

WARWICK GREENWOOD CC POLICY

DISCRIMINATION-FREE CRICKET



DISCRIMINATION POLICY

Statute Law;

- Equal Opportunity Act 1984 (WA) (especially s35AP, 66N and 66ZJ)
- Human Rights and Equal Opportunity Act 1986 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Criminal Code 1913 (WA) Chapter XI – Racial Harassment and Incitement to Racial Hatred

POLICY

WGCC is committed to providing a working and sporting environment that is free from discrimination, harassment and victimisation, where individuals are treated with fairness, dignity and respect.

WGCC will not tolerate behaviour likely to constitute unlawful discrimination, harassment or victimisation under any circumstances. Action will be taken to hold employees, members and volunteers accountable for breaches of this policy.

This policy is to be read in conjunction with WGCC's Anti-Vilification Policy.

Purpose

The purpose of this policy is to:

1. provide clear guidelines for employees, members & volunteers of their rights, roles and responsibilities in relation to upholding equal opportunity laws and principles in employment and service delivery;
2. inform employees, members & volunteers of the consequences for unlawful and/or unethical behaviour relating to discrimination, harassment or victimisation;
3. provide guidelines and formalised procedures to deal with discrimination, harassment and victimisation;
4. promote appropriate standards of conduct at all times;
5. promote recognition and acceptance within WGCC of the equality of all people.

Definitions

'All reasonable steps' – under the Equal Opportunity Act 1984 if an employer, association or club can prove on the balance of probabilities that they took all reasonable steps to prevent an employee or member from contravening the legislation, they may offer this as a defence to sever the link with the offending employee or member. What constitutes all reasonable steps will depend on the circumstances of the case.

'Club' – means an association (whether incorporated or unincorporated) of not less than 30 persons associated together for social, literary, cultural, political, sporting, athletic or other lawful purposes that –

- (a) provides and maintains its facilities, in whole or in part, from the funds of the association; and
- (b) sells or supplies liquor for consumption on its premises.

'committee of management' – in relation to a club, organisation or incorporated association, means the group or body of persons (however described) that manages the affairs of that club, organisation or incorporated association, as the case may be.

'Discrimination' – is treating someone less favourably than someone else in similar circumstances simply because they belong to a group or category of people covered under the grounds of the *Equal Opportunity Act, 1984* (the Act). Discrimination is unlawful in employment and service delivery and is prohibited on the grounds of race, sex, age, family responsibilities, family status, marital status, sexual orientation, impairment, political conviction, religious conviction, gender history and pregnancy.

There are two types of discrimination –

- **'Direct Discrimination'** – is where a person is treated less favourably than someone in the same or similar circumstances, on one or more of the grounds and in one or more of the areas of public life covered by the Act.
- **'Indirect Discrimination'** – is when an apparently neutral rule, policy, practice or procedure has a negative effect on a substantially higher proportion of people with a particular attribute or characteristic compared to people without that attribute or characteristic, and is not reasonable having regard to the circumstances.

'Harassment' – is any unwelcome and uninvited comment or action that results in a person being intimidated, offended, humiliated or embarrassed. Harassment can take different forms including oral, written, physical and other non-verbal forms. The harassing behaviour does not need to be continuous; it may involve a single incident. It may however, be difficult for the offended person to convey their displeasure, especially if the person giving offences is in a position of authority. Under the *Equal Opportunity Act, 1984* there are two types of unlawful harassment –

- **'Sexual Harassment'** – is any unwelcome sexual advance or request for sexual favours or unwelcome conduct of a sexual nature. The behaviour must be such that the harassed person has reasonable grounds to believe if they reject the advance, refuse the request or object to the conduct they will be disadvantaged or they are in fact disadvantaged if they object to such behaviour.
- **'Racial Harassment'** – occurs when a person is threatened, abused, insulted or taunted in relation to their race, colour, descent, ethnic national origin, nationality, or a racial characteristic (e.g. language) and if they reasonably believe by objecting to that behaviour they will be disadvantaged in terms of their employment.

'Vicarious Liability' – means that when an employee or agent, in connection with their employment, behaves unlawfully under the *Equal Opportunity Act, 1984* the employer will be liable for that behaviour. The employer may offer the defence that they took *'all reasonable steps'* to prevent the unlawful act from taking place.

'Victimisation' – is unlawful and occurs when anyone threatens, harasses or subjects a person to a detriment because they have made a complaint or intend to make a complaint under the *Equal Opportunity Act 1984*. It also applies to anyone giving evidence about a complaint, or asserting their rights or someone else's rights under the Act. Unfavourable treatment could include; adverse changes to the work environment; denial of training or promotion; negative or belittling comments; restricting access to information necessary to perform one's work; threats; or ostracism.

'voluntary body' – means an association or other body (whether incorporated or unincorporated) the activities of which are not engaged in for the purpose of making a profit, but does not include –

- (a) a club;
- (b) a body established by a law of the Commonwealth, or of a State or Territory of the Commonwealth; or
- (c) an association that provides grants, loans, credit or finance to its members.

Specific Principles

- Discrimination, harassment and victimisation in employment and/or service delivery are against the law.
- Employees and members are specifically prohibited from engaging in acts or behaviours likely to constitute unlawful discrimination, harassment or victimisation whilst engaged in WGCC activities and interactions.
- WGCC has a legal responsibility to take all reasonable steps to prevent and eliminate discrimination, harassment and victimisation and may be vicariously liable for its employees and members.
- Individuals will be personally accountable for discriminating, harassing or victimising another person in connection with their employment or membership; or for causing, instructing, inducing, aiding or permitting another person to engage in such conduct.
- The effect, not the intent, of the alleged behaviour is key.
- Employees and members should not make frivolous or malicious complaints. All employees and members are expected to participate in the equal opportunity complaint resolution process in good faith.