

## 10. Vilification and discrimination (Peek Rule)

### 10.1 Prohibited conduct

No Person shall act towards or speak to any other person in a manner, or engage in any other conduct which threatens, disparages, vilifies or insults another person or group of persons on any basis, including but not limited to, a person's race, religion, colour, descent or national or ethnic origin, disability, sexual orientation or gender identity.

*[Guidance note: Refer to Section [23.1](#) for the process and timeframe for making a complaint for a potential breach of this Section]*

### 10.2 AFL Vilification and Discrimination Panel

#### (a) Appointment by AFL

The AFL may, from time to time, appoint persons to the AFL Vilification and Discrimination Panel.

#### (b) Qualifications of panel members

The AFL Vilification and Discrimination Panel will consist of a panel of persons who:

- (i) meet the Tribunal qualification requirements specified in Section [25.2\(c\)](#); and
- (ii) in the opinion of the AFL:
  - (A) have demonstrated knowledge and skills in the resolution of vilification and discrimination matters;
  - (B) possess sufficient knowledge of Australian Football; and
  - (C) are sufficiently qualified to competently perform the role of AFL Vilification and Discrimination Panel member.

#### (c) Function

The function of the AFL Vilification and Discrimination Panel is to provide expert assistance to the AFL and other Controlling Bodies in respect of:

- (i) the conciliation process under Section [10](#); and
- (ii) any Tribunal process under Section [25](#) that relates to a potential breach of Section [10.1](#).

### 10.3 Investigation and conciliation process

- (a) Where Section [23.2\(a\)\(ii\)](#) or [23.2\(c\)\(ii\)](#) applies in relation to an alleged breach of Section [10.1](#), the AFL or Controlling Body (as applicable) must as soon as practicable:
  - (i) inform the person alleged to have breached Section [10.1](#) (**Contravening Person**) of the alleged breach and provide that person with an opportunity to respond to the complaint;

- (ii) use reasonable measures to establish the facts of the alleged Policy Breach.

*[Guidance note: Sections [23.2\(h\)](#) (Cooperation with an investigation) and [23.2\(i\)](#) (Investigations involving minors) apply to any investigation undertaken by the AFL or Controlling Body in establishing the facts of the alleged Policy Breach.]*

- (b) If, following completion of the steps in Section [10.3\(a\)](#), the AFL or Controlling Body (as applicable) is reasonably satisfied that a breach of Section [10.1](#) may have occurred, it may arrange for the complaint to be conciliated where the AFL determines that it is appropriate in all the circumstances, otherwise the matter will proceed to Section [10.6](#).
- (c) Where conciliation is to proceed, the AFL or Controlling Body will determine the arrangements for the conciliation, including appointment of a conciliator and the date, time and place/forum (e.g. in person or virtually).
- (d) Where a Controlling Body (other than the AFL) arranges to hold a conciliation:
  - (i) it must inform the AFL prior to the conciliation and, in consultation with the AFL, appoint a conciliator; and
  - (ii) it may, by written notice, request the assistance of an AFL Vilification and Discrimination Panel member to conduct the conciliation and the AFL will, subject to the availability of the AFL Vilification and Discrimination Panel, arrange for that requested assistance.
- (e) Persons entitled to attend a conciliation are as follows:
  - (i) person(s) vilified;
  - (ii) the Contravening Person;
  - (iii) other person(s) directly involved in the complaint whom in the reasonable opinion of the AFL or Controlling Body ought to attend the conciliation;
  - (iv) where the alleged breach of Section [10.1](#) was not about or did not directly impact a specific person or persons (e.g. the prohibited conduct vilified a group of persons generally without specifying any individual), a representative of that group may attend the conciliation at the invitation of the AFL or Controlling Body for the purpose of providing a victim impact statement and more generally to provide the perspectives of that group of vilified persons in the conduct of the conciliation;
  - (v) an employee of the AFL and/or the Controlling Body directly involved in the conduct of the conciliation;
  - (vi) conciliator; and
  - (vii) where a Person involved in a conciliation is under the age of eighteen (18) years:
    - (A) a Club Officer (who must not be a parent or guardian of the Person) must attend to assist and support the Person; and
    - (B) a parent or guardian of the Person may attend a conciliation in support of the Person.

- (f) All conciliation participants are permitted and encouraged to have a support person present at the conciliation. Support persons will not be advocates or actively participate in the conciliation.
- (g) All conciliation participants are discouraged from having a legal practitioner as their support person or in any other capacity in conciliation.

#### **10.4 Agreed outcomes at conciliation**

- (a) Notwithstanding any other provision of this Policy Handbook, the conciliation participants will be at liberty to consider and agree to any outcome or sanction including but not limited to any of the following (or a combination of them):
  - (i) suspension of a Contravening Person from playing and/or officiating in Matches at any level;
  - (ii) if reasonably practicable, attendance at or participation in a community service program by the Contravening Person;
  - (iii) completion of relevant education by a Contravening Person;
  - (iv) the provision of a public apology or apologies by a Contravening Person.
- (b) For the avoidance of doubt:
  - (i) the person(s) vilified, the Contravening Person and the AFL or Controlling Body must all agree to any outcome or sanction;
  - (ii) the conciliation participants may not agree to any outcome that binds or sanctions any Person that is not a conciliation participant;
  - (iii) the effect of any suspension agreed under Section [10.4\(a\)\(i\)](#) will be subject to the requirements outlined under Section [27.1](#).
- (c) In their consideration of agreed outcomes and sanctions, the conciliation participants should have regard to the following:
  - (i) the nature of the Policy Breach and all the circumstances in which it was undertaken including the setting (e.g. during the course of a Match, during the course of an official or unofficial Club activity, in a public place, in a private setting);
  - (ii) the extent to which the Policy Breach caused offence or hurt to the vilified person or others (e.g. was it undertaken in an aggressive or threatening way, did it offend or hurt a large number of people);
  - (iii) whether there have been previous instances of Policy Breaches by the Contravening Person;
  - (iv) whether the Contravening Person has received any relevant training and education.

#### **10.5 Confidentiality and public statement**

- (a) Subject to Section [10.5\(b\)](#):

- (i) the particulars of a complaint and the conciliation shall at all times remain confidential; and
  - (ii) a person shall not publicly comment on or disseminate to any person information concerning a complaint or conciliation at any time prior to, during or after the conciliation.
- (b) Where a complaint is resolved by conciliation, any public statement (including any apology) made concerning the complaint and its resolution shall be agreed upon by the parties.

## 10.6 No conciliation outcome

Where the matter has not proceeded to conciliation pursuant to Section [10.3\(b\)](#), or the AFL or Controlling Body (as applicable) is of the opinion that the matter has not been resolved by conciliation, the AFL or Controlling Body must proceed to the issuing of a Notice of Breach in accordance with Section [23.4](#) and Section [23.5](#) unless the AFL or Controlling Body (with the approval of the AFL) determines that exceptional and compelling circumstances apply such that the matter should not proceed to a Notice of Breach, in which case the matter will be closed or dealt with in such other manner as determined by the AFL. *[Guidance note: Where a matter is being managed by a Controlling Body, the Controlling Body must seek the approval of the AFL if it considers that exceptional and compelling circumstances apply].*

# 11. Safeguarding Children and Young People

## 11.1 Introduction

### (a) AFL commitment to safeguarding Children and Young People

- (i) All Children and Young People, regardless of their gender, race, religious beliefs, age, disability, sexual orientation, or family or social background, have equal rights to:
  - (A) feel safe and protected from all forms of abuse, harm and neglect; and
  - (B) take part in Activities in a safe, positive, and enjoyable environment.
- (ii) The AFL has a zero tolerance for Child Abuse and is committed to:
  - (A) promoting and protecting the safety and wellbeing of all Children and Young People; and
  - (B) ensuring that all Relevant Bodies and Persons are aware of their rights and responsibilities in relation to Children and Young People.

### (b) Policy intent

This Section [11](#), together with [Appendix 6](#), sets out:

- (i) the responsibilities and behaviours required of Persons when engaging or working with Children and Young People;
- (ii) what behaviours will constitute “Prohibited conduct” and will result in a disciplinary process under [Part E](#) of the Policy Handbook;

- (iii) the expected commitments and responsibilities of a Relevant Body when managing Activities that involve Children and Young People;
  - (iv) Reporting requirements in relation to harmful conduct toward Children and Young People or conduct that may constitute a breach of this Section [11](#).
- (c) If any Person considers that a Child or Young Person is at risk of Harm, that Person must follow the Reporting procedures under Section [11.5](#).

## **11.2 Relevant Body commitment to safeguarding Children and Young People**

- (a) To support the AFL's commitment under Section [11.1](#), each Relevant Body will:
- (i) have zero tolerance for Child Abuse;
  - (ii) seek to provide an environment in which all Children and Young People feel supported and respected;
  - (iii) recognise the particular needs of Aboriginal and Torres Strait Islander Children and Young People, LGBTIQ+ Children and Young People, Children and Young People from culturally and/or linguistically diverse backgrounds and Children and Young People with a disability and will implement culturally appropriate practices and procedures to address those needs;
  - (iv) consider the opinions of Children and Young People and use their opinions to inform the development of policies and procedures in relation to the protection of Children and Young People;
  - (v) engage with Children and Young People and their parents/guardians about safeguarding practices and help empower them to speak up when they see or hear something that makes them feel unsafe and ensure that relevant information and resources are accessible to them; and
  - (vi) ensure that any concern or allegation raised in relation to Child Abuse or any other inappropriate behaviour towards a Child or Young Person that has occurred while a Child or Young Person is under the Relevant Body's care, is treated seriously, in a culturally sensitive manner and fully investigated in accordance with this Policy Handbook and any other related policies or procedures and relevant legislation;
  - (vii) comply with all statutory requirements in respect of safeguarding Children and Young People, including ensuring all relevant Persons who work with Children and Young People have complied with their working with children obligations applicable to their State or Territory;
  - (viii) undertake appropriate screening measures when appointing a Person to a child-related position.

## **11.3 Responsibilities of a Person**

- (a) For the purpose of this Section [11](#), a 'Person', as defined under Section [1.1](#) of the Policy Handbook, also includes a Person employed or engaged by a Controlling Body.