

Racial Vilification

By Law 48

48.1 Racial and religious vilification

Prohibited Conduct

No person in their capacity as a member of a club or, in the course of carrying out their duties or functions as or incidental to being a member of a club (being a person entitled to enter the arena during the course of or prior to or during any break in play in any match) 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 ("the person vilified") on the basis of that person's race, religion, colour, descent or national or ethnic origin.

48.2 Lodging Complaint

In the event that it is alleged that a person has contravened regulation 48.1 an Umpire, Club or player may by 5.00pm on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint in writing with the person appointed from time to time by the VBA Board as the Complaints Officer for the purposes of this regulation. The complaint must outline the circumstances of the allegations made against a person.

48.3 Complaints Officer

The Complaints Officer shall

- (a) inform the person alleged to have contravened regulation 48.1 of the complaint and provide that person with an opportunity to respond to it in writing;
- (b) identify and obtain written statements from any available witnesses;
- (c) obtain video or other evidence produced through the multi-media and
- (d) arrange for the complaint to be conciliated and take all steps necessary for the complaint to be conciliated.

48.4 Confidentiality and No Public Comment

Subject to Regulation 48.7

- (a) the particulars of a complaint and the conciliation shall at all times remain confidential, and
- (b) a person shall not publicly comment on or disseminate to any person information concerning a complaint at any time prior to, during or after the conciliation.

48.5 Conciliator

A conciliation arranged under regulation 48.3 shall be conducted by a suitable independent person appointed by the VBA Board upon agreement between the parties.

48.6 Attendance at Education Program

(a) Where:-

- (i) a person alleged to have contravened regulation 48.1 attends a conciliation for the first time (other than as a person vilified) and
- (ii) the complaint against the person is resolved at conciliation, the person shall attend an education program in relation to racial and religious vilification as approved from time to time by the VBA.

48.7 Public Statement

Where a matter is resolved by conciliation, the only public statement that shall be made concerning a complaint and its resolution shall be that agreed upon by the parties.

48.8 Unsuccessful Conciliation

Where the complaints Officer is of the opinion that the matter has not been resolved by conciliation, the Complaints Officer shall:-

- (i) In the case of a player, refer the complaint to the Tribunal to be dealt with as a Reportable Offence as defined in the VBA By-laws, or
- (ii) In the case of any other person, refer the complaint to the Board to be dealt with under the Constitution of the Association.

48.9 Previous Involvement

Where a person alleged to have contravened Regulation 48.1 has previously taken part in a conciliation (other than as a person vilified), the Complaints Officer may refer the complaint directly to the Tribunal to be dealt with as a Reportable Offence. (as defined in the VBA By-laws), in the case of a player, or directly to the Board to be dealt with under Rule 6 of the VBA Constitution, in the case of any other person.

48.10 Evidence before Tribunal or Board

In the event that a complaint is referred to the Tribunal or the Board under this Regulation 48, no evidence shall be given to or be accepted by the Tribunal or the Board relating to anything said or done in any conciliation carried out pursuant to Regulation 48.3.

48.11 Executive Director – Victorian Baseball

In the event that a Complaints Officer has not been appointed for the purposes of this regulation or if appointed is for any reason unavailable to act under this Regulation the Complaints Officer for the purpose of this Regulation shall be the Executive Director – Victorian Baseball.

48.12 Referring Complaint

In any case where the Complaints Officer determines to refer the complaint to the Tribunal or the Board, the complaint shall be referred to the Tribunal or the Board, as the case may be, as soon as practicable.

48.13 Time Limit

Any time limit for the doing of anything referred to in this Regulation may be extended by the Board if in the opinion of the Board it is just and equitable to do so.

48.14 Liability of Club

(a) In the event that a complaint under these Regulations in respect of conduct engaged in by a person is found to have been proven by the Tribunal or where the Board determines that a person the subject of a complaint has been involved in conduct which is unbecoming or prejudicial to the interest of the VBA, the Club associated with the person at the time of the conduct shall be deemed to be vicariously liable for the conduct of the person and shall be asked to attend a meeting of the Board in which the Board is empowered to penalise the club including a fine.

(b) Regulation 48.14(a) does not apply to a contravention by a person if in the opinion of the Board the Club took all reasonable steps to prevent members or those otherwise associated with the Club from engaging in the conduct which contravened the vilification regulations.

48.15 Continuous Education

Each Club should:-

- (a) ensure that all of its Players, Coaches, Officials and other members are versed with these regulations and education program.