

EASTERN FOOTBALL NETBALL LEAGUE
VILIFICATION & DISCRIMINATION POLICY

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VILIFICATION & DISCRIMINATION POLICY

The Eastern Football Netball League EFNL is committed to fostering and maintaining a sporting environment which promotes understanding, accepts the unique differences of all persons affiliated with or interested in Australian Football, and recognises the need to prohibit certain discriminatory or vilifying conduct. To this end the EFNL, adopts this policy which establishes the means of redress for players and officials aggrieved by what they reasonably consider to be vilification or discrimination based on their individuality.

1. Application & Scope of Policy

1.1 The EFNL is bound by applicable provisions of State-based legislation as well as the:

- a) *Racial Discrimination Act 1975 (Cth);*
- b) *Sex Discrimination Act 1984 (Cth);*
- c) *Human Rights & Equal Opportunity Commission Act 1986 (Cth);*
and
- d) *Disability Discrimination Act 1992 (Cth) (Legislation).*

1.2 This Policy is consistent with the Legislation and not in substitution of the Legislation

1.3 The EFNL will ensure that this Policy is communicated to Participants of the EFNL. It will endeavour to ensure that Participants of the EFNL receive vilification and discrimination training.

1.4 Nothing in this Policy prevents a person lodging a Complaint in relation to vilification or discrimination under the Legislation. In the event a Complaint is made under this Policy the EFNL shall ensure that the parties are informed of their rights and that endeavours are made to maintain the confidentiality of the Complaints. This Policy applies to all Clubs that are affiliated with the EFNL.

2 Definitions In this Policy-

“Complaint” means an allegation, contention or assertion made by a Participant or Participants in relation to the conduct of another Participant or Participants which the first Participant or Participants claim is Prohibited Conduct. Complaints will be either an Intra-Club Complaint or an Inter-Club Complaint.

"Complaints Process" means the procedure outlined in sections 3 to 10 of this Policy.

“Conciliation” means a method of alternative dispute resolution to which a third party (the “conciliator”) attempts to facilitate an agreed resolution of the dispute through active input and advice to Participants about the best way to resolve the Complaint.

"Club" means any football Club that is an affiliate of the EFNL.

"Club Complaints Officer" means a person appointed by a Club to oversee this Vilification & Discrimination Policy, the education of Participants, and to liaise with all persons relevant to the Complaints Process to the extent that it involves a Complaint made in respect of a Participant of the Club, and to act in accordance with section 5.2 and 5.3.

"Club Official" includes committee members, coaches, coaching staff, trainers, runners, persons involved in the every-day administration of the Club and any person who may reasonably be perceived to hold an official Club position.

"Engage in Conduct" is defined with reference to the ordinary meaning ascribed to the phrase but also expressly includes use of the internet, Social Media or email to publish or transmit statements or other material.

"EFNL Complaints Officer/s" means either the EFNL CEO, EFNL Chairman EFNL General Manager or such other person as thought fit and proper to hold the position, having regard to the obligations as set out in section 5 in the Complaints Process.

"Informal Resolution" means an informal arrangement, understanding or agreement that, in the reasonable opinion of the EFNL Complaints Officer/s or a Club Complaints Officer, has been reached in relation to either an Inter-Club Complaint or an Intra-Club Complaint between the Participant or Participants alleged to have engaged in the Prohibited Conduct and the Participant or Participants alleged to have been the subject of the Prohibited Conduct. Such informal arrangements or agreements may involve an oral apology or a retraction.

"Inter-Club Complaint" means a Complaint by a Participant or Participants from one Club involving an allegation of Prohibited Conduct directed at a Participant or Participants from a second Club.

"Intra-Club Complaint" means a Complaint by a Participant or Participants from one Club involving an allegation of Prohibited Conduct directed at a Participant or Participants from within the same Club.

"Investigation Officer" means an independent person selected by the EFNL in accordance with section 8 of this Policy to investigate a complaint and to provide a recommendation to the EFNL Complaints Officer/s.

"EFNL" means the Eastern Football Netball League.

"Participate" means to engage in any activity or behaviour which is either directly or indirectly related or reasonably incidental to Australian Football as that term is understood under the Laws of Australian Football.

"Participant" includes a player, spectator, umpire, employee, volunteer to and agent of a Football Club that Participates in the EFNL.

"Prohibited Conduct" means the conduct outlined in section 3 of this Policy.

"Social Media" refers to what may reasonably be perceived to involve communication involving novel digital formats and platforms including, but not limited to, Facebook, Twitter, Myspace, Instagram instant-messenger and derivations of email.

3 Prohibited Conduct

3.1 Vilification & Discrimination

No EFNL Participant or Club Official shall engage in conduct which may reasonably be considered to incite hatred towards, contempt for, ridicule of or discrimination against a person or group of persons on the ground of their:

- race;
- religion;
- gender;
- colour;
- sexual preference, orientation or identity; or
- special ability or disability.

4 Appointment of EFNL Complaints Officer/s & Club Complaints Officer

- 4.1** The EFNL shall appoint an EFNL Complaints Officer/s to ensure that any breach of this Policy is responded to in an equitable and prompt manner in accordance with this Policy.
- 4.2** The EFNL shall ensure that all Clubs have a Club Complaints Officer to whom all vilification and discrimination Complaints are directed.
- 4.3** The EFNL Complaints Officer/s is responsible for liaising between Club Complaints Officers, in the case of an Inter-Club Complaint, or with a single Club Complaints Officer, in the case of an Intra-Club Complaint, to achieve Informal Resolution of the Complaint.
- 4.4** The Club Complaints Officer and the EFNL Complaints Officer/s shall liaise directly over incidents which in the reasonable opinion of the Club Complaints Officer or EFNL Complaints Officer/s are contrary to Section 3.

5 Preliminary Resolution Process

- 5.1 If it is alleged that a person contrary to section 3.1 has engaged in Prohibited Conduct, a Participant may by 5.00pm on the first working day following the day on which the Prohibited Conduct is alleged to have occurred, lodge a Complaint with the Club Complaints Officer.
- 5.2 In the case of an Inter-Club Complaint, in respect of prohibited conduct the Club Complaints Officer where the Complaint was made shall by 5.00pm on the next working day following the day on which the Complaint was lodged with the Club, lodge the Complaint with the EFNL's Complaints Officer. The Club Complaints Officer shall take no further action once the Complaint has been lodged with the EFNL unless otherwise instructed by the EFNL's Complaint's Officer. In the case of an Inter-Club Complaint, the EFNL Complaints Officer/s shall take reasonable steps within the next three (3) days following the day on which the Complaint was lodged with the EFNL Complaint Officer/s to achieve an Informal Resolution if, in the reasonable opinion of the EFNL Complaints Officer/s, the Complaint is capable of an Informal Resolution.
- 5.3 In the case of an Intra-Club Complaint, the Club Complaints Officer shall take reasonable steps within the next three (3) days following the day on which the Complaint was lodged with the Club to achieve an Informal Resolution if, in the reasonable opinion of the Club Complaints Officer, the Complaint is capable of an Informal Resolution. If an Informal Resolution is not achieved or it is reasonably believed that the Complaint is incapable of an Informal Resolution, the Club Complaints Officer shall as soon as is reasonably practicable lodge the Complaint with the EFNL's Complaints Officer. The Club Complaints Officer shall take no further action once the Complaint has been lodged with the EFNL unless otherwise instructed by the EFNL's Complaint's Officer, who shall attempt to resolve the matter by way of informal resolution.
- 5.4 In circumstances where in the reasonable opinion of the EFNL Complaints Officer/s a Complaint cannot be resolved by way of Informal Resolution, the EFNL Complaints Officer/s shall proceed to Conciliation in accordance with section 7 below.

6 Confidentiality and Records

- 6.1 Confidentiality must be maintained throughout the Complaints Process. All parties to a Complaint, the EFNL's Complaints Officer, the Club Complaints Officer, any witnesses and the conciliator must all agree to the maintenance of confidentiality. No person involved in the Complaints Process shall publicly comment on any aspect of the Complaints Process without the prior written agreement of all parties.
- 6.2 The EFNL shall ensure that any documents relating to a Complaint shall remain confidential and be retained for 7 years from the date that the Complaint is made.

7 Conciliation Process

- 7.1 The EFNL Complaints Officer/s shall make every effort to ensure that:
- 7.1(a) confidentiality is maintained always during the Complaints Process and the outcome of the Complaints Process remains confidential;
 - 7.1(b) the person alleged to have contravened the Policy is informed of the Complaint, the Complaint Process and provide that person with an opportunity to respond to the Complaint;
 - 7.1(c) the EFNL Chairman or CEO of the EFNL or his or her Nominee is informed that a Complaint has been received by the EFNL Complaints Officer/s;
 - 7.1(d) statements are obtained from any witnesses identified by the parties to the Complaint;
 - 7.1(e) where available, obtain any other relevant evidence;
 - 7.1(f) a conciliator is appointed to conciliate the Complaint; and
 - 7.1(g) all steps necessary for the Complaint to be conciliated are taken within 10 working days from the day on which the Prohibited Conduct is alleged to have occurred.
- 7.2 Participants subject to Conciliation who are under 18 years of age must be accompanied at the Conciliation by a Club Official over 18 years of age.

8 Investigation

- 8.1 In circumstances where a Complaint is not resolved in accordance with section 7 above, the EFNL Complaints Officer/s may refer the matter to an Investigation Officer to investigate aspects of the allegation or circumstances surrounding the Complaint which, in the reasonable opinion of the EFNL Complaints Officer/s, require further investigation to resolve the Complaint.
- 8.2 The Investigation Officer shall report to the EFNL Complaints Officer/s on any information or evidence obtained in accordance with 8.1.

9 Tribunal Referrals, Process & Appeal

- 9.1 Following an investigation under section 8, if any, or following a failed Conciliation under section 7, the EFNL Complaints Officer/s may refer the Complaint to an EFNL Tribunal for determination. The EFNL Complaints Officer/s shall take all steps necessary to decide about the referral of the Complaint to the EFNL Tribunal as soon as is reasonably practicable.

Should the matter be related to a person who does not come under the jurisdiction of the EFNL tribunal the matter will be referred to the EFNL Board or its appropriate subcommittee for consideration.

- 9.2 The EFNL Tribunal will be constituted in accordance with the rules and regulations of the EFNL and the EFNL shall determine who is responsible for prosecuting the Complaint at the Tribunal.
- 9.3 Where the referral to the EFNL Tribunal is made pursuant to this section 9.1 of this Policy, the Tribunal will hear the Complaint within 5 working days of the Complaint referral being made.
- 9.4 The EFNL Tribunal has the power to order any reasonable penalties or directions for breaches of this Policy as are allowable under the rules and regulations of the EFNL in force at the time of the hearing.
- 9.5 Where a party to a Complaint is unsatisfied with the decision made by the EFNL Tribunal, they may ask the Club's Officer to request that the EFNL establish a panel to hear an appeal from the decision in accordance with the EFNL's appeal regulations.**

10 Club Liability

- 10.1 If found to have contravened this Policy a Club may be vicariously liable for Prohibited Conduct engaged in by a Participant connected to the Club if the Club is unable to establish that it took reasonable precautions to prevent the Participant from engaging in that Prohibited Conduct.

11 Monitoring and Review of the Policy

- 11.1 The Policy will be monitored on an ongoing basis by the EFNL Board

12 Policy Commencement

- 12.1 This Policy was passed by EFNL Board and will take effect from .2nd July 2012.

Appendix 1

