



VOLLEYBALL WESTERN AUSTRALIA

Misconduct Policy

Date of Issue
Last Reviewed
Controlling Body

September 2013
September 2013
VWA Board

Purpose

VWA does not condone misconduct and unacceptable behaviour in the work and sport environment, and will respond to acts of misconduct appropriately, which may include the taking of disciplinary action, reporting suspected misconduct to the appropriate authorities and/or if necessary, the termination of employment, membership and/or involvement with VWA.

VWA acknowledges that reports of misconduct can help improve the effectiveness of the organisation. All staff should report incidents of suspected misconduct as soon as practicable to an appropriate person within VWA.

Definitions

Breach of Discipline: A ‘breach of discipline’ is a broad term used to describe a range of inappropriate behaviour and occurs if a member:

- (a) disobeys or disregards a lawful order;
- (b) contravene a VWA Code of Conduct;
- (c) commits an act of misconduct;
- (d) is negligent in the performance of their work- related functions; or
- (e) commits an act of victimisation.

‘Staff’ and ‘staff member’ encompass all persons working in or for VWA (whether full-time, part-time, contractor or volunteer).

‘Victimisation’ occurs if a staff member takes, or threatens to take, detrimental action against another person without authority or justification, including someone who has made, or intends to make:

- (a) A general complaint or grievance;
- (b) An objection relating to discriminatory treatment;
- (c) A complaint under the *Equal Opportunity Act 1984*; or
- (d) A disclosure under the *Public Interest Disclosure Act 2003*.

Responsibilities

Misconduct within the VWA work environment or VWA related events includes, but is not limited to the following:

- discrimination, workplace and sexual harassment;
- theft or unauthorised use or removal from the premises, of any VWA property;
- fighting;
- destruction of VWA property;
- falsifying records;
- mistreatment of members, stakeholders or VWA personnel;
- unauthorised possession of weapons;
- possession, use, sale or purchase of un-prescribed drugs;
- working under the influence of alcohol or illegal drugs;
- insubordinate or inappropriate behaviour, including disobeying a lawful direction;
- accessing confidential information not relevant to the employee or member, or disclosure of confidential information to unauthorised persons;

- wilful neglect of assigned duties;
- use of VWA resources (including staff time) for business other than VWA matters;
- disobeying and not complying with VWA policies.

Specific examples of misconduct may include:

- Using VWA resources and staff time for the organisation of non-VWA activities (included VWA email addresses and making/ taking phone calls on VWA duties;
- Use of Facebook, YouTube and other internet sites for personal use;
- Not following VWA policies.

Responsibilities

VWA Board, Management, staff, contractors, members and volunteers will:

- Monitor the VWA environment to ensure that acceptable standards of conduct are observed at all times;
- Model appropriate behaviours themselves;
- Promote this policy within their VWA workplace and/or community;
- Treat all complaints seriously and take immediate action to ensure complaints are investigated and resolved.

All Board Members, Management, staff, contractors, members and volunteers have a responsibility to:

- Comply with this policy and ensure they do not discriminate against or harass other VWA personnel;
- Offer support to anyone who is being harassed;
- Maintain complete confidentiality if asked to provide information during a complaint investigation. Spreading gossip or rumours may expose VWA personnel to other consequences, and even a defamation action;
- Take action, if practicable, to stop discrimination or harassment when they see it happening or report such conduct to the appropriate person;

If you have a genuine concern that you are suffering unlawful conduct in the workplace, VWA will work with you to resolve your concerns.

Complaints Procedure

All staff are encouraged to raise issues or concerns. There are informal and formal procedures in place to deal with complaints. Once a complaint is raised it will be taken seriously and the person receiving the complaint or query will listen and act on it.

ALL STAFF MUST BE CLEAR ON THEIR RESPONSIBILITIES, PARTICULARLY IN RELATION TO CONFIDENTIALITY IF APPROACHED TO DEAL WITH A MATTER. IF YOU DO NOT UNDERSTAND YOUR RESPONSIBILITIES, DIRECT THE PERSON TO SOMEONE WHO CAN HANDLE THEIR COMPLAINT CONFIDENTIALLY.

Any complaints or queries should be taken to the following:

- In regard to VWA staff, to the Executive Officer;
- In regard to the Executive Officer, to the VWA President;
- In regard to VWA Board members, to the Executive Officer;
- In regard to VWA Contractors, to the Executive Officer;
- In regard to VWA members, volunteers, coaches, officials, to the Executive Officer.

Complaints will be handled as follows:

- (i) Once raised a complaint will be taken seriously;
- (ii) The person receiving the complaint or query must listen to the complaint and act on it;
- (iii) A response will be strictly in accordance with the gravity of the matter and may involve an investigation by the person receiving the complaint, or, depending on the circumstances, another person appointed as the investigator of the complaint;
- (iv) Typically, complaints will be dealt with internally but the organisation may involve an external person to investigate a complaint if that is considered more appropriate in all the circumstances;
- (v) The proposed course of action and options will be discussed with the complainant (eg from “do nothing”, have a face to face meeting with the alleged offender, sanction of the offender by the organisation, or take outside legal action);
- (vi) Confidentiality will be assured, subject to the obvious limitations and requirements involved given that it will be necessary to properly investigate and respond to the matter. In other words there will be confidentiality subject to the reality that an investigation must be made which will necessarily mean that questions are asked and information will be gathered; and
- (vii) To the extent that protection of privacy and personal interests can be given it will be and other persons will only be made aware of a complaint on a need to know basis. Even senior management/ board will not be informed of or be involved in a complaint, which does not concern them directly at this stage.

Response

- If evidence of a breach is established the person about whom the complaint has been made will be told and will be invited to respond.
- It is not an answer to complaints that the offender treats all persons the same way.

- The extent to which a complaint is pursued will depend upon the complainant's circumstances and requirements, at least initially. However, once a complaint is made the organisation will act upon it and the offender may be dealt with according to law and the gravity of the situation (which may not necessarily simply accord with the requests of the complainant).

Complaints procedures have the following features:

- **Confidentiality.** Only the people directly involved in investigating or resolving a complaint will have access to information about the complaint. All those involved in a complaint procedure must observe and maintain confidentiality at all times unless and until the complaint or the outcome of the procedure is disclosed by the person/s handling the complaint in compliance with this policy. In most cases, there will be no such disclosure meaning the complaint and the procedures in response to the complaint will remain confidential.
- **Impartiality.** Both parties will have a chance to tell their side of the story. No assumptions will be made and no action will be taken until all relevant information has been collected and considered.
- **Without repercussions.** No action will be taken against anyone for making or helping someone to make a genuine (not a malicious) complaint. VWA will take all reasonable steps to ensure that anyone making a complaint is not victimised.
- **Promptness.** Complaints will be dealt with as quickly as possible. Every effort will be made to investigate the matter within forty-eight (48) hours of a complaint being lodged. More complex investigations may take longer.

Informal Resolution Process

A person who experiences bullying, harassment or discrimination, should make it immediately clear to the person whose behaviour is considered offensive, that such behaviour is unwelcome. If the person has difficulty attempting to resolve the matter in this manner, he or she can write a note stating that he or she finds the harassing behaviour unacceptable and that the unacceptable behaviour must stop.

An individual may choose to informally discuss his or her concerns with a representative. Informal procedures emphasise resolution rather than factual proof or substantiation of a complaint.

This approach allows for VWA management to provide information on VWA policies and appropriate workplace procedures, and provide support to the VWA personnel if he or she wishes to approach the other party to address the behaviour in question.

Alternatively the VWA personnel may request that a member of the VWA Management informally approach the other party on his or her behalf to explore a response and seek a mutually agreed outcome which is fair and equitable. Notes will be taken as the complaint

proceeds and will be stored confidentially by the person dealing with the request.

Informal action is usually appropriate where the allegations are of a less serious nature but the individual subjected to the behaviour wants it to cease.

The person subjected to the behaviour may wish to pursue an informal resolution, particularly if the parties are likely to have ongoing contact with one another, so that the working relationship can be sustained.

A complainant is not required to exhaust informal procedures in order to lodge a formal complaint. Furthermore, after discussion, the allegation may be considered sufficiently serious by VWA management to warrant a formal investigation.

Formal Resolution Process

Formal procedures focus on proving whether or not a complaint is substantiated. Formal procedures are usually appropriate where informal attempts at resolution have failed or the complaint involves serious allegations of misconduct.

If a member VWA formally requests assistance from VWA management the matter will be given immediate attention and the alleged incident formally investigated. The investigation and resolution procedure is aimed at producing an efficient solution involving a minimum number of people. It emphasises positive outcomes and focuses on resolutions that work toward a rapid re-establishment of good working relationships.

If either party is concerned that the person investigating the matter is unable to handle the complaint impartially, then either party may request an external investigator be appointed. Any investigator appointed will talk to all parties involved in a confidential and sensitive manner.

Formal Investigation

A representative from Management (or an external investigator) will interview the complainant about the allegations and will make detailed notes of the matter and then interview the respondent advising him or her of the allegations and give the opportunity to respond fully.

If the respondent admits that the behaviour has occurred, then options will be offered to the complainant for the resolution of the matter. In many cases the matter may be resolved by an apology and an undertaking not to repeat the behaviour.

If the matter is not resolved at this stage, then following the initial interviews of each party, the investigator will:

- Interview any witnesses nominated by either party;
- Interview any other persons with information believed relevant to the complaint;
- Make a finding based on the balance of probabilities;
- Present that finding to the appropriate person in Management and make recommendations as to the outcome (eg conciliation may be deemed an appropriate

outcome);

- Resolve the outcome to be acted upon with Management;
- Inform the parties of the findings of the investigation and outcome;
- Invite all parties to approach them with any ongoing or new concerns;
- Inform any relevant VWA personnel of any action he or she is required to implement;
- Monitor the investigation outcome on a regular basis for evidence of resolution and compliance until satisfied. Where the complaint cannot be substantiated (that is, it cannot be ratified that the behaviour did happen), both parties will be informed of this in writing. The complainant may, if dissatisfied with the decision, elect to lodge a complaint with an external body. Ongoing arrangements will be carefully considered to deal with the parties' concerns. Where the complaint is substantiated, a response will be in accordance with the gravity of the matter, the weight of the evidence, the wishes of the respondent and whether there have been any prior incidents or warning and may include:
 - (i) Counselling;
 - (ii) The respondent being asked to make either a public or private written formal apology;
 - (iii) An official warning to the respondent to be noted on his or her file;
 - (iv) The complainant being transferred out of the environment in which the unlawful conduct occurred with no disadvantage;
 - (v) The respondent being dismissed/ expelled. Depending on the outcome, appropriate persons in the organisation will be informed of the complaint and the outcome to the extent required to resolve the matter.

These procedures are designed to ensure that details of complaints remain strictly confidential to the individuals involved and those with a formal role in the complaint process.

Only those with a genuine role in resolving complaints are allowed to know the details or discuss them. A breach of this guideline will result in disciplinary action.

Failure to comply with this policy will result in counselling and disciplinary action.

Reviewed by the Volleyball WA Board 10 September 2013