, forced sex or sexual acts, deliberately causing pain during sex, unwanted touching or exposure to pornography, sexual jokes, using sex to coerce compliance;
- (e) emotional abuse such as repeated and intentional embarrassment in public, preventing or excluding someone from participating in sport activities, stalking, humiliation, and intimidation;
- (f) verbal abuse such as repeated or severe insults, name calling, criticism, swearing and humiliation, attacks on someone's intelligence, body shaming, aggressive yelling;
- (g) financial abuse such as restricting access to bank accounts, taking complete control of finances and money, forbidding someone from working, taking someone's pay and not allowing them to access it; and
- (h) neglect of a person's needs.

2 **Bullying** may include repeatedly:

- (a) keeping someone out of a group (online or offline);
- (b) acting in an unpleasant way near or towards someone;
- (c) giving nasty looks, making rude gestures, calling names, being rude and impolite, and constantly negative teasing;
- (d) spreading rumours or lies, or misrepresenting someone (i.e. using their social media account to post messages as if it were them);
- (e) 'fooling around', 'messing about' or other random or supposedly playful conduct that goes too far;
- (f) harassing someone based on their race, sex, religion, gender, or a disability;
- (g) intentionally and repeatedly hurting someone physically;
- (h) intentionally stalking someone; and
- (i) taking advantage of any power over someone else,

but does not include legitimate and reasonable:

- (j) management action;

- (k) management processes;
- (l) disciplinary action; or
- (m) allocation of activities in compliance with agreed systems.

3 **Harassment** may include behaviour such as:

- (a) telling insulting jokes about racial groups;
- (b) sending explicit or sexually suggestive emails or text messages;
- (c) displaying racially offensive or pornographic images or screen savers;
- (d) making derogatory comments or taunts about someone's race;
- (e) asking intrusive questions about someone's personal life, including their sex life;
- (f) sexual harassment or any of the above conduct, including in the workplace by employers, co-workers, and other workplace participants;
- (g) any of the above conduct, including in the workplace, based on or linked to a person's disability or the disability of an associate; and
- (h) offensive behaviour based on race or racial hatred, such as something done in public that offends, insults, or humiliates a person or group of people because of their race, colour or national or ethnic origin.

4 **Minor Breach**<sup>5</sup> (not being a breach of this By-law able to be pursued, as per clause 6.1) may include but is not limited to:

- (a) low-level swearing directed at an individual;
- (b) low-level intimidating body language; and
- (c) minor unruly behaviour that might otherwise constitute Abuse or Harassment.

5 **Sexual Misconduct** may include:

- (a) unwelcome touching;
- (b) staring or leering;
- (c) suggestive comments or jokes;
- (d) showing or sharing sexually explicit images or pictures;
- (e) unwanted invitations to go out on dates;
- (f) requests for sex;

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<sup>5</sup> Competition matters are not dealt with under this By-law but are handled under competition management rules eg. player swearing at another player during a match (refer clause 3.2(c)).



- (g) intrusive questions about a person's private life or body;
- (h) unnecessary familiarity, such as deliberately brushing up against a person;
- (i) insults or taunts based on sex;
- (j) sexually explicit physical contact;
- (k) sending sexually explicit or suggestive emails, texts, or other electronic/social media messages;
- (l) displaying pornographic images or screen savers;
- (m) asking intrusive questions about someone's personal life, including about their sex life; and
- (n) criminal offences such as rape, indecent or sexual assault, sexual penetration, or relationship with a child under the age of 16 and possession of child pornography.

**6 Unlawful Discrimination** may include unfair treatment based on a person's:

- (a) age;
- (b) disability;
- (c) race, colour, national or ethnic origin or immigrant status;
- (d) sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding; and
- (e) sexual orientation, gender identity or intersex status.

**7 Victimisation** may include:

- (a) dismissal of an employee/volunteer or disadvantage to their employment/involvement in Cricket;
- (b) alteration of an employee's position or duties to his or her disadvantage;
- (c) discrimination between an employee and other employees;
- (d) repeated failure to select an individual on merit;
- (e) a reduction in future contract value; and
- (f) removal of coaching and other financial and non-financial support.

**8 Vilification** may include:

- (a) speaking about a person's race or religion in a way that could make other people dislike, hate, or ridicule them;
- (b) publishing claims that a racial or religious group is involved in serious crimes without any evidence in support;

- (c) repeated and serious verbal or physical abuse about the race or religion of another person;
- (d) encouraging violence against people who belong to a particular race or religion, or damaging their property; or
- (e) encouraging people to hate a racial or religious group using flyers, stickers, posters, a speech, or publication, or using websites or email.

## ATTACHMENT C - CODE OF BEHAVIOUR

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*“Cricket owes much of its appeal and enjoyment to the fact that it should be played not only according to the Laws, but also the Spirit of Cricket. The major responsibility extends to all players, match officials and, especially in junior cricket, teachers, coaches and parents.”* Extract from MCC Laws of the Game Preamble “Spirit of Cricket”

As a person connected to Community Cricket (a *Bound Person or Bound Organisation, as defined in clause 2.1 of Cricket Victoria’s Member Protection Policy*) you are required to comply with this Code of Behaviour. You must meet the following requirements in regard to your conduct during or in relation to any activity held, sanctioned by or associated with a CV Organisation, including in the digital or online environment.

### Respect

- Respect the rights, dignity and worth of every person regardless of their personal attributes, including but not limited to age, race, sex, disability, sexuality, gender identity, beliefs or religion
- Refrain from any form of Unlawful Discrimination, Harassment, Bullying, Abuse, Grooming, Intimidation, Victimisation or Vilification, including but not limited to on the basis of age, race, sex, disability, sexuality, gender identity, beliefs or religion
- Model appropriate behaviour by not using foul language, and not harassing people involved in cricket
- Recognise and value the contribution of volunteers who give up their valuable time to make cricket happen

### Integrity

- Be honest, fair, respectful, trustworthy, reliable, open and transparent in dealings with others
- Refrain from any behaviour that may bring cricket or a CV Organisation into disrepute
- Not engage in or advocate the possession or use of banned performance enhancing substances, methods, or illicit drugs
- Not participate in or encourage action that may jeopardise the integrity of the sport of cricket, including match-fixing, illegal sports betting and other corruption
- Avoid any actual, potential or perceived conflicts of interest
- Understand and play by the Spirit of Cricket

### Responsibility

- Consider and accept the consequences of your actions and decisions
- Be a positive role model by displaying self-control, respect, care and diligence to all involved in cricket
- Demonstrate a high degree of responsibility, especially when dealing with people under 18 years of age
- Understand the consequences of breaching this Code of Behaviour or any other policy or code of a CV Organisation and immediately report any potential breaches to appropriate authorities

### Safe, Inclusive and Supportive

- Provide a safe, welcoming, supportive and inclusive environment that regards the health, welfare and well-being of participants (particularly Children and Young People) as paramount
- Take all reasonable steps to ensure equipment, facilities and programs meet health and safety standards and are appropriate to the age and ability of participants
- Be aware of and support policies and practices including injury management, return to play, adverse weather and child safe standards (as promoted in Australian Cricket’s Policy for Safeguarding Children and Young People), including reporting safety issues to appropriate CV Organisations

### Social media and other digital/online communication

- Never impersonate or falsely represent any other person or infringe their intellectual property rights
- Respect both the privacy and confidentiality of information
- Do not violate security measures or interfere with the operation of systems, platforms or other digital environments of CV Organisations
- Observe the requirements of Australian Cricket’s Policy for Safeguarding Children and Young People as they relate to digital or online communications

- Ensure the standards in this Code of Behaviour are reflected in social media, and other online and digital environments (as well as in person)

**Note:** Capitalised terms in this Code of Behaviour are as defined in the CV Member Protection Policy (By-law).

**ATTACHMENT D - COMPLAINT FORM**

Internal Use Only		
Name of person receiving Complaint		Date Complaint Form Received: / /
How was the Complaint received		
Complainant to Complete		
Name of Complainant	..... <input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Complainant's contact details	Phone: Address: Email:	
Details of Complainant's parent/guardian if Complainant Under 18	Name: Phone: Address: Email:	
Complainant's role/position within Cricket	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent/Guardian <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official                                                                              .....	
Name of person complained about ( <b>Respondent</b> )	..... <input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Details of Respondent's parent/guardian if Complainant Under 18	Name: Phone: Address: Email:	
Respondent's highest level of involvement within cricket		
Respondent's role/position	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official                                                                              .....	
Date of alleged breach by Respondent		
Location of alleged breach by Respondent (include suburb and postcode)		

<p>Description of alleged breach by Respondent</p> <p><i>Please provide as much information as possible, including details of who is involved, describe what happened and when, and how you found out about the breach - attach further page if necessary</i></p>	
<p>Description of impact of the alleged breach</p> <p><i>Please outline the impact the alleged breach has had on the Complainant - attach further page if necessary</i></p>	
<p>Does the Complainant believe any other person is at risk of harm</p> <p><i>Please outline the basis on which a person may be at risk of har, whether arising out of the Complaint or otherwise - attach further page if necessary</i></p>	
<p>Witnesses (if any)</p>	<p>Did anyone else witness this alleged breach by the Respondent?</p> <p><input type="checkbox"/> Yes                      <input type="checkbox"/> No                      <input type="checkbox"/> Not Sure</p> <p>If 'Yes', please list the witnesses and their contact details (if known):</p> <p>1.</p> <p>2.</p> <p>3.</p>

Level of Cricket at which alleged breach occurred	<input type="checkbox"/> Cricket Victoria level where the alleged breach relates to behaviour, an incident or circumstances that occurred at or involve individuals operating at the Cricket Victoria level; <input type="checkbox"/> VPC, VSDCA, VMCU, VCCL, WCC or Harmony in Cricket level where the alleged breach relates to behaviour, an incident or circumstances that occurred at or involve individuals operating at any of those levels; or <input type="checkbox"/> Association/Club level where the alleged breach relates to behaviour, an incident or circumstances that occurred at or involve individuals operating at the Association/Club level.
Section(s) of MPP allegedly breached	
Signed by Complainant	Signature:  Date:  Where Complainant is a Vulnerable Person (includes those under 18):  Signature (Parent/Guardian):  Name:  Date:

**ATTACHMENT E - COMPLAINT RESOLUTION PROCEDURE SUMMARY**

**(CLAUSES 7 to 9 Member Protection Policy 2022)**

**Notes:**

- Attachment E is a summary only and it is not to be used for the interpretation of this By-law. Please refer to clauses 8 and 9 for further detail.
- Nothing in this By-law prevents any person from taking any action under State or Federal law or affects the rights and obligations of any person under State or Federal law.
- Matters that are outside the scope of the By-law are handled by the relevant Organisation (e.g. Club or Association) according to relevant policies / procedures that deal with such matters – e.g. *on-field swearing / dissent handled by Association based on competition match day rules.*

**Summary MPP complaint handling flow chart**

