



DISCRIMINATION, RACIAL AND RELIGIOUS VILIFICATION POLICY

1. POLICY STATEMENT AND CONTEXT

The Adelaide Turf Cricket Association (“ATCA”) has developed the *Discrimination, Racial and Religious Vilification Policy* to outline the anti-discrimination policy position of the Association and how diversity should be embraced to ensure that cricket thrives in Metropolitan Adelaide. ATCA exists within a context of having a linguistically and culturally diverse community from which it attracts people to play and enjoy playing by embracing the spirit of cricket.

The ATCA recognises that to achieve those objectives it has a responsibility to provide a safe and welcoming environment for boys, girls, men and women from a wide range of cultural, racial, and religious backgrounds interested in cricket and sociable community engagement. This policy sets out that ATCA affirms a respectful approach toward staff, officials, and players and expects that everyone’s diversity of culture and religious belief must always be respected and valued.

The ATCA has embraced the *Spirit of Cricket* as the guiding principle on which affiliate club members are expected to play the game within such a framework, along within its laws. Any action which is seen to abuse the *Spirit of Cricket* causes injury to the game. The affiliate club officials, particularly captains, presidents and secretaries have a major responsibility for ensuring their players abide the fair play principles of the *Spirit of Cricket*.

Specifically, the *Spirit of the Cricket* involves respect for:

- Your opponents
- Your own captain and team members
- The role of the umpires
- The game and its traditional values.

2. PRINCIPLES AND OUTCOMES

ATCA is committed to ensuring that the working and playing environment of its staff, officials and players is free from discrimination and demonstrates valuing the diversity of people from various cultures, religious backgrounds and abilities. Discriminatory behaviour and attitudes toward staff, officials or players will not be tolerated and may lead to disciplinary action against any individual as provided in the By Laws.

This policy highlights the Association’s desire to promote a diverse and welcoming workplace and playing experience for staff and people living with disability, by embracing inclusive ideals to ensure that all individuals feel respected, and their contributions valued.

If any concerns are raised suggesting that a discriminatory practice has occurred, there is an expectation that the issue will be dealt with quickly, confidentially, impartially and effectively. Wherever there are concerns or

complaints raised about discriminatory behaviour or race or religious based comments, the expectation is that they will be raised using this Policy, rather than using the ATCA Code of Conduct mechanism.

Based on the more contemporary approach to complaint handling, this Policy has a focus on resolution of issues, preferably within the control of the affiliate member clubs. To achieve successful resolution, it is imperative that club secretaries make all reasonable efforts to resolve complaints in a timely, respectful and meaningful way.

ATCA positions itself in the community as being an association which is free from discrimination and values diversity by pursuing the following outcomes:

- creating a work and playing environment which is free from discrimination and where all staff, officials and players are treated with dignity, courtesy and respect
- encouraging staff, officials and players to report behaviour which may be in breach of the ATCA or *Discrimination, Racial and Religious Vilification Policy*
- providing an effective and fair procedure for resolving issues and complaints, and treating all issues and complaints raised by staff, officials or players in a sensitive, fair, timely and confidential manner
- the complaints procedure has an emphasis on resolution between the affected parties
- guaranteeing protection from any victimisation or reprisals for raising an issue and/or complaint; and
- promoting the appropriate standards for workplace and playing interactions based on the *Spirit of Cricket*.

3. SCOPE AND DEFINITIONS

The policy about discrimination and diversity and procedures for handling complaints or issues of concern, covers all staff, officials or players of ATCA.

No person subject to this Policy shall act towards or speak to any other person or write to any other person or a third person (including via social media) or engage in any other conduct in any manner which threatens, disparages, vilifies or insults another person ("the person vilified") based on a person's race, religion, colour, descent or national or ethnic origin, special ability/disability – including without limitation, disease or illness - or sexual orientation, preference or identity.

For the purposes of this Policy, behaviour that could be considered vilification includes:

- speaking about a person's race or religion or sexuality in a way that could make other people ridicule them and cause harm as a result
- repeated and serious spoken or physical abuse about the race or religion or sexuality of another person
- a public act that could incite hatred, serious contempt or ridicule towards a group of people who have a particular characteristic
- vilifying people on the basis of race, culture, religion, sexuality, or transgender status.

For the purposes of this Policy, behaviour that could be considered discrimination may occur when a person is treated less favourably in the provisions of (sport and recreational) services or in employment because of:

- having, or being perceived to have, a **mental, intellectual or physical disability** as defined in the *Disability Discrimination Act 1992* (Commonwealth), the *Equal Opportunity Act 1984* (SA) and the *United Nations Convention on the Rights of Persons with Disabilities*

- their **race, colour or national or ethnic origin** as defined under the *Racial Discrimination Act 1975* (Commonwealth) and the *Equal Opportunity Act 1984* (SA)
- their **sex, sexual orientation, gender identity, intersex status and marital or relationship status** as defined under the *Sex Discrimination Act 1984* (Commonwealth) and the *Equal Opportunity Act 1984* (SA)
and/or
- their **religious affiliations** as defined under the *Fair Work Act 2009* (Commonwealth).

This policy highlights the Association’s desire to promote a diverse and welcoming workplace and playing experience for staff, officials and players from all cultural and religious backgrounds, by embracing inclusive ideals to ensure that all individuals feel respected, and their contributions valued.

The *Discrimination, Racial and Religious Vilification Policy* is issued under the authority of the ATCA Board of Management. Any issues relating to the development and review of this policy should be referred to the ATCA Executive Officer.

4. RESOLUTION OF COMPLAINTS and PROCEDURES

The Board of Management and Executive Officer of ATCA is committed to the maintenance of positive relationships within the workplace and in interactions with officials and registered players. In doing so, ATCA is committed to resolving any and all complaints related to discrimination and vilification in order to achieve positive outcomes for staff, officials and players.

All staff, officials and players have the right to access a transparent and supportive resolution process if they have a concern or complaint arising from this policy, including the right to seek review of any decisions made about them. In this regard, any concern or complaint involving staff members or officials or players is expected to be resolved in a conciliatory and confidential manner.

Please refer to the 3 Complaint Flow Charts, found at the rear of the Policy as Appendix 3, 4 and 5.

4.1 Lodging Complaint or Concern

In the event that it is alleged that a person has contravened the ATCA *Discrimination, Racial and Religious Vilification Policy* an Umpire, Club or Player may by 5.00 p.m.* on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint (preferably in writing) or concern with the relevant Secretary of the Clubs involved. The complaint or concern must detail the circumstances of the allegations made against a person(s) and what impact the alleged behaviour has had.

It is expected that there will be a genuine attempt by the Secretaries involved to address the concerns raised.

*The Secretary of the Club involved, may elect to accept a complaint or concern after 5 pm or on any other day within a reasonable time of the alleged incident occurring. If the Secretary declines to accept the complaint or concern, the Secretary of the complainant’s Club may seek an extension to lodge from the Executive Officer of ATCA, who shall exercise his/her discretion according to the significance of the matter.

4.2 Resolution of Complaints and Concerns

The Secretary of the Club receiving the complaint or concern, or a suitable independent person appointed by the Club, shall in a timely manner (wherever possible within 48 hours of receiving the complaint or concern): -

(a) Inform the person alleged to have contravened (the respondent) ATCA *Discrimination, Racial and Religious Vilification Policy* of the complaint in writing and provide that person with a copy of the policy and an opportunity to respond to it in writing or verbally (as preferred). It is expected that the respondent will provide a substantive response within 7 days of being notified of the details of the concern or complaint

(b) Either negotiate an acceptable resolution between the aggrieved player (via the Club's Secretary) OR

1. Identify and obtain written statements from any available witnesses including officials from either Club and
2. Arrange for the complaint to be mediated and take all steps necessary for the complaint to be resolved in a timely, conciliatory and confidential manner

(c) Ensure that the outcome of the mediation is conveyed (without disclosing the details of confidential conversations) to the parties involved, including any official who referred the complaint or concern, as well as providing a brief written outcome to the ATCA Executive Officer

(d) If, in the opinion of either Secretary or his/her appointee, the matter is of such a serious nature or cannot be resolved by mediation, then he/she must refer directly (preferably within 5 business days) to the ATCA Executive Officer.

Refer to Appendix 3 and 4 for a pictorial representation.

4.3 Confidentiality and Public Comment

Subject to the ATCA By Laws and the intent of the ATCA *Discrimination, Racial and Religious Vilification Policy*: -

(a) The particulars of a complaint and the discussions occurring during the mediation shall at all times remain confidential (other than complying with the reporting obligations in 4.2 above)

(b) A person shall not publicly comment on or disseminate to any person (other than to the parties directly involved) information concerning a complaint at any time prior to, during or after the mediation. The relevant Club Secretaries shall take all reasonable steps to dissuade discussion within their Clubs. Any public comment (either verbally, written or using social media) that breaches confidentiality will be referred to an ATCA Commissioner for investigation and treated as a Level 3 Offence.

(c) Where a complaint or concern is resolved by mediation, the only public statement that shall be made concerning the complaint and its resolution shall be that of the mediator if considered necessary to resolve the issues complained of. It is not recorded as a compliance issue for the purposes of publication of all other decisions.

4.4 Mediator

A mediation arranged pursuant to the ATCA *Discrimination, Racial and Religious Vilification Policy* shall be conducted by the agreed nominee of the Club Secretaries involved. The ATCA Executive Officer may be able to identify a suitable mediator from a panel of qualified mediators, which may include the Sport SA Sport Disputes Centre, who will be appropriately trained in mediation processes.

Unless there were exceptional circumstances leading to delays in the matter, it is expected that the mediation will take place within 4 weeks of the initial concern or complaint being lodged.

Both Clubs will bear the costs of the mediation, unless otherwise resolved at mediation that one party will be responsible for all costs. If there is no agreement reached regarding the apportionment of costs, either Secretary may raise the issue of costs with the ATCA Executive Officer for decision.

4.5 Attendance at Education Program

Where a person is alleged to have contravened the ATCA *Discrimination, Racial and Religious Vilification Policy* Rule and the complaint against the person is resolved at mediation, the person may be required to attend an education program approved by the ATCA, in an agreed timeline, unless the mediator reasonably considers that the person has understood all of their responsibilities sufficiently to avoid a recurrence of the alleged behaviour.

The ATCA will assist to give effect to an agreement for any of the parties involved to attend education by providing access to resources and possible education programs.

However, if a person fails to attend the education program within the agreed timeline, they shall be deemed to have contravened the agreed resolution of the complaint or concern and be referred to an ATCA Commissioner for consideration of a breach of Level 6 of the Association's code of conduct.

4.6 Unsuccessful Mediation

Where a Club Secretary or independent mediator is of the opinion that the matter has not been resolved by mediation, they shall immediately refer the complaint or concern to the ATCA Executive Officer for referral to an ATCA Commissioner for determination.

Refer to Appendix 3 and 5 for a pictorial representation.

4.7 Previous Involvement

Where a person alleged to have contravened the ATCA *Discrimination, Racial and Religious Vilification Policy* has previously taken part in a mediation (other than as a person vilified), the Executive Officer may refer the complaint or concern directly to an ATCA Commissioner for consideration and action.

4.8 Referring Complaint or Concern

Where the matter is of such a serious nature or cannot be resolved by mediation referred by a Club Secretary under 4.2d, the Executive Officer refers the complaint to an ATCA Commissioner for determination as soon as practicable.

Refer to Appendix 3 and 5 for a pictorial representation.

4.9 Commissioner or Tribunal Hearing Processes

Where a complaint is referred to an ATCA Commissioner the Executive Officer's role will be limited to assisting the Commissioner with relevant information, in a non-determinative role.

Where a complaint or concern is referred to an ATCA Commissioner or the appropriate Tribunal under this policy, the person alleged to have contravened the ATCA *Discrimination, Racial and Religious Vilification Policy* will not engage Legal Representation, however; a club delegate with a legal background may be allowed. ATCA acknowledges the right of any individual to lodge legal proceedings in which case the issue shall proceed before the law.

Refer to Appendix 3 and 5 for a pictorial representation.

4.10 Evidence before a Commissioner’s or Tribunal Hearing

In the event that a complaint or concern is referred to an ATCA Commissioner or the appropriate Tribunal, evidence and information gathered during the process of any investigation conducted by the Executive Officer or Club Secretary involved in the matter, may be used by an ATCA Commissioner or the appropriate Tribunal, as considered relevant by an ATCA Commissioner or the Tribunal.

4.11 Time Limit

Any time limit for the doing of anything referred to in this policy may be extended by the Executive Officer if the Executive Officer deems it is just and equitable to do so.

4.12 Liability of Club

(a) In the event that a complaint under these Rules in respect of conduct engaged in by a person is found to have been proven by the appropriate Tribunal, the Club employing, engaging or otherwise associated with the person at the time of the conduct can be held to be vicariously liable for the conduct of the person and shall be liable to a sanction to be determined by the appropriate Tribunal.

(b) Vicarious liability does not apply to a contravention by a person if in the opinion of the appropriate Tribunal the Club took all reasonable steps to prevent persons employed, engaged or otherwise associated with the Club from engaging in the conduct which contravened ATCA *Discrimination, Racial and Religious Vilification Policy*.

4.13 False or misleading information

A person who: -

(a) In a complaint or concern lodged under ATCA *Discrimination, Racial and Religious Vilification Policy* or during the complaint investigation and or resolution process, or the ATCA Tribunal process, provides any information or acts in a manner which is in any respect false or misleading or likely to mislead or is incomplete or;

(b) Deliberately and falsely accuses a person of contravening the ATCA *Discrimination, Racial and Religious Vilification Policy*;

shall be referred by the Executive Officer to an ATCA Commissioner for determination and could be liable to a sanction under Level 6 of the Association’s code of conduct to be determined by the ATCA Board of Management.

4.14 Sanctions

The appropriate Tribunal may impose sanctions as outlined in the ATCA document “Part G. Reports of Breaches of By-Laws and Misconduct”.

4.15 Appeal

In the event that the person accused disagrees partially or fully with an ATCA Commissioner's decision, a written appeal shall be lodged with the ATCA Executive Officer within 14 days of being notified of the decision.

The ATCA Executive Officer may engage the Sport SA Sport Disputes Centre to establish a Panel Hearing tshall make the final decision in relation to the complaint and, if necessary, impose sanctions in line with ATCA Policies.

While it is expected that ATCA *Discrimination, Racial and Religious Vilification Policy* will be able to resolve most complaints and/or concerns through its internal processes, employees, officials and players have the right to contact an external agency for advice or help at any time. These agencies include, but are not necessarily limited to the:

- Equal Opportunity Commission in South Australia or
- Australian Human Rights Commission

4.16 Victimisation

Anyone raising a complaint or concern or assisting someone else to resolve a complaint or concern acting in good faith is protected through the policy from being victimised for their actions.

Any alleged victimisation of a person involved in concern or complaint is to be advised to the ATCA Executive Officer, who will refer the matter to an ATCA Commissioner for investigation and determination.

5. RESPONSIBILITIES

Board of Management of ATCA

The Board is responsible for:

- the approval and review of this policy
- promoting and valuing diversity of staff, officials and players from all cultural and religious backgrounds within the ATCA
- developing and overseeing an effective and impartial complaints mechanism so that any matters brought to their attention by staff, officials or players having followed the appropriate processes

Executive Officer of ATCA

The Executive Officer is responsible for:

- intervening quickly and appropriately when discriminatory or vilifying behaviour is reported
- assisting staff, officials and players to resolve complaints informally by acting fairly to resolve issues, making sure the relevant parties are heard and enforce behavioural standards
- referring formal complaints about breaches of this Policy to an ATCA Commissioner or the Compliance Committee and
- take all reasonable steps with staff, officials and players who raise an issue or make a complaint to ensure they are not victimised.

Club Secretaries

Each ATCA Club Secretary is responsible for:

- making all reasonable efforts to resolve matters identified by way of a concern or complaint
- listening openly to the views of others, demonstrating sensitivity to the differences between officials and players, and communicating with others in a courteous and respectful manner that is also appropriate to age, gender, sexual orientation, ethnicity, physical disability, intellectual impairment, religion, and cultural, social and linguistic backgrounds.
- intervening quickly and appropriately when discriminatory or vilifying behaviour occurs or if notified by another Club
- assisting officials and players to resolve complaints informally by acting quickly and fairly to resolve issues, making sure the relevant parties are heard and enforce behavioural standards
- referring unresolved complaints about breaches of this policy to the Executive Officer ATCA and
- take all reasonable steps with officials and players who raise an issue or make a complaint to ensure they are not victimised.

All Officials and Players

- complying with this policy and any associated processes for making complaints of discrimination, as well as respecting and valuing the diversity of staff, officials and players in the ATCA workplace and playing arrangements
- engaging respectfully and co-operatively with any mediation, Commissioner's or Tribunal Hearing
- developing awareness of the appropriate way to embrace the diversity of all officials and players
- acting in a non-discriminatory manner towards all officials and players.

6. REVIEW

The ATCA Board of Management is responsible for initiating the review of this policy in collaboration with the Executive Officer. It is expected that a thorough review of this policy will occur every 2 years to ensure compliance with the relevant legislation, sporting codes of conduct and Bylaws.

Appendix 1 – Updates and Amendments

Date of Operation	Sections Updated or Change	Reasons/Comments
July/August 2021	New policy developed and approved	Development of policy for ATCA
October 2021		Authorised by Board of Management of ATCA and advised to Delegates

Appendix 2- Legal Definitions

<p>Discrimination</p>	<p>Discrimination is when a person is treated less favourably in the provision of services or in employment because of having or being perceived to have a mental, intellectual or physical disability, or because of their race, colour, national or ethnic origin, sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, having family/carer responsibilities, or religion.</p>	<p>Equal Opportunity Act 1984 (SA)</p> <p>Disability Discrimination Act 1992</p> <p>Convention on the Rights of People with Disabilities</p> <p>Racial Discrimination Act 1975</p> <p>Sex Discrimination Act 1984</p>
<p>Harassment</p>	<p>Harassment occurs when someone makes you feel intimidated, insulted, humiliated or places you in a hostile environment.</p> <p>Harassment because of a disability, such as insults or humiliating jokes, is against the law.</p> <p>Sexual harassment is any unwelcome conduct of a sexual nature. Conduct of a sexual nature that makes you feel offended, humiliated or intimidated, may be sexual harassment.</p> <p>Some examples of behaviour that may be sexual harassment include:</p> <ul style="list-style-type: none"> ● Sexually suggestive comments or jokes ● Intrusive questions about your private life or physical appearance ● Inappropriate staring or leering ● Unwelcome hugging, kissing or cornering or other types of inappropriate physical contact ● Sexually explicit text messages, images, phone calls or emails 	<p>Disability Discrimination Act 1992</p> <p>https://www.humanrights.gov.au/sites/default/files/document/publication/EWSH_Factsheet_2014_Web.pdf</p> <p>Sex Discrimination Act 1984</p>

<p>Vilification</p>	<p>Vilification is behaviour that <i>“incites hatred, serious contempt, revulsion or severe ridicule”</i> for a person or group of people because of their race or religion</p> <p>Behaviour that could be vilification includes:</p> <ul style="list-style-type: none"> ● speaking about a person’s race or religion in a way that could make other people hate or ridicule them ● publishing claims that a racial or religious group is involved in serious crimes without any proof ● repeated and serious spoken or physical abuse about the race or religion of another person ● encouraging violence against people who belong to a particular race or religion, or damaging their property ● encouraging people to hate a racial or religious group using flyers, stickers, posters, a speech or publication, or websites, email or social media. <p>It is also against the law to give permission or help someone to vilify others.</p>	<p>Racial and Religious Tolerance Act 2001 (Victoria)</p> <p>Racial Discrimination Act 1975</p> <p>Cricket Australia Code of Conduct</p> <p>Cricket Australia Racial and Religious Vilification Code</p>
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