



**ESSENDON DISTRICT FOOTBALL LEAGUE**

***RACIAL & RELIGIOUS TOLERANCE***

# THE ESSENDON DISTRICT FOOTBALL LEAGUE

## RACIAL AND RELIGIOUS TOLERANCE POLICY

### Section 1 Commitment

- 1.1. The Essendon District Football League is committed to an environment which promotes racial and religious tolerance by prohibiting certain conduct and providing a means of redress for victims of racial and religious vilification and/or racial discrimination.
- 1.2. The League is bound by the *Racial and Religious Tolerance Act 2001 (Vic)*, the *Racial Discrimination Act 1975 (Cth)*, and the *Equal Opportunity Act 1995 (Vic)* (**the legislation**). This Policy is consistent with the legislation and the Australian Football League's Rule 30 and the Victorian Football League's Rule 7.3. This Policy is not in substitution of the legislation.
- 1.3 The League will ensure that this Policy is communicated to spectators and participants of the League. It will also ensure that participants of the League receive anti-racial and religious vilification and racial discrimination training on an annual basis.
- 1.4 Nothing in this Policy prevents a person lodging a complaint in relation to racial and religious vilification and/or racial discrimination under the legislation. In the event a complaint is made under this policy the League shall ensure that the parties are informed of their rights

### Section 2 Definitions

In this Policy-

**“complaints process”** means the procedure outlined in sections 6, 7 and 8 of this Policy.

**“Club”** means any football Club that is a member of the Essendon District Football League.

**“engage in conduct”** includes use of the internet or email to publish or transmit statements or other material.

**“League”** means the Essendon District Football League.

**“detriment”** includes humiliation and denigration.

**“discrimination”** means for the purpose of this Policy, conduct based on a person's race, religion, colour, descent or national or ethnic origin. Discrimination may be direct or indirect. Direct discrimination means treating or proposing to treat another person less favourably on the basis of a person's race, religion, colour, descent or national or ethnic origin. Indirect discrimination means imposing or intending to impose a requirement that a person of a particular race, religion, colour, descent or national or ethnic origin cannot comply with, but which a higher proportion of people without that attribute (or with a different attribute) can, when it is not reasonable in the circumstances to do so.

**“participant”** includes a player, director, officer, employee, volunteer to and agent of a Football Club that participates in the League.

**“spectator”** is a person that attends a football game or event conducted by a Club or the League.

### **Section 3 Prohibited Conduct**

#### **3.1 Racial and Religious Vilification**

No person in his/her capacity as a spectator or participant in the League in the course of carrying out his/her duties or functions as or incidental to being a participant in the League shall engage in conduct that offends, humiliates, intimidates, contempts, ridicules, incites, threatens, disparages, vilifies or insults another person on the basis of that person’s race, religion, colour, descent or national or ethnic origin.

#### **3.2 Serious Racial and Religious Vilification**

No person in his/her capacity as a spectator or participant in the League in the course of carrying out his/her duties or functions as or incidental to being a participant in the League shall intentionally engage in conduct that he/she knows is likely to incite hatred against another person, or threaten physical harm or incite hatred in others to cause physical harm to a person or to a person’s property because of that person’s race, religion, colour, descent or national or ethnic origin.

#### **3.3 Racial and Religious discrimination**

No person in his/her capacity as a spectator or participant in the League in the course of carrying out his/her duties or functions as or incidental to being a participant in the League shall engage in conduct that discriminates, directly or indirectly against another person on the basis of that person’s race, religion, colour, descent or national or ethnic origin.

#### **3.4 Victimisation**

3.4.1 No person in his/her capacity as a spectator or participant in the League in the course of carrying out his/her duties or functions as or incidental to being a participant in the League shall victimise another person.

3.4.2 A person will victimise another person (the victim) if:

- (a) the person subjects or threatens to subject the victim, or a person who acts as a witness, to any detriment because the victim (or a person associated with the victim) intends to or has lodged a complaint in contravention of this Policy; or
- (b) the person assists, requests, induces, encourages or authorises another person to subject the victim, or a person who acts as a witness, to any detriment because the victim (or a person associated with the victim) intends to or has lodged a complaint in contravention of this Policy.

#### **Section 4 Authorised Persons**

- 4.1 The League will appoint a Complaints Officer (the League's Complaints Officer) to ensure that any breach of this Policy is responded to in an equitable and prompt manner.
- 4.2 The League shall appoint an Authorised Person as the senior decision-maker in the League's Complaints Process. Should the Authorised Person be absent for a significant period, he/she must nominate a person to act on his/her behalf should the process need to be enacted.

#### **Section 5 Confidentiality and Records**

- 5.1 Confidentiality must be maintained throughout the complaints process. All parties to a complaint, the Authorised Person (or Delegate), the League's Complaints Officer, any witnesses and the Conciliator must all agree, in writing, 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.
- 5.2 The League 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.

#### **Section 6 Inter club Breach of the Policy**

In the event that it is alleged that a spectator or participant has contravened this Policy:

- 6.1 an Umpire, spectator or participant of the Club may by 5.00pm on the first working day following the day on which the contravention is alleged to have occurred, lodge a complaint in writing with Complaint's Officer of the Club;
- 6.2 the Complaint's Officer of the Club where the complaint was made shall, by 5.00pm on the next working day following the day that the complaint was lodged with the Club, lodge the complaint with the League's Complaints Officer;
- 6.3 the Club's Complaints Officer will take no further action once the complaint has been lodged with the League unless otherwise instructed by the League's Complaint's Officer.

#### **Section 7 Management of Complaints**

The League's Complaints Officer shall:

- 7.1 make every effort to ensure that:
  - 7.1.1 confidentiality is maintained at all times during the complaints process and that the outcome of the complaints process remains confidential;
  - 7.1.2 any breach of confidentiality is referred to the Essendon District Football League's Tribunal no later than 5pm on the next working day following the day that the breach is discovered;
- 7.2 inform the person alleged to have contravened the Policy of the complaint, the complaint procedures and provide that person with an opportunity to respond to the complaint;

- 7.3 inform only the President of the League or Nominee, that a Complaint has been received by the Complaints Officer;
- 7.4 obtain written statements from any witnesses identified by both parties to the complaint;
- 7.5 where available, obtain any other evidence;
- 7.6 Make available any witness statements or any other evidence obtained in the course of investigating a complaint to both parties, with an opportunity to comment, as part of the conciliation process or prior to a tribunal hearing.
- 7.7 arrange for the complaint to be conciliated, by a conciliator agreed upon by both parties except when the complaint is referred to the League's Tribunal in accord with clause 7.9.2 and 7.9.3 herein.
- 7.8 take all steps necessary for the complaint to be conciliated within 10 working days from the day on which the incident is alleged to have occurred;
- 7.9 refer the complaint to League's Tribunal:
  - 7.9.1 when the Complainant informs the Complaints Officer that the matter has not been resolved through conciliation. The Complaints Officer will if requested by the Complainant within one working day from the day on which the conciliation failed, take all steps necessary for the complaint to be referred to League's Tribunal in accordance with clause 8.2 herein.
  - 7.9.2 when both the League's Complaints Officer and the Authorised Person have determined that the complaint was lacking in substance and/or was made vexatiously;
  - 7.9.3 when both the League's Complaints Officer and the Authorised Person determine that under sections 24 or 25 of the Racial and Religious Tolerance Act 2001 (Vic) the complaint could be considered as "serious", he/she will take all steps necessary for the complaint to be referred to the League's Tribunal within 5 working days from the day on which the incident is alleged to have occurred;
- 7.10 ensure that any time limit referred to in this Policy may be extended by the League if in the opinion of the Authorised Person of the League it is just and equitable to do so;
- 7.11 ensure that where a matter is resolved by conciliation the only public statement that shall be made shall be agreed to by both parties to the complaint and the Authorised Person and that the terms of any settlement are finalised to the satisfaction of the complainant and respondent and signed by the parties and the conciliator.

## **Section 8 League Tribunal Process and Penalties**

- 8.1 The League's Tribunal will be constituted in accordance with the rules and regulations of the League.
- 8.2 Where a complaint is referred to the League's Tribunal pursuant to clause 7.9.1 of this Policy or as a result of a referral from a Club's Complaint Officer arising from an intra club breach, the Tribunal will hear the complaint within 5 working days of the

complaint being referred.

- 8.3 The League's 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 League in force at the time of the hearing.
- 8.4 If found to have contravened this Policy a Club may be vicariously liable for conduct engaged in by a participant acting as the clubs agent or employee, if the Club is unable to establish that it took reasonable precautions to prevent the participant from engaging in that conduct.

### **Section 9 Appeals from the League Tribunal**

- 9.1 Where a complainant or respondent is unsatisfied with the decision made by the League Tribunal, either party may request that the Club's Complaints Officer request that AFL Victoria (AFLV) establish a panel to hear an appeal from the decision made by the League Tribunal.
- 9.2 The Club's Complaints Officer must lodge the appeal within 5 days of the League Tribunal's decision together with a bond of \$550 (inclusive of GST) made payable to AFLV. 20% of the bond will be retained by AFLV as an administrative levy.
- 9.3 The panel to hear and determine the appeal will be comprised of 3 representatives of the AFLV Appeals Board or the AFLV Independent Panel.
- 9.4 The panel established to hear and determine the appeal has the power to order any penalties or directions which it decides are reasonable in the circumstances. Such penalties may include a monetary fine and/or exclusion from attending or participating in any football matches conducted by the League for a period of time.

### **Section 10 Monitoring and Review of the Policy**

The Policy will be monitored on an ongoing basis by the League's Board of Management.

### **Section 11 Policy Commencement**

This Policy was passed by League's Essendon District Football League Board of Management in 2004 and will take effect immediately.