

COMPLAINTS & GRIEVANCE POLICY

The purpose of this policy is to define the difference between a complaint and a grievance and to outline the process of handling a complaint at Melbourne Central Basketball Association (MCBA) for all programs and competitions.

Any breach of what is considered acceptable conduct will not be tolerated by MCBA. Where a breach of conduct is brought to the attention of MCBA, the complaint will be managed based on the complaints & grievance procedure in this policy.

Where members have not conducted themselves in accordance with MCBA expectations, sanctions may range from re-education programs, suspension from games and/or official duties and in more serious cases, expulsion from the Association.

COMPLAINTS & GRIEVANCE PROCEDURE

Any person who feels unhappy with a situation or the behaviours of another person(s) within the Association should attempt to resolve the matter directly with the other party in a calm and orderly way.

If the matter cannot be resolved between the parties in a calm and orderly manner, the complaint/grievance should be reported directly to the Association by completing the By-Law, Policy or Code of Conduct Report Form [here](#).

Once the complaint/grievance is reported the following steps will take place;

Step 1: The Association will identify the category of the complaint/grievance/report.
The various categories are:

Category 1: Operations including basketball related operations (may be referred to tribunal)

Category 2: Welfare/Child Safety

Category 3: Grievance

Step 2: When identified as a Complaint/Grievance, acknowledgement of the complaint/grievance to the complainant is to be actioned within 48 business hours of receiving the complaint/grievance via written communication or a phone call, followed by written acknowledgement.

Step 3: Complaint/Grievance, where required, is managed or investigated by the MCBA Complaints Handler

Step 4: Where required, attempts to investigate/resolve the complaint/grievance to be made within 1-2 weeks of being received, this could include:

- (a) Meeting time booked with parties involved,
- (b) Mediation with parties involved,
- (c) Information gathering including written reports, meetings/interviews booked with witnesses and/or parties involved.
- (d) Once information is gathered the Complaints Handlers discuss possible outcomes.
- (e) Findings and decision to be communicated to appropriate parties.
- (f) Findings report to be kept on MCBA records.
- (g) Report to be made to the Board where appropriate.

Step 5: If any parties involved in the complaint/grievance have grounds to appeal the findings, the Appeal

will be referred to the MCBA Board and handled by the appropriately trained MCBA Appeals Officers.

COMPLAINT

A complaint is a general expression of dissatisfaction with a situation or the behaviours of other person(s) within the Association.

GRIEVANCE

A grievance is a more specific and a serious feeling of wrongdoing that relates to harassment, discrimination, or vilification by person(s) within the Association or external to the Association. The terms 'harassment', 'discrimination' and 'vilification' are defined in the Member Protection By-Laws of Basketball Victoria (BV) which have been adopted by MCBA. All grievances are to be guided by Sections 11 & 12 of the MCBA Constitution.

HARASSMENT, DISCRIMINATION AND VILIFICATION AS DETERMINED BY BASKETBALL VICTORIA. WHAT CONSTITUTES HARASSMENT, DISCRIMINATION OR VILIFICATION?

Harassment is any behaviour by a person or organisation which is offensive, abusive, belittling or threatening and which is directed at a person or a group of people because of a particular characteristic of that person or group of people. The behaviour would be considered unwelcome and the sort of behaviour a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated, or intimidated. Whether or not the behaviour is harassment is determined from the point of view of the person receiving the harassment.

Discrimination is treating or proposing to treat a person less favourably than someone else based on an attribute or personal characteristic they have.

Vilification involves a person inciting hatred towards, serious contempt for, or severe ridicule of, a person or group of persons by public act. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.

TYPES OF HARASSMENT, DISCRIMINATION, OR VILIFICATION

Any form of harassment, discrimination or vilification would be based on the following grounds and is prohibited by Basketball Victoria's (BV) By-laws:

- (a) Age;
- (b) Disability;
- (c) Marital status;
- (d) Parental/Carer status;
- (e) Physical features;
- (f) Political belief/activity;
- (g) Pregnancy;
- (h) Race;
- (i) Religious belief/activity;
- (j) Sex or gender;
- (k) Sexual orientation;
- (l) Sexual identity;
- (m) Any other ground prohibited by Commonwealth or Victorian law.

It shall not be a breach of BV By-laws to discriminate against a person where discrimination is permitted by

the relevant law of the Commonwealth or Victorian law or where the safety of the person or other persons may be placed in jeopardy if the person was not discriminated against. For example, relevant law may permit the prohibition of males playing sport against females above a certain age or persons of a certain age playing with older persons because of physical differences which may imperil persons playing. Similarly, persons in wheelchairs may constitute a danger to able bodied athletes.

EXAMPLES OF HARASSMENT, DISCRIMINATION AND VILIFICATION

Sexual Harassment includes:

- (a) an unwelcome sexual advance;
- (b) an unwelcome request for sexual favours; or
- (c) any unwelcome conduct of a sexual nature (including a statement, orally or in writing, of a sexual nature), where the person being harassed felt offended, humiliated, or intimidated.

Sexual Harassment is often, but need not be, behaviour which either:

- (a) involves blackmail, in that the harassment is accompanied by a direct or implied threat, promise or benefit. For example, a coach who implies that a player's selection to a team is dependent on compliance with a sexual proposition; or
- (b) creates a hostile or sexually permeated environment, in that the harassment consists of crude remarks, jokes, the display of offensive material or makes the environment uncomfortable.

Examples of Sexual Harassment may include:

- (a) Uninvited touching, kissing, embracing, massaging;
- (b) Staring, leering, ogling;
- (c) Smutty jokes and comments;
- (d) Persistent or intrusive questions about people's private lives;
- (e) Repeated invitations to go out, especially after prior refusal;
- (f) The use of promises or threats to coerce someone into sexual activity;
- (g) The display of sexually explicit material, e.g. Internet use, computer screen savers, calendars, posters;
- (h) Getting undressed in front of others of the opposite sex;
- (i) Invading the privacy of others while showering or toileting;
- (j) Photographing others while undressing, showering or toileting.
- (k) Encouragement or coercion of a person to change sexual orientation or practices.

Sexual Harassment may be a criminal offence, for example indecent assault, rape, obscene telephone calls or letters. If you believe that a criminal offence may have been committed, you should seek legal advice and/or notify the police. You can do this without divulging the name or identity of the complainant.

Racial Harassment includes harassment based on colour, descent, national or ethnic origin, cultural activity and sometimes religion. Examples of Racial Harassment include:

- (a) Jokes in which race is a significant characteristic of the 'butt' of the joke;
- (b) Hostile comments about food eaten, dress or religious or cultural practices;
- (c) Inferences that all members of a racial or cultural group have particular negative characteristics, such as laziness, drunkenness, greed or sexual promiscuity;
- (d) Parodying accents.

Sexuality Harassment includes harassment based on actual or assumed homosexuality, heterosexuality, bi-

sexuality or transsexuality. Examples of Sexuality Harassment include:

- (a) Jokes in which sexuality is a significant characteristic of the 'butt' of the joke
- (b) Hostile comments about assumed sexual practices or social activities. In severe cases, such as threats or acts of violence against a homosexual person, Sexuality Harassment may be a criminal offence. If you believe that a criminal offence may have been committed, you should seek legal advice and/or notify the police. The name or identity of the complainant need not be divulged.

Disability Harassment includes harassment based on physical, mental or psychological disability or harassment of an associate or aide of a person with a disability. Examples of Disability Harassment include:

- (a) Jokes where a particular disability is a significant characteristic of the 'butt' of the joke;
- (b) Interfering with a disability aid, (e.g. hearing aid);
- (c) Obstructing a person in a manner that compounds his or her disability, (e.g. putting obstacles in the path of a person with a vision impairment);
- (d) Mocking a person's disability;
- (e) Hostility based on assumed AIDS or HIV infection.

Abuse may be a form of Harassment. It includes:

- (a) Physical abuse, (e.g., assault);
- (b) Emotional abuse, (e.g. blackmail, repeated requests or demands, excluding someone or 'bastardisation' practices);
- (c) Neglect, (e.g. failure to provide the basic physical and emotional necessities of life);
- (d) Abuse of power, which the harasser holds over the harassed.

Examples of relationships that involve a power disparity include a coach–player, manager–player, employer– employee, doctor–patient. People in such positions of power need to be particularly wary not to exploit that power. Examples of abusive behaviour include:

- (a) Bullying and humiliation of players by coaches, spectators and parents;
- (b) Verbal abuse and insults directed by players or parents at opposing participants;
- (c) Verbal and/or physical abuse of coaches by players, spectators, umpires or parents;
- (d) Verbal and/or physical abuse of umpires by players, coaches and spectators.

Some forms of Abuse may constitute a criminal offence, for example assault and child abuse. If you believe that a criminal offence may have been committed, you should seek legal advice and/or notify the police. You can do this without divulging the name or identity of the complainant.

MCBA and BV takes the view that intimate relationships (whether or not of a sexual nature) between coaches and players, while not necessarily constituting Harassment, can have harmful effects on the individual player involved, on other players, and on the sport's public image. Such relationships may be perceived to be exploitative because there is usually a disparity between coaches and players in terms of authority, maturity, status and dependence. Given there is always a risk that the relative power of the coach has been a factor in the development of such relationships, they should be avoided by coaches at all levels. In the event that a player attempts to initiate an intimate relationship, the coach must take personal responsibility for discouraging such approaches, explaining the ethical basis for such actions.

Whilst not necessarily constituting harassment, it is an offence under By-law for any coach, official or other person to whom this By-law applies to be involved in an intimate relationship (of any nature) with a player under the age of 18 years where that player is directly or indirectly under the control or supervision of that coach, official or other person.

The areas in which Discrimination under BV By-law are not permitted are in:

- (a) employment (including unpaid employment) by Basketball Victoria, League, Commission, Country Council, Affiliated Association or Club;
- (b) the provision of goods and services by Basketball Victoria, a League, Commission, Country Council, Affiliated Association or Club;
- (c) the selection or otherwise of any person for competition or a team by or on behalf of Basketball Victoria, a League, Commission, Country Council, Affiliated Association or Club;
- (d) the entry or otherwise of any player or other person to any competition held or sanctioned by Basketball Victoria, a League, Commission, Country Council, Affiliated Association or Club;
- (e) obtaining or retaining membership (including the rights and privileges of membership) of Basketball Victoria, a League, Commission, Country Council, Affiliated Association or Club.

Not only is Discrimination unlawful, but MCBA and BV also considers it is unjust because it may deny people a chance by judging them on the basis of stereotypes or assumptions about what they can or cannot achieve.

Discrimination includes direct Discrimination and indirect Discrimination. Direct Discrimination occurs if a person treats, or proposes to treat, someone with an attribute or characteristic less favourably than someone else without the same attribute or characteristic, in the same or similar circumstances.

Discrimination occurs where a person imposes or intends to impose a requirement, condition or practice, which on its face is not discriminatory, but has the effect of discriminating against a person(s) with a particular attribute.

Requesting, assisting, instructing, inducing or encouraging another person to engage in Discrimination, is also Discrimination.

Discrimination also includes victimisation. Victimisation is where a person is subject to, or is threatened to suffer, any detriment or unfair treatment, because that person has or intends to pursue their legal rights under anti-harassment legislation or under BV By-law.

Some forms of Vilification may be a criminal offence, for example where harm is threatened. If you believe that a criminal offence may have been committed, you should seek legal advice and/or notify the police. You can do this without divulging the name or identity of the complainant.

APPROVAL / VERSION CONTROL	
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