Ballarat Cricket Association Procedure 12
VIOLENCE AGAINST WOMEN AND GIRLS
COMPLAINT PROCEDURE

1. Purpose

This Procedure establishes how the Ballarat Cricket Association will respond when it receives information concerning possible violence against women or girls by a player, coach, official. Club member, volunteer, umpire or cricket administrator.

It must be read with:

- BCA Policy 7 – Violence Against Women and Girls;
- BCA Constitution;
- BCA Code of Behavior;
- applicable BCA competition rules and procedures; and
- applicable Cricket Australia and Cricket Victoria integrity policies.

The Procedure recognizes that different circumstances require different responses.

Not every report will constitute a complaint.

Not every allegation will require a BCA investigation.

Information concerning violence against women or girls conduct outside cricket may require a risk assessment without constituting an allegation of a breach of Policy 7

2. Three Response Pathways

Pathway A – Immediate Safety

Where there is an immediate threat to safety:

- emergency services should be contacted where appropriate;
- immediate steps should be taken to protect participants;
- the BCA President or nominated BCA Integrity representative should be informed as soon as reasonably practicable;
- Temporary safety measures may be implemented.

Pathway B – BCA Policy Complaint

Where alleged conduct falls within the scope of Policy 7 and may constitute a Policy breach, the matter may proceed through the formal complaint and investigation process in this Procedure.

Pathway C – External Conduct / Risk Assessment

Where alleged conduct occurred outside cricket and is not itself alleged to constitute a Policy 7 breach but may create an identifiable risk to BCA activities or participation, the matter may be referred for risk assessment.

A Pathway C assessment is not a disciplinary investigation and does not determine whether the alleged conduct occurred.

3. Receiving a Report

A report may be received from:

- the person affected;
- another participant;
- a Member Club;
- an umpire or official;
- a parent or spectator;
- police or another authority;
- publicly available information; or
- another credible source.

The person receiving the report should record only information reasonably necessary to identify:

- the nature of the concern;
- people involved;
- relevant dates and locations;
- whether immediate safety concerns exist;
- whether police or court proceedings are known to exist; and
- whether there is an apparent connection with BCA cricket.

Information should not be circulated beyond people who reasonably need to know.

Receipt of unsolicited, anonymous or unverified information does not establish that the alleged conduct occurred and does not automatically commence a formal complaint or investigation. Such information will first be considered through the preliminary assessment process in section 5.

4. No Requirement for Direct Confrontation

A person reporting VAWG is not required to approach, confront or attempt to resolve the matter directly with the alleged perpetrator.

Informal resolution may only be considered where:

- it is safe;
- the conduct is relatively minor;
- the affected person genuinely wishes to pursue that option; and
- The BCA considers informal resolution appropriate.

Conciliation or mediation should not ordinarily be used for allegations involving physical violence, sexual violence, family violence, coercive control, stalking, serious threats or other serious criminal conduct.

5. Preliminary Assessment

Following receipt of a report, the BCA President or a suitably independent person nominated by the Board will undertake a preliminary assessment.

The assessment should determine:

1. Is there an immediate safety issue?
2. Does the alleged conduct fall within Policy 7?
3. Is a formal BCA complaint or investigation appropriate?
4. Is the conduct primarily a police/court matter?
5. Does the information nevertheless create a risk relevant to BCA participation or activities?
6. Does the information nevertheless create a risk to other BCA club members, players, coaches, officials, umpires, volunteers and administrators.
7. Are interim safeguards required?
8. Is specialist or legal advice required?

The preliminary assessment should be documented.

Where the preliminary assessment identifies credible information that may reasonably create an identifiable safety, participation or integrity risk within BCA cricket, the matter will proceed to a Pathway C risk assessment. Otherwise, the reasons for taking no further action should be documented.

6. Pathway B – Formal Policy Complaint

Where the matter may constitute a breach of Policy 7, a formal complaint should, where practicable, record:

- the nature of the allegation;
- date, time and location;
- people involved;
- relevant witnesses;
- supporting material; and
- any immediate safety concerns.

The respondent must be provided with sufficient information to understand the allegation and be given a reasonable opportunity to respond.

The BCA will determine whether the matter should be:

- investigated internally;
- referred to an independent investigator;
- referred to another cricket integrity process;
- referred to police or another authority; or
- deferred pending external proceedings.

7. Investigation / Hearing

Where a BCA investigation is appropriate, the Board will appoint an appropriately independent person or panel.

No person should participate in determining a matter where they have an actual or reasonably perceived conflict of interest.

The investigator or panel will:

- consider relevant information;
- provide procedural fairness;
- allow each party a reasonable opportunity to respond;
- maintain appropriate confidentiality; and
- provide findings and reasons to the BCA.

The Board may obtain specialist expertise where the nature of the matter warrants it.

A support person may accompany a party.

Legal representation may be permitted where the seriousness or complexity of the matter makes this appropriate.

8. Findings

Where the BCA is required to make a factual determination, the applicable standard of proof, applied in a manner consistent with the BCA's governing rules and policies and applicable law, shall be on the balance of probabilities (and not beyond reasonable doubt).

Possible outcomes include:

- substantiated;
- not substantiated; or
- unable to determine on the available information.

Any disciplinary consequence will be determined separately from the factual finding.

9. Pathway C – External Conduct Risk Assessment

Where the preliminary assessment identifies credible information that conduct outside cricket may create an identifiable risk to BCA activities or participation, the BCA will undertake a risk assessment.

The assessment is concerned with participation and risk, not criminal guilt.

Relevant information may be sought from:

- the Member Club;
- the person who is the subject of the allegation or risk assessment;
- publicly available court information;
- relevant authorities where legally available; and
- other reliable sources.

The BCA should seek only information that is reasonably necessary to assess the cricket-related risk.

Relevant considerations may include:

- seriousness of the alleged conduct;
- status of legal proceedings;
- whether any known legal conditions are relevant to cricket participation;
- the person's cricket role;
- venue or participation risks;
- risks to participants, volunteers, officials or spectators;
- whether reasonable safeguards are available;
- the reliability of available information; and
- whether circumstances have materially changed.

The BCA does not police or enforce court orders. Responsibility for compliance remains with the person subject to those orders and the relevant authorities.

10. Interim Measures

If the preliminary assessment or risk assessment identifies a risk requiring immediate management, the BCA may consider interim measures authorised by Policy 7 and the BCA's governing rules.

Before imposing a significant restriction, the BCA should ordinarily:

1. advise the person who may be subject to the proposed restriction and the relevant Member Club of the concern;
2. provide a reasonable opportunity to respond;
3. consider less restrictive measures;
4. document the reasons for the decision;
5. specify when the measure will be reviewed; and
6. obtain legal advice where authority is uncertain.

Interim measures are not disciplinary findings.

11. Interaction with Police and Court Proceedings

Where criminal proceedings exist, the BCA must avoid actions that could prejudice those proceedings.

The BCA may defer its own investigation while continuing to assess risks relevant to cricket.

The fact that a person has been charged does not establish that the alleged conduct occurred.

Likewise, the existence of criminal proceedings does not prevent the BCA from taking proportionate steps to manage an identifiable cricket-related risk where it has lawful authority to do so.

12. Outcome of External Proceedings

At the conclusion of relevant criminal or other external proceedings, the BCA will review any existing risk-management arrangements and determine whether any further action is required within its jurisdiction.

The BCA may have regard to the outcome and any findings of the external process, including any conviction, sentence, order or condition relevant to cricket participation.

The outcome of external proceedings does not automatically determine whether a breach of Policy 7 has occurred or what BCA consequence, if any, should follow.

Where a final criminal conviction or other authoritative finding establishes relevant conduct, the BCA may have regard to that outcome in accordance with its governing rules and applicable law. Any further BCA disciplinary process must have an independent basis under BCA rules and comply with procedural fairness.

An acquittal, withdrawal or dismissal of a charge will be considered according to its legal effect and the circumstances of the matter and will not, of itself, be treated as establishing either that the alleged conduct occurred or that it did not occur.

13. Material Change and Review

A Member Club or person subject to interim risk-management arrangements should notify the BCA of any material change relevant to those arrangements.

A material change may include:

- change in the status of proceedings;
- variation of conditions relevant to participation;
- additional relevant allegations or charges;
- conclusion of proceedings; or
- other information materially affecting the risk assessment.

The BCA will review interim measures when a material change occurs and at reasonable intervals

14. Outcomes and Sanctions

Where a Policy breach is substantiated, the matter will be referred to the appropriate decision maker under Policy 7 and BCA rules.

The sanction decision should consider:

- seriousness of the conduct;
- impact on affected people;
- aggravating and mitigating factors;
- previous relevant conduct;
- proportionality; and
- objectives of safety, integrity and prevention.

Reasons for the decision should be recorded.

15. Duration and Review of Restrictions

An interim risk-management measure will remain in force only for so long as reasonably necessary to manage the identified risk and must be reviewed at reasonable intervals and whenever a material change occurs.

Following the conclusion of relevant criminal or other external proceedings, any interim measure must be reviewed and must either cease, be modified, or be replaced by a disciplinary sanction imposed through an authorised BCA process.

Where a disciplinary suspension or restriction is imposed, the written decision must specify: -

- the commencement date;
- the duration and end date;
- the activities or roles to which the restriction applies; and
- any reasonable conditions applying to return to participation

In determining duration, the decision maker should consider:

- the seriousness of the substantiated conduct;
- the harm caused or reasonably associated with the conduct;
- aggravating and mitigating circumstances;
- the person's role and level of access within cricket;
- previous relevant conduct;
- the outcome of external proceedings, including any relevant court orders or sentence;
- any continuing identifiable cricket-related risk;
- proportionality and consistency; and
- the objectives of safety, integrity and prevention.

A court-imposed sentence, order or period does not automatically determine the duration of a BCA sanction. The BCA must determine what response, if any, is appropriate within its own jurisdiction and governing rules. Any restriction extending beyond the specified disciplinary period must have an independent basis under BCA rules, be reasonably necessary and proportionate, and be subject to procedural fairness and any applicable review or appeal rights.

16. Review and Appeal

A person subject to a disciplinary decision or significant participation restriction will have any review or appeal rights provided under the BCA Constitution, competition rules, Policy 7 or other applicable BCA procedure.

Where no existing appeal mechanism clearly applies, the Board should obtain governance or legal advice before imposing a significant restriction.

17. Confidentiality, Privacy and Communications

All information will be handled on a need-to-know basis.

Participants, clubs and BCA officials should avoid public commentary that could:

- identify protected people;
- prejudice legal proceedings;
- compromise an investigation;
- unnecessarily disclose personal information; or
- expose any party to avoidable harm.

Only the President or an authorised BCA spokesperson may make public comment on behalf of the Association.

Where media comment is necessary, the BCA should:

- acknowledge the matter only where appropriate;
- avoid commenting on guilt or innocence;
- avoid disclosing confidential information;
- reinforce the BCA's commitment to safe and respectful cricket; and
- recognise the independence of any ongoing legal process.



18. Records

The Operations Officer, acting in an administrative capacity and under the direction of the President or Board, will ensure that relevant records are securely retained, including:

- reports received;
- preliminary assessments;
- risk assessments;
- material correspondence;
- interim decisions;
- investigation findings;
- Board decisions; and
- review outcomes.

Access will be limited to authorised people.

The Operations Officer is not responsible for undertaking preliminary assessments, risk assessments, investigations or factual determinations under this Procedure.

19. Support

The BCA will provide affected people with information regarding appropriate support services where appropriate.

Nothing in this Procedure prevents a person from seeking independent legal, medical, counselling or other professional support.

20. Document Control

Version	Approval Date	Review Date	Owner
1.0	Oct 25	Oct 26	BCA Board
2.0	Oct 26	Oct 27	BCA Board