



NORTHERN STARS VOLLEYBALL CLUB INCORPORATED

# Complaint Management Policy

## 1. PURPOSE

Northern Stars Volleyball Club (NSVC) has created the Complaint Management Policy document to provide a fair and consistent method to hear and resolve complaints made to the club by any person, party or organisation against NSVC members, coaches, officials or committee members.

## 2. DEFINITIONS

The following definitions are applied to the NSVC Complaint Management Policy (taken with permission from the Volleyball WA (VWA) Complaint Management Policy);

- **Bullying** is when people repeatedly and intentionally use words or actions against someone or a group of people to cause distress and risk to their wellbeing<sup>1</sup>. Refer to the VWA Anti-Harassment Policy for further information
- **Complainant** means the person(s) making the complaint
- **Complaint** is a statement indicating something is unsatisfactory or unacceptable
- **Discrimination** happens when a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics<sup>2</sup>. Refer to the VWA Anti-Harassment Policy for further information
- **Dispute** is a disagreement between two NSVC Members or a NSVC Member and NSVC
- **Harassment** can be against the law when a person is treated less favourably on the basis of certain personal characteristics. Some limited exemptions and exceptions apply<sup>3</sup>. Refer to the VWA Anti-Harassment Policy for further information
- **Mediation** is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator.
- **Member** means an individual who is representing NSVC in any capacity, including playing members, non-playing members, referees, coaches, committee members or in any other official capacity
- **Member Protection Information Officer (MPIO)** means a person appointed by NSVC to be the first point of contact for a person reporting an issue or a complaint under, or a breach of, this policy
- **Misconduct** means unacceptable or inappropriate behaviour
- **Respondent** means the person(s) who is the subject of the complaint
- **Tribunal** means the body convened to settle a dispute / complaint
- **Victimisation** means punishing or threatening to punish someone<sup>4</sup>. Refer to the VWA Anti-Harassment Policy for further information
- **Vilification** means the act of saying or writing unpleasant things about someone or something, in order to cause other people to have a bad opinion of them

### References

1. <https://www.humanrights.gov.au/our-work/commission-general/what-bullying-violence-harassment-and-bullyingfact-sheet>
2. <https://www.humanrights.gov.au/quick-guide/12030>
3. <https://www.humanrights.gov.au/quick-guide/12040>
4. <https://www.humanrightscommission.vic.gov.au/the-workplace/victimisation>

## 3. NATURE OF A DISPUTE OR COMPLAINT

A person, party or organisation may submit a Dispute against a Member or NSVC if they feel they have been subjected to, or witnessed, any of the following;

- A suspected breach of this policy or any other of NSVC Policies and Procedures
- Unfair or unreasonable behaviour by one or parties (Members and/or NSVC)

A person, party or organisation may submit a Complaint against a Member or NSVC if they feel they have been subjected to, or witnessed, any of the following;

- Bullying of a verbal, physical or other nature/s
- Discrimination due to race, gender, age or other nature/s
- Harassment of any kind including verbal, physical, racial, sexual or other nature/s
- An appeal to the resolution of a Dispute that is suspected to have breached this policy

The lists provided in this document are examples and Disputes and Complaints include, but are not limited to, these examples.

#### 4. **RESOLVING DISPUTES**

The resolution of Disputes is set out in the NSVC Rules of Association, Items 18-25, set out below.

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#### **18. APPLICATION OF DIVISION**

The procedure set out in this Division (the grievance procedure) applies to disputes —

- (a) between Members; or
- (b) between one or more Members and the Club.

#### **19. PARTIES TO ATTEMPT TO RESOLVE DISPUTE**

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.

#### **20. HOW GRIEVANCE PROCEDURE IS STARTED**

(1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 19, any party to the dispute may start the grievance procedure by giving written notice to the Secretary of —

- (a) the parties to the dispute; and
- (b) the matters that are the subject of the dispute.

(2) Within 28 days after the Secretary is given the notice, a committee meeting must be convened to consider and determine the dispute.

(3) The Secretary must give each party to the dispute written notice of the Committee meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.

(4) The notice given to each party to the dispute must state —

- (a) when and where the committee meeting is to be held; and
- (b) that the party, or the party's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Committee about the dispute.

(5) If —

- (a) the dispute is between one or more Members and the Club; and
- (b) any party to the dispute gives written notice to the Secretary stating that the party —
  - (i) does not agree to the dispute being determined by the Committee; and
  - (ii) requests the appointment of a mediator under rule 23, the Committee must not determine the dispute.

## **22. APPLICATION OF DIVISION**

(1) This Division applies if written notice has been given to the Secretary requesting the appointment of a mediator —

- (a) by a Member under rule 15(7); or
- (b) by a party to a dispute under rule 20(5)(b)(ii) or 21(3).

(2) If this Division applies, a mediator must be chosen or appointed under rule 23.

## **23. APPOINTMENT OF MEDIATOR**

(1) The mediator must be a person chosen —

- (a) if the appointment of a mediator was requested by a Member under rule 15(7) — by agreement between the Member and the Committee; or
- (b) if the appointment of a mediator was requested by a party to a dispute under rule 20(5)(b)(ii) or 21(3) — by agreement between the parties to the dispute.

(2) If there is no agreement for the purposes of subrule (1)(a) or (b), then, subject to subrules (3) and (4), the Committee must appoint the mediator.

(3) The person appointed as mediator by the Committee must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —

- (a) a Member under rule 15(7); or
- (b) a party to a dispute under rule 20(5)(b)(ii); or
- (c) a party to a dispute under rule 21(3) and the dispute is between one or more Members and the Club.

(4) The person appointed as mediator by the committee may be a Member or former Member of the Club but must not —

- (a) have a personal interest in the matter that is the subject of the mediation; or
- (b) be biased in favour of or against any party to the mediation.

## **24. MEDIATION PROCESS**

(1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.

(2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.

(3) In conducting the mediation, the mediator must —

- (a) give each party to the mediation every opportunity to be heard; and
- (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
- (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.

(4) The mediator cannot determine the matter that is the subject of the mediation.

(5) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.

(6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

## **25. IF MEDIATION RESULTS IN DECISION TO SUSPEND OR EXPEL BEING REVOKED**

If —

(a) mediation takes place because a Member whose Membership is suspended or who is expelled from the Association gives notice under rule 15(7); and

(b) as the result of the mediation, the decision to suspend the Member's Membership or expel the Member is revoked,

that revocation does not affect the validity of any decision made at a committee meeting or general meeting during the period of suspension or expulsion.

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### **4. SUBMITTING A COMPLAINT**

A complaint may be made verbally or in writing via letter or email to any NSVC Member. However, formal complaints must be submitted in writing to the NSVC MPIO via letter or email to begin the formal Complaint process.

#### On Receipt of a Verbal Complaint

The person, who first receives the complaint, should ask some simple questions to determine the nature of the complaint:

1. What the complaint is about?

2. Has the person tried to resolve the matter themselves?

- Encourage the complainant to talk to the other person (if safe, reasonable and appropriate) – Informal approach.
- Pass to the relevant Committee Member if the complaint is operational

3. Do they wish to make a formal complaint?

- Advise to submit a complaint in writing / email to a trained MPIO

4. Would they like to talk to a trained MPIO? The call should be referred to an MPIO should if:

- The complainant is not sure how to approach step 2;
- The complainant is not sure whether step 2. is appropriate;
- The complainant wishes to talk to someone confidentially about the options available; or
- the complaint was not resolved by step 2

The MPIO will:

a. Ask the complainant how they would like the complaint to be resolved and what support they might need

b. Seek to provide different options for the complainant to address their concern

c. Inform the relevant government authorities and / or police, if required by law to do so

d. Document the conversation on the Complaint Records Form and submit to the VWA Operations and Support Manager

e. Where possible and appropriate maintain confidentiality

After talking to an MPIO, the complainant may decide:

- There is no longer a complaint;
- The complaint is minor and they do not wish to take the matter forward;
- To try and resolve the problem themselves;
- To try and resolve the problem with the help of someone impartial, such as a mediator; or
- To resolve the matter through a formal process.

The conversation should be documented on the Complaint Records Form and submitted to the NSVC President, Secretary or the MPIO if the matter has been referred.

#### On Receipt of a Formal Complaint

After receiving a formal Complaint, based on the material provided, the MPIO will decide whether:

1. they are the most appropriate person to receive and handle the complaint (if the MPIO has a conflict of interest with the case, the case should be handed over to either the NSVC President or forwarded to a VWA MPIO as soon as the conflict is identified);
2. the nature and seriousness of the complaint requires a formal resolution procedure;
3. the matter should be reported to the police if there are allegations of criminal conduct.

The MPIO will:

1. Complete the Complaints Record Form, requesting further information as deemed necessary, taking into account:
  - a. the wishes of the complainant, and the wishes of the respondent, regarding how the complaint should be handled;
  - b. the relationship between the complainant and the respondent (e.g. an actual or perceived power imbalance between you and the respondent);
  - c. whether the facts of the complaint are in dispute; and
  - d. the urgency of the complaint, including the possibility that the complainant might face further unacceptable behaviour while the complaint process is underway.
2. Submit the Complaints Record to the NSVC President, determining if there is enough information to identify whether the matter alleged did or did not occur;
3. Refer the matter to the police immediately if the investigation reveals allegations of criminal conduct.

#### **5. COMPLAINT PROCESS**

NSVC endeavours to deal with complaints on a confidential basis. NSVC will not provide information about the complaint to another person without the Complainant's consent, except if the law requires us disclose this information or it is necessary to properly deal with the Complaint. To ensure fairness for everyone involved, NSVC will provide the full details of the Complaint to the person or people against whom the Complaint has been made and ask for their response. As a result, it may be difficult for us to resolve Complaints made anonymously.

In the event that costs are incurred, they will be met by the party who incurs the cost unless otherwise stated / agreed by the parties.

A Complaint may be handled informally or formally. The complainant may indicate his or her preferred option and the MPIO should consider whether that is an appropriate way to handle the particular complaint. For example, the law may require that the complaint / allegation be reported to an appropriate authority.

Individuals and organisations may also seek to have their complaint handled by an external agency under anti-discrimination, child protection, criminal or other relevant legislation. All complaints will be dealt with promptly, seriously, sensitively and confidentially as per the Complaint Management Procedure.

NSVC will take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures may be undertaken in respect of a person who harasses or victimises another person for making a complaint or supporting another person's complaint in accordance with the VWA Anti-Harassment Policy. If at any point in the complaint handling process the MPIO considers that a complainant has knowingly made an untrue complaint, or the complaint is malicious or inappropriately intended to cause distress to the respondent, the matter may be referred to the Committee as a Dispute or Complaint itself, or in more serious cases disciplinary action and / or referral to authorities.

A Complaint may be resolved using any one or more of the following interventions;

- Resolution via part or all of the Dispute process outlined in this document under Item 3, including;
  - Formal or informal discussion leading to agreement / compromise between two parties
  - Mediation
- External Investigation Process
- Tribunals
- Disciplinary Measures

Members may be accompanied by a Companion at any investigation meeting and / or tribunal, such as another NSVC member, official or family member. Members may not choose a companion whose presence would prejudice the outcome of any meeting / tribunal.

- The companion may address the meeting / tribunal to present and/or sum up the members case, respond on their behalf to any views expressed at the hearing and confer privately with them at any stage during the hearing.
- The companion does not have the right to answer questions on the member's behalf, address the meeting / tribunal if the member does not want them to or prevent anyone, including the member, from explaining their case.
- Any companion who attends a meeting / tribunal with a member in connection with this policy shall not be penalised in any way.
- No one shall be obliged to act as a companion if they do not wish to so.

The detailed breakdown for the process of each of the interventions is set out in Items 6-9 below.

## 6. **MEDIATION PROCESS**

Mediation is undertaken as per Item 23 & 24 in the NSVC Rules of Association, which are stated under Item 4 – Resolving Disputes of this policy.

## 7. **EXTERNAL INVESTIGATION PROCESS**

1. The NSVC President may appoint an appropriate investigator to investigate the complaint further. The investigator will be an independent person in the context of the complaint; however this does not preclude a person with an association with NSVC and/or Volleyball WA acting as an investigator.
2. The investigator will be provided with a written brief that sets out the terms of engagement and their roles and responsibilities.
3. The investigator may:

- a. interview the complainant and record the interview in writing;
- b. provide full details of the complaint to the respondent(s) so that they can respond
- c. interview the respondent(s) to allow them to answer the complaint and record the interview in writing;
- d. obtain statements from witnesses and collect other relevant evidence;
- e. make a finding as to whether the complaint is:
  - **substantiated** (there is sufficient evidence to support the complaint)
  - **inconclusive** (there is insufficient evidence either way);
  - **unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded);
- mischievous, vexatious or knowingly untrue. f. provide a report to the CEO and / or tribunal documenting the complaint, the investigation process, the evidence,) and, if requested, any findings and recommendations.

4. NSVC will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points from the investigation.

5. The complainant and the respondent(s) will be entitled to support throughout this process from their Companion.

## 8. TRIBUNAL PROCESS

1. NSVC will convene a Tribunal / Disciplinary Hearing within a timely manner but not within ten days from the date the formal notification is sent.

2. The NSVC President will inform the respondent(s) in writing that a Tribunal hearing will take place. The notice will outline:

- a. that the person has a right to appear at the Tribunal hearing to defend the complaint/allegations;
- b. the details of the complaint and of all allegations, as well as the provision or clause of any policy, rule or regulation that has allegedly been breached;
- c. the date, time and venue of the Tribunal hearing;
- d. that verbal and/or written submissions can be presented at the Tribunal hearing;
- e. that witnesses may attend the Tribunal hearing to support the position of the respondent/s;
- f. an outline of any possible sanctions that may be imposed if the complaint is found to be true;
- g. that the respondent may be assisted by a Companion at a Tribunal hearing. For example, where the respondent is a minor, they should have a parent or guardian present. However a person cannot be a Companion if they have been admitted to the practice as a lawyer or worked as a trainee lawyer; and
- h. that a copy of any investigation report findings will be provided to the respondent(s).

3. The NSVC President will notify the complainant in writing that a Tribunal hearing will take place. The notice will outline:

- a. that the person has a right to appear at the Tribunal hearing to support their complaint;

b. the details of the complaint, including any relevant rules or regulations the respondent is accused of breaching;

c. the date, time and venue of the Tribunal hearing;

d. that verbal and/or written submissions can be presented at the Tribunal hearing;

e. that witnesses may attend the Tribunal hearing to support the complainant's position;

f. that the complainant may be assisted by a Companion at a Tribunal hearing. For example, where the complainant is a minor, they should have a parent or guardian present. However, a person cannot be a Companion if they have been admitted to practice as a lawyer or worked as a trainee lawyer.

- A copy of the investigation report findings will be provided to the complainant. If the complainant believes the details of the complaint are incorrect or insufficient, they should inform the NSVC President as soon as possible so that the respondent(s) and members of the Tribunal panel can be properly informed of the complaint.

4. The panel will comprise of the NSVC President, one other member of the Executive Committee, and a VWA representative or independent representative from an external body / organisation (for example Department of Local Government, Sport and Cultural Industries).

5. The panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent by the NSVC President relating to the complaint/allegations.

6. The respondent and their Companion must take all reasonable steps to attend. If the respondent provides notice that they are unable to attend the scheduled date and time an alternative must be agreed. If the respondent is unable to attend or fails to attend the rescheduled hearing, NSVC may make a decision in the respondent's absence on the basis of the evidence available.

7. At the hearing, the appointed Chairperson will explain the role of all those attending and the allegation(s) against the respondent, asking the respondent if they understand the complaint and if they agree or disagree with the complaint.

If the respondent agrees with the complaint, they will be asked to provide any evidence or witnesses that should be considered by the Tribunal when determining any sanctions. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.

- Reference may be made to brief notes.
- The complainant may call witnesses.
- The respondent may question the complainant and any witnesses.
- The respondent will then be asked to respond to the complaint.
- Reference may be made to brief notes.
- The respondent may call witnesses.
- The complainant may ask questions of the respondent and any witnesses.

8. The complainant and respondent(s) may be present when evidence is presented to the Tribunal hearing. Witnesses may be asked to wait outside the hearing until they are required.

- If there is an intention to call witnesses by either party, advanced written notice of the intent to do so. Any written statements of case, witness statements or other documentary evidence should be exchanged at least 10 days in advance of the hearing.
- If the Tribunal panel considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the Tribunal chairperson may deny further involvement of that person in the hearing.

9. The Tribunal may:

- consider any evidence, and in any form, that it deems relevant;
- ask questions of any person giving evidence; or limit the number of witnesses (including limiting witnesses to those persons who only provide new evidence);
- require (to the extent it has power to do so) the attendance of any witness it deems relevant; and act in an inquisitorial manner in order to establish the truth of the issue/complaint before it.

10. The main points of the discussion will be summarised and the respondent and complainant will be asked if they have anything further to say.

11. After all the evidence has been presented, the Tribunal will make its decision in private. The Tribunal must decide whether the complaint has, on the balance of probabilities, been substantiated. The Panel must decide on what level of disciplinary action is justified and proportionate, if any, in accordance with the VWA Constitution and Member Disciplinary Policy.

12. All Tribunal decisions will be by majority vote.

13. The Tribunal chairperson may announce the decision of the Tribunal at the conclusion of the hearing. Alternatively, they may reserve the decision of the Tribunal at the conclusion of the hearing and deliver the decision at a later time.

14. The respondent(s) will have the opportunity to make submissions to the Tribunal in relation to any sanctions that may be imposed.

15. Within 48 hours of the Tribunal delivering its decision, the NSVC President will notify the respondent in writing citing:

- a. the outcome of the hearing;
- b. reasons for the sanction;
- c. any mitigating / aggravating factors; and
- d. the process and grounds for an appeal, if allowed. The Tribunal does not need to provide written reasons for its decision.

## **9. OPPORTUNITY TO APPEAL**

A Complainant or Respondent may lodge an appeal in relation to the decision / outcome of the complaint on one or more of the following grounds:

- that a denial of procedural fairness has occurred;
- that the sanction imposed is unjust and/or unreasonable;
- that the decision was not supported by the information/evidence provided

1. The Complainant / Respondent should inform the NSVC President of the grounds for the appeal in writing within 10 working days of receiving written confirmation of the outcome of the complaint. An appeal fee of \$500.00 shall be included with the letter of intention to appeal. If the letter of appeal is not received by the NSVC President within this time, the right of appeal will lapse. If the letter of appeal is received, but the appeal fee is not received within this time, the right to appeal will also lapse.

2. The letter of appeal and the notice of the outcome of the complaint will be forwarded to the NSVC Committee to review and to decide whether there are sufficient grounds for the appeal to proceed. The NSVC Committee may invite any witnesses to the meeting that they believe are required to make an informed decision.

3. If the Complainant / Respondent has not shown sufficient grounds for an appeal then the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision. The appeal fee will be forfeited.

4. If the appeal is accepted, an Appeal Tribunal with new panel members will be convened to rehear the complaint, and the appeal fee will be refunded. The Tribunal hearing procedure shall be followed for the Appeal Tribunal. The decision of the Appeal Tribunal will be final and binding.

#### **10. CONFIDENTIALITY AND RECORD MANAGEMENT**

Members should only discuss disciplinary matters with the NSVC representatives involved in the process and their Companion. Breaching confidentiality may result in further disciplinary action being taken.

The outcome of a disciplinary hearing will remain confidential to the parties involved. Disclosure may be made in accordance with NSVC or Volleyball WA's legal, contractual or regulatory obligations.

Should an investigation lead to a criminal investigation, all material obtained in the course of an investigation should be considered relevant and be made available to the police and, where applicable, to the member.

NSVC will not make an audio recording of any investigations or meetings. Members are not permitted to record disciplinary interviews, meetings, or hearings without prior consent.

NSVC requires 'meeting notes' to be taken at all meetings to record decisions and outcomes. All interviews / hearings must have a written record, signed by the interviewer / President and the subject of the interview. The interview record must only contain first party evidence.

The member will be sent a copy of the interview or meeting notes produced, which will constitute NSVC's record of proceedings.

Outcomes of any disciplinary sanctions will be kept on the member's file for:

- Written warning – 6 months
- Final written warning – 12 months
- Suspension and expulsion – in accordance with the NSVC or VWA Constitution, as applicable.

#### **11. POLICY REVIEW**

This policy will be endeavoured to be reviewed every two years by a NSVC Committee member.

END OF DOCUMENT