

DISCRIMINATION AND VILIFICATION POLICY

1. Rationale

The Boronia Hawks Football Netball Club (BHFNC) is committed to providing an inclusive environment and acknowledges that diversity strengthens our club. Discrimination and offensive conduct based on sexual orientation, intersex, trans and gender diverse status, gender, race and religion will not be tolerated and a means of redress for victims of discrimination is provided.

The Club is bound by the Racial and Religious Tolerance Act 2001 (Vic), the Racial Discrimination Act 1975 (Cth), the Equal Opportunity Act 2010 (Vic) and the Sex Discrimination Act 1984 (Cth) amended with the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill Act 2013 (Cth). This Policy is consistent with the legislation and the Australian Football League's Rule 35 and supported by the Australian Football League Vilification Framework. This Policy is not in substitution of the legislation.

Nothing in this Policy prevents a person lodging a complaint in relation to discrimination under the appropriate legislation. In the event a complaint is made under this policy, the Club shall ensure that the parties are informed of their rights.

2. Definitions

In this Policy the following terms are defined as follows:

- "sexual orientation" means sexual and emotional attraction to people of a particular gender or genders.
- "intersex" means having physical, hormonal or genetic features that are neither wholly female or wholly male or a combination of female and male or neither female or male.
- "trans and gender diverse" encompasses a broad range of people whose gender identity does not exclusively align with their sex as recorded at birth.
- "complaints process" means the procedure outlined in sections 5, 6, 7 and 8 of this Policy.
- "Club" means the Boronia Football Netball Club.
- "engage in conduct" includes use of the internet, social media or email to publish or transmit statements or other material.
- "League" means the Eastern Football League.
- "detriment" includes humiliation and denigration.
- "discrimination" means for the purpose of this Policy, conduct based on a person's sexual orientation, sexual preference or identity, gender, race, religion, colour, descent or national or ethnic origin. Discrimination may be direct or indirect. Direct discrimination means treating or proposing to treat another person less favourably on the basis of a person's gender, sexual orientation, sexual preference or identity, race, religion, colour, descent or national or ethnic origin. Indirect discrimination means imposing or intending to impose a requirement that a person of a particular gender, sexual orientation, sexual preference or identity, race, religion, colour, descent or national or ethnic origin cannot comply with, but which a higher proportion of people without that attribute (or with a different attribute) can, when it is not reasonable in the circumstances to do so.
- "participant" includes a player, director, officer, employee, volunteer to and agent of a Football Club that participates in the League.
- "spectator" is a person that attends a football game or event conducted by a Club or the League.

3. Prohibited Conduct

3.1 Gender, sexual orientation, sexual preference or identity, racial and religious vilification

No person in the capacity as a spectator or participant shall engage in conduct that offends, humiliates, intimidates, ridicules, incites, threatens, disparages, vilifies or insults another person on the basis of that person's gender, sexual orientation, sexual preference or identity, race, religion, colour, descent or national or ethnic origin.

3.2 Serious gender, sexual orientation, sexual preference or identity, racial and religious vilification

No person in the capacity as a spectator or participant in the Club shall intentionally engage in conduct that is likely to incite hatred against another person, or threaten physical harm or incite hatred in others to cause physical harm to a person or to a person's property because of that person's gender, sexual orientation, sexual preference or identity, race, religion, colour, descent or national or ethnic origin.

3.3 Gender, sexual orientation, sexual preference or identity, racial and religious discrimination

No person in the capacity as a spectator or participant shall engage in conduct that discriminates, directly or indirectly, against another person on the basis of that person's gender, sexual orientation, sexual preference or identity, race, religion, colour, descent or national or ethnic origin.

3.4 Victimisation

No person in the capacity as a spectator or participant shall victimise another person. A person will victimise another person if:

- the person subjects or threatens to subject the victim to any detriment because the victim (or a person associated with the victim) intends to or has lodged a complaint in contravention of this Policy; or
- the person assists, requests, induces, encourages or authorises another person to subject the victim to any detriment because the victim (or a person associated with the victim) intends to or has lodged a complaint in contravention of this Policy.

4. Inter-club Breach of Policy

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

- An Umpire, spectator or participant of the Club may by 5 pm on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint in writing with Complaint's Officer of the Club.
- The Complaint's Officer of the Club where the complaint was made shall, by 5 pm on the next working day following the day that the complaint was lodged with the Club, lodge the complaint with the League's Complaints Officer.
- The Club's Complaints Officer will take no further action once the complaint has been lodged with the League unless otherwise instructed by the League's Complaints Officer.

5. Intra-club Breach of Policy

In the event that it is alleged that a participant of the Club has contravened this Policy, an Umpire, spectator or participant may by 5 pm on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint in writing with the Club's Complaints Officer.

6. Management of Intra-club Complaints

The Club's Complaints Officer shall make every effort to ensure that:

- Confidentiality is maintained at all times during the complaints process and that the outcome remains confidential.

- Any breach of confidentiality will be referred to the Eastern Football League's Tribunal no later than 5pm on the next working day following the day that the breach was discovered.
- The person alleged to have contravened the Policy (the respondent) is informed of the complaint and provided an opportunity to respond to it.
- Written statements from any witnesses identified by both parties to the complaint are obtained.
- Where available, obtain any other evidence.
- Arrange for the complaint to be conciliated, by an independent conciliator agreed upon by both parties.
- All necessary steps are taken for the complaint to be conciliated within 5 working days from the day on which the incident is alleged to have occurred.

The Club's Complaints Officer shall refer the complaint to the League's Tribunal:

- When the complainant informs the Complaints Officer that the matter has not been resolved through conciliation.
- When both the Club's Complaints Officer and Chairperson have determined that the complaint was lacking in substance and was made vexatiously.

When both the Club's Complaints Officer and Chairperson determine that under the aforementioned legislation the complaint could be considered as "serious", he/she will:

- Take all steps necessary for the complaint to be referred to the League's Tribunal within 5 working days from the day on which the incident is alleged to have occurred.
- Ensure that any time limit referred to in this Policy may be extended by the Club if in the opinion of the Chairperson of the Club it is just and equitable to do so.
- Ensure that where a matter is resolved by conciliation the only public statement that shall be made shall be agreed to by both parties to the complaint and the Club's Chairperson and that the terms of any settlement are finalised to the satisfaction of the complainant and respondent and signed by the parties and the conciliator.

7. Confidentiality and Records

Confidentiality must be maintained throughout the complaints process.

- All parties to a complaint, the Chairperson (or Delegate), the Club's Complaints Officer, any witnesses and the Conciliator must all agree, in writing, to the maintenance of confidentiality.
- No person involved in the complaints process shall publicly comment on any aspect of the complaints process without the prior written agreement of all parties.
- The Club shall ensure that any documents relating to a complaint shall remain confidential and be retained for 7 years from the date that the complaint is made.

8. The Club's Liability

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

This policy has been endorsed by the BHFNC Board.

The next policy review date will be February 2020.