

# **Cricket Australia**

## **Anti-Racism Code for Players and Player Support Personnel**

*Effective as from 1 October 2014*

For information regarding the Cricket Australia Anti-Racism Code, please contact:

**CA's Integrity Unit  
Cricket Australia  
60 Jolimont Street  
JOLIMONT VIC 3002**

## TABLE OF CONTENTS

ARTICLE 1	SCOPE AND APPLICATION .....	3
ARTICLE 2	OFFENCE .....	4
ARTICLE 3	REPORTING AN ALLEGED OFFENCE UNDER THE <i>ANTI-RACISM CODE</i> .....	4
ARTICLE 4	NOTIFICATION AND CONCILIATION PROCEDURE .....	5
ARTICLE 5	THE DISCIPLINARY PROCEDURE.....	8
ARTICLE 6	STANDARD OF PROOF AND EVIDENCE .....	11
ARTICLE 7	SANCTIONS .....	12
ARTICLE 8	APPEALS.....	15
ARTICLE 9	RECOGNITION OF DECISIONS.....	16
ARTICLE 10	AMENDMENT AND INTERPRETATION OF THE <i>ANTI-RACISM CODE</i> .....	17
APPENDIX 1	DEFINITIONS .....	17

# CRICKET AUSTRALIA

## ANTI-RACISM CODE FOR PLAYERS AND PLAYER SUPPORT PERSONNEL

### INTRODUCTION

CA is the national federation responsible for the governance of the sport of cricket and the Anti-Racism Code for *Players* and *Player Support Personnel* (the “**Anti-Racism Code**”) is adopted and implemented as part of CA’s continuing efforts to maintain the public image, popularity and integrity of cricket by providing: (a) an effective means to deter any participant from conducting themselves in a manner that may be construed as racially and/or religiously offensive; and (b) a robust disciplinary procedure pursuant to which all matters of improper conduct of this nature can be dealt with fairly, with certainty and in an expeditious manner.

Unless otherwise indicated, references to Articles and Appendices are to articles and appendices of the *Anti-Racism Code*. Words in italicised text in the *Anti-Racism Code* are defined terms and their definitions are set out in Appendix 1.

### ARTICLE 1 SCOPE AND APPLICATION

- 1.1** All *Players* and *Player Support Personnel* are automatically bound by and required to comply with all of the provisions of the *Anti-Racism Code*. Accordingly, by their participation or involvement in any way in the sport of cricket in Australia, such *Players* or *Player Support Personnel* shall be deemed to have agreed:
- 1.1.1** that it is their personal responsibility to familiarise themselves with all of the requirements of the *Anti-Racism Code*, including what conduct constitutes an offence under the *Anti-Racism Code*;
  - 1.1.2** to submit to the exclusive jurisdiction of any *Judicial Commissioner* or *Appeal Panel* convened under the *Anti-Racism Code* to hear and determine charges brought (and any appeals in relation thereto) pursuant to the *Anti-Racism Code*; and
  - 1.1.3** not to bring any proceedings in any court or other forum that are inconsistent with the foregoing submission to the jurisdiction of the *Judicial Commissioner* or *Appeal Panel*.
- 1.2** Without prejudice to Article 1.1, CA and the State and Territory Associations shall be responsible for promoting *Anti-Racism Code* awareness and education amongst all *Players* and *Player Support Personnel*.
- 1.3** It is acknowledged that *Players* and *Player Support Personnel* may also be subject to other rules of State and/or Territory Associations (including, but not limited to, individual teams establishing their own internal rules for behaviour) that govern discipline and/or conduct, and that the same conduct of such *Players* and/or *Player Support Personnel* may engage not only the *Anti-Racism Code* but also such other rules that may apply. For the avoidance of any doubt, *Players* and *Player Support Personnel* acknowledge and agree that: (a) the *Anti-Racism Code* is not intended to limit the responsibilities of any *Player* or *Player Support Personnel* under such other rules and will not in any way restrict the imposition of penalties for breach of those rules; and (b) nothing in such other rules shall be capable of removing, superseding or amending in any way the jurisdiction of the *Judicial Commissioner* or *Appeal Panel* to determine matters properly arising pursuant to the *Anti-Racism Code*.

- 1.4 The conduct prohibited under the *Anti-Racism Code* may also constitute a breach of other applicable laws or regulations (e.g. governing equal opportunities and/or anti-discrimination). The *Anti-Racism Code* is intended to supplement such laws and regulations with further rules of professional conduct for those involved in the sport of cricket. It is not intended, and may not be interpreted, construed or applied, to prejudice or undermine in any way the application of such laws and regulations. *Players* and *Player Support Personnel* must comply with all applicable laws and regulations at all times.

## ARTICLE 2 OFFENCE

- 2.1 The following conduct, if committed by a *Player* or *Player Support Personnel* at any time during, or in relation to, a *Match*, shall amount to an offence under the *Anti-Racism Code*:
- 2.1.1 Engaging in any conduct (whether through the use of language, gestures or otherwise) which is likely to offend, insult, humiliate, intimidate, threaten, disparage or vilify any reasonable person in the position of a *Player*, *Player Support Personnel*, *Umpire*, *Match Referee* or any other person (including a spectator) on the basis of their race, religion, culture, colour, descent, national or ethnic origin.

## ARTICLE 3 REPORTING AN ALLEGED OFFENCE UNDER THE ANTI-RACISM CODE

- 3.1 Any one of the following individuals can report an alleged offence under the *Anti-Racism Code* by lodging a report in the manner described in Article 3.2, below (a “**Report**”):
- 3.1.1 An *Umpire* that officiated in the *Match* during or in relation to which the alleged offence was committed;
- 3.1.2 The *Match Referee* that was appointed to officiate in the *Match* during or in relation to which the alleged offence was committed;
- 3.1.3 the Chief Executive Officer of either of the two State or Territory Cricket Associations (including Big Bash League Teams) whose representative teams participated in the *Match* during or in relation to which the alleged offence was committed;
- 3.1.4 CA’s *Chief Executive Officer*; or
- 3.1.5 Any State or Territory Cricket Association Chief Executive Officer in respect of which the relevant *Player* or *Player Support Personnel* is employed or contracted or retained.
- 3.2 All *Reports* must be completed on Form “Rep 1” (or such other form as may be made available for such purposes by the CA from time to time). All *Reports* must be signed and dated by the person lodging the *Report* and must be lodged with the *Senior Manager – Integrity* as soon as reasonably practicable, and in any event no later than seven (7) days after: (a) the commission of the alleged offence; or (b) the alleged offence was brought to the attention of the person lodging the *Report*. Prior to the start of each *Match*, the State or Territory Cricket Association hosting such *Match* shall ensure that all officiating *Umpires* and *Match Referees* are provided with at least five (5) copies of the Form “Rep 1”. In addition, each State or Territory Cricket Association shall ensure that a sufficient number of additional copies of the Form “Rep 1” are available at each venue at which *Matches* are played in their respective territories or under their auspices for use by any person designated under Article 3.1. CA shall ensure that an electronic copy of the Form “Rep 1” is posted on its official website (currently [www.cricket.com.au](http://www.cricket.com.au)) for use, if necessary, by any person designated under Article 3.1.
- 3.3 Where it is alleged that a *Player* or *Player Support Personnel* has committed more than one offence under the *Anti-Racism Code* during, or in relation to, a *Match* (whether arising out of the

same set of facts or otherwise), then a separate *Report* should be filed in accordance with this Article 3 for each of the offences alleged to have been committed.

#### **ARTICLE 4 NOTIFICATION AND CONCILIATION PROCEDURE**

- 4.1** Where the *Senior Manager – Integrity* receives a *Report* lodged under Article 3, he/she must promptly carry out an investigation into the circumstances detailed in the *Report* (which may include speaking with relevant parties and reviewing relevant documents and other supporting materials) in order to determine within five (5) business days of receipt of the *Report* whether the *Player* or *Player Support Personnel* named in the *Report* has a case to answer.
- 4.2** If the initial review of the *Report* reveals that there is no case to answer, then *CA* shall notify the person who filed the *Report* of that fact, and the matter shall not proceed any further.
- 4.3** If the initial review of the *Report* reveals that there is a case to answer, then, provided that *CA* consents to the matter being resolved by a process of conciliation (such consent not to be withheld unless it determines, acting reasonably, that the circumstances of the matter do no merit resolution by conciliation or there is a genuine and reasonable concern that a just and appropriate resolution of the matter will not be reached through a process of conciliation), *CA* shall comply with the following procedure:
- 4.3.1** The *Senior Manager – Integrity* shall notify the following individuals of their entitlement to have the matter referred at the first instance to a process of conciliation and seek express written consent from each of them to proceed on that basis:
- 4.3.1.1** The *Player* or *Player Support Personnel* named in the *Report*; and
- 4.3.1.2** The individual(s) who has/have been the subject of the alleged offence.
- 4.3.2** Where *CA* does not consent to the matter being resolved by a process of resolution or where the *Senior Manager – Integrity* is unable to obtain the express written consent from both of the individuals described in Articles 4.3.1.1 and 4.3.1.2 within a period of forty-eight (48) hours after receipt by those individuals of such notice, then the matter shall not be referred to a process of conciliation, instead it shall proceed in accordance with Article 4.4.
- 4.3.3** Where a matter proceeds to conciliation under Article 4.3.1, then the case shall be referred to a *Conciliator* who shall be responsible for overseeing a process of conciliation to take place as soon as possible and, in any event, no later than seven (7) days after the receipt by the *Senior Manager – Integrity* of the consents described in Article 4.3.1, in accordance with the following procedure:
- 4.3.3.1** *CA* shall appoint one independent *Conciliator* who will oversee the conciliation sitting alone.
- 4.3.3.2** Unless exceptional circumstances apply, each of the parties identified in Articles 4.3.1.1 and 4.3.1.2, together with: (a) the person who lodged the *Report* (or, in the case of *CA*'s *Chief Executive Officer*, his/her nominee); and (b) a representative of *CA*'s Legal Department, must attend any conciliation meeting that is scheduled by the *Conciliator*. Each individual shall have the right (at his/her or its own expense) to be represented at such conciliation meeting by such representative (including legal counsel) of his/her or its own choosing. Where any such individual has a compelling justification for his/her non-attendance, then they shall be given the opportunity to participate in the

conciliation by telephone or video conference (if available). In addition, any one of the *Team Captain*, *Team Vice Captain* or *Team Manager* of the team that any *Player* or *Player Support Personnel* attending such conciliation meeting represents, may also attend such conciliation meeting to provide additional support and assistance to that *Player* or *Player Support Personnel*.

- 4.3.3.3** Subject to the discretion of the *Conciliator* to order otherwise for good cause shown by either party, conciliation meetings shall take place in the country in which the alleged offence was committed.
- 4.3.3.4** All of the parties involved in the conciliation procedure must fully engage with the *Conciliator* and the conciliation procedure with an open mind and must act, at all times, honestly and in good faith.
- 4.3.3.5** The procedure which is to be followed prior to, and during the conciliation meeting shall be entirely at the discretion of the *Conciliator*, provided that any such meeting is conducted in an open, inquisitive, non-adversarial and fair manner which enables all of the attending parties a reasonable opportunity to present any evidence that is deemed by the *Conciliator* to be appropriate and to address the *Conciliator* on any matter relevant to the alleged offence. In accordance with Article 6.2, all statements, submissions and evidence made, heard or disclosed during any part of the conciliation process shall be so made, heard or disclosed strictly (unless the relevant party agrees otherwise) on a 'without prejudice' basis and may only be used by any party for the purposes of the conciliation process only.
- 4.3.3.6** During the conciliation meeting, the *Conciliator* will discuss the circumstances of the alleged offence with the relevant parties and explore the possibility of reaching a consensual solution for how to resolve the matter without invoking the disciplinary procedure set out in Article 5. Such a solution may incorporate, without limitation, any of the following (or any combination of the following) outcomes: (a) the voluntary imposition of a period of suspension (which period must be determined having due regard to the range of permissible sanctions in Article 7.3) by the *Player* or *Player Support Personnel* alleged to have committed the offence; and/or (b) a public apology and/or explanation as to the parties' conduct and circumstances surrounding the alleged offence; and/or (c) a private apology and/or explanation as to the parties' conduct and circumstances surrounding the alleged offence; and/or (d) a joint press statement being issued about the parties' conduct and circumstances surrounding the alleged offence and/or its resolution by conciliation; and/or (e) an agreement by the *Player* or *Player Support Personnel* alleged to have committed the offence, to undergo a specified programme of education and/or counselling designed to promote the understanding and awareness of issues directly relevant to the offence that is alleged to have been committed.
- 4.3.3.7** At the end of the conciliation meeting, if the *Conciliator* is satisfied that all of the parties have reached a consensual resolution of the matter, then he/she shall document such resolution and arrange for the signature of all relevant parties to be attested to such document. Any consensual resolution reached by all parties during such conciliation meeting shall be the full, final and complete disposition of the matter and will be binding on all parties.
- 4.3.3.8** At the end of the conciliation meeting, if the *Conciliator* is not satisfied that all of the parties have reached a consensual resolution of the matter, then the

conciliation process shall be terminated immediately and the matter shall proceed in accordance with Article 4.4.

**4.3.3.9** All parties involved in the conciliation procedure shall treat such procedure as strictly confidential, save that nothing in this Article shall prevent either of the parties (or any relevant or any State or Territory Cricket Association) publicly confirming the date of any conciliation meeting, the offence that is alleged to have been committed and/or the name of the *Player* or *Player Support Personnel* charged.

**4.4** If the initial review of the *Report* reveals that there is a case to answer and either: (a) *CA* did not consider it to be an appropriate matter for resolution through conciliation (Article 4.3); or (b) the relevant parties did not consent to the matter being resolved through a conciliation process (Article 4.3.2); or (b) following a conciliation meeting the *Conciliator* was not satisfied that the parties were able to reach a consensual resolution (Article 4.3.3.8), then *CA* shall promptly provide a copy of the *Report*, together with a completed Form "Not 1" (such documents comprising the '**Notice of Charge**') to the following individuals:

**4.4.1** the *Player* or *Player Support Personnel* named in the *Report*,

**4.4.2** the *Team Manager* of the relevant *Player* or *Player Support Personnel* named in the *Report*; and

**4.4.3** the Chief Executive Officer of the or any State or Territory Cricket Association to which the relevant *Player* or *Player Support Personnel* is affiliated.

**4.5** The *Notice of Charge* shall specify that the *Player* or *Player Support Personnel* shall have the following options:

**4.5.1** he/she may admit the offence charged and accede to the proposed sanction specified in the *Notice of Charge* (which sanction shall be strictly at *CA*'s discretion, but at all times within the appropriate range for the offence). In such circumstances, and provided that such admission has been received by the *Senior Manager – Integrity* prior to the commencement of the hearing at the time/place specified in the *Notice of Charge*, the hearing before the *Judicial Commissioner* shall not be required and no further action shall be taken, save that *CA* shall promptly issue a public statement confirming: (a) the commission of an offence under the *Anti-Racism Code*; and (b) the imposition of the applicable sanction specified in the *Notice of Charge*; or

**4.5.2** he/she may admit the offence charge but dispute the proposed sanction specified in the *Notice of Charge*, in which case the matter shall proceed to a hearing in accordance with Article 5.1; or

**4.5.3** he/she may deny the offence charged, in which case the matter shall proceed to a hearing in accordance with Article 5.1.

## **ARTICLE 5 THE DISCIPLINARY PROCEDURE**

**5.1** Where a matter proceeds to a hearing under Article 4.5.2 or 4.5.3, then the case shall be referred to a *Judicial Commissioner* for adjudication in accordance with the following procedure:

**5.1.1** As soon as reasonably possible, *CA* shall appoint one member from the *Code of Behaviour Commission* to sit as the *Judicial Commissioner* to hear the case sitting alone. The appointed member shall have had no prior involvement with the case.

- 5.1.2** The *Judicial Commissioner* shall convene a preliminary hearing with CA and its legal representatives, and with the *Player* or *Player Support Personnel* and his/her legal representatives (if any). The preliminary hearing should take place as soon as possible (provided that the *Player* or *Player Support Personnel* shall be given a reasonable period of notice of the same) by telephone conference call unless the *Judicial Commissioner* determines otherwise. The non-participation of the *Player* or *Player Support Personnel* or his/her representative at the preliminary hearing shall not prevent the *Judicial Commissioner* from proceeding with the preliminary hearing, whether or not any written submissions are made on behalf of the *Player* or *Player Support Personnel*.
- 5.1.3** The purpose of the preliminary hearing shall be to allow the *Judicial Commissioner* to address any preliminary issues. In particular (but without limitation), the *Judicial Commissioner* shall:
- 5.1.3.1** determine the date(s) upon which the full hearing shall be held. Save in exceptional circumstances or where the parties otherwise agree, the full hearing should take place no longer than fourteen (14) days after the receipt by the *Player* or *Player Support Personnel* of the *Notice of Charge*;
- 5.1.3.2** establish dates reasonably in advance of the date of the full hearing by which:
- (a) CA shall submit an opening brief with argument on all issues that CA wishes to raise at the hearing and a list of the witnesses that CA intends to call at the hearing (and a summary of the subject areas of the witness's anticipated testimony), and enclosing copies of the exhibits that CA intends to introduce at the hearing;
  - (b) the *Player* or *Player Support Personnel* shall submit an answering brief, addressing CA's arguments and setting out argument on the issues that he/she wishes to raise at the hearing, as well as a list of the witnesses that he/she intends to call at the hearing (and a summary of the subject areas of the witness's anticipated testimony), and enclosing copies of the exhibits that he/she intends to introduce at the hearing; and
  - (c) CA may (at its discretion) submit a reply brief, responding to the answer brief of the *Player* or *Player Support Personnel* and listing any rebuttal witnesses that CA intends to call at the hearing (and a summary of the subject areas of the witness's anticipated testimony), and enclosing copies of any other exhibits that CA intends to introduce at the hearing; and
- 5.1.3.3** make such order as the *Judicial Commissioner* shall deem appropriate in relation to the production of relevant documents and/or other materials between the parties.
- 5.1.4** The procedure followed at the hearing shall be at the discretion of the *Judicial Commissioner*, provided that the hearing is conducted in a manner which offers the *Player* or *Player Support Personnel* a fair and reasonable opportunity to present evidence (including the right to call and to question witnesses by telephone or video-conference where necessary), address the *Judicial Commissioner* and present his/her case. For the avoidance of any doubt, in accordance with Article 6.2, unless the relevant party agrees otherwise, no evidence shall be adduced, given or accepted during any hearing before the *Judicial Commissioner* in relation to anything that may have been said or disclosed during any part of any 'without prejudice' conciliation process carried out pursuant to Article 4.3.

- 5.1.5** The hearing before the *Judicial Commissioner* shall be in English, and certified English translations shall be submitted of any non-English documents put before the *Judicial Commissioner*. The cost of the translation shall be borne by the party offering the document(s). If required by the *Judicial Commissioner* (at his/her discretion), CA shall make arrangements to have the hearing recorded or transcribed. If requested by the *Player* or *Player Support Personnel*, CA shall also arrange for an interpreter to attend the hearing. Such costs of transcription and interpretation shall be paid by CA.
- 5.1.6** CA may appoint a *Commission Counsel* to assist the *Judicial Commissioner* in the conduct of any hearing as an advocate prosecuting the case against the *Player* or *Player Support Personnel*.
- 5.1.7** The hearing before the *Judicial Commissioner* may be recorded at the election of the *Judicial Commissioner*.
- 5.1.8** Where video evidence of the alleged offence is available at the hearing before the *Judicial Commissioner*, then it may be relied upon by any party, provided that all other parties shall have the right to make such representations in relation to it that they may see fit.
- 5.1.9** Unless exceptional circumstances apply, each of the following individuals must attend any hearing before the *Judicial Commissioner*: (a) the *Player* or *Player Support Personnel* who has been charged with the alleged offence; (b) the person who lodged the *Report* (or, in the case of CA's *Chief Executive Officer*, his/her representative/nominee); and (c) a representative of CA's Legal Department. Where any such individual has a compelling justification for his/her non-attendance, then they shall be given the opportunity to participate in the hearing before the *Judicial Commissioner* by telephone or video conference (if available). Without prejudice to the *Player* or *Player Support Personnel's* ability to call and to question such witnesses as may be necessary and/or to be represented by such other person of his/her own choosing pursuant to Article 5.1.10, one of the *Team Captain*, *Team Vice-Captain* or *Team Manager* of the team that the *Player* or *Player Support Personnel* represents may also attend such a hearing to provide additional support and assistance to the *Player* or *Player Support Personnel*.
- 5.1.10** Each of the individuals described in Article 5.1.9(a) and (b) shall have the right (at his/her or its own expense) to be represented at the hearing before the *Judicial Commissioner* by such representative (including legal counsel) of his/her or its own choosing. Where the person lodging the *Report* is an *Umpire* or *Match Referee* that officiated in the *International Match* in question or CA's *Chief Executive Officer*, then such person shall be entitled to be represented prior to, and during, the hearing (if he/she considers necessary) by a representative of CA's Legal Department.
- 5.1.11** The non-attendance of the *Player* or *Player Support Personnel* or his/her representative at the hearing, after proper notice of the hearing has been provided, shall not prevent the *Judicial Commissioner* from proceeding with the hearing in his/her absence, whether or not any written submissions are made on his/her behalf.
- 5.1.12** At the end of a hearing, where the *Judicial Commissioner* considers that further evidence is necessary or further time is required to consider the evidence that has been presented, he/she shall adjourn the hearing for an appropriate period of time and make such directions as may be necessary.
- 5.1.13** Alternatively, at the end of a hearing:

**5.2.13.1** brought under Article 4.5.2:

- (a) as soon as possible after the conclusion of the hearing (and, in any event, no later than forty-eight (48) hours thereafter), the *Judicial Commissioner* will confirm the *Player* or *Player Support Personnel's* admission that he/she had committed an offence under the *Anti-Racism Code* and announce his/her decision in writing, with reasons, setting out: (a) what sanctions, if any, are to be imposed; (b) the date that any period of suspension shall come into force and effect; and (c) any rights of appeal that may exist pursuant to Article 8.

**5.2.13.2** brought under Article 4.5.3 (or where the *Player* or *Player Support Personnel* has failed to respond in a timely fashion to the *Notice of Charge*):

- (a) the *Judicial Commissioner* shall adjourn the hearing (for a period of no less than ten (10) minutes and no more than twenty-four (24) hours), following which he/she will reconvene the hearing and verbally announce his/her finding as to whether an offence under the *Anti-Racism Code* has been committed;
- (b) where the *Judicial Commissioner* determines that an offence under the *Anti-Racism Code* has been committed, the *Player* or *Player Support Personnel* may request a short adjournment (of no more than thirty (30) minutes) to prepare any submissions that he/she might wish to make in relation to the appropriate sanction that ought to be applied; and
- (c) as soon as possible after the conclusion of the hearing (and, in any event, no later than forty-eight (48) hours thereafter), the *Judicial Commissioner* will announce his/her decision in writing, with reasons, setting out: (a) the finding as to whether an offence under the *Anti-Racism Code* had been committed; (b) what sanctions, if any, are to be imposed; (c) the date that any period of suspension shall come into force and effect; and (d) any rights of appeal that may exist pursuant to Article 8.

**5.1.14** The *Judicial Commissioner* shall have the discretion to announce the substance of his/her decision prior to the issue of the written reasoned decision referred to in Article 5.1.13.

**5.1.15** A copy of the written reasoned decision will be provided to the *Player* or *Player Support Personnel*, the Chief Executive Officer of the *Player* or *Player Support Personnel's* State or Territory Cricket Association and the *Senior Manager - Integrity*.

**5.1.16** Subject only to the rights of appeal under Article 8, the *Judicial Commissioner's* decision shall be the full, final and complete disposition of the matter and will be binding on all parties.

**General Principles of Procedure**

**5.2** Where a *Report* is filed by more than one of the individuals described in Article 3.1 in relation to the same alleged offence under the *Anti-Racism Code*, then the *Player* or *Player Support Personnel* alleged to have committed the offence will only be served with one *Notice of Charge* in accordance with the procedures set out in Article 4. However, all persons who filed a *Report* (or, in the case of CA's *Chief Executive*, his/her representative/nominee) in relation to the alleged offence are required to attend the hearing before the *Judicial Commissioner* unless there is a

compelling justification for his/her non-attendance, in which case they shall be given the opportunity to participate in the hearing by telephone or video conference (if available).

- 5.3** Where two or more *Players* or *Player Support Personnel* are alleged to have committed offences under the *Anti-Racism Code*, they may both be dealt with at the same hearing where the proceedings arise out of the same incident or set of facts, or where there is a clear link between separate incidents.
- 5.4** Where a *Player* or *Player Support Personnel* is alleged to have committed more than one breach of the *Anti-Racism Code* during, or in relation to, the same *Match*, then all of the alleged offences may be dealt with at the same hearing.
- 5.5** Any failure or refusal by any *Player* or *Player Support Personnel* to provide assistance to a *Commission Counsel* or *Judicial Commissioner* in connection with any charge made pursuant to this *Anti-Racism Code* may constitute a separate offence (depending upon the seriousness and context of such failure or refusal) under Articles 2.2.11, 2.3.5 or 2.4.5 of the *CA Code of Behaviour*.
- 5.6** Where a *Judicial Commissioner* is, or becomes unwilling or unable to hear a case (for example, where he/she finds him/herself in a position of conflict), then the *Senior Manager – Integrity* shall have the discretion to appoint another member of the *Code of Behaviour Commission* (who shall have had no prior involvement with the case) as a replacement to the *Judicial Commissioner* and all of the remaining procedure will apply accordingly.
- 5.7** *CA* will issue a public announcement regarding any decision of the *Judicial Commissioner* made under the *Anti-Racism Code*, as soon as is reasonably practicable after the decision has been communicated to the parties. The public announcement of the decision may include details of the offences committed under the *Anti-Racism Code* and of the sanctions imposed, if any. Until such time as a public announcement is published, all parties and participants in the proceedings shall treat such proceedings as strictly confidential. For the avoidance of doubt, nothing in this Article shall prevent any party (or any relevant State or Territory Cricket Association) publicly confirming the date of the hearing, the offence that is alleged to have been committed and/or the name of the *Player* or *Player Support Personnel* charged and nothing shall prevent any party (or any relevant State or Territory Cricket Association) from issuing a public announcement regarding a decision after *CA* has issued its public announcement regarding the decision.
- 5.8** A *Judicial Commissioner* has an absolute discretion to waive compliance with any procedural requirement of the *Anti-Racism Code* provided that no party will suffer any undue prejudice through such exercise of discretion.

## **ARTICLE 6 STANDARD OF PROOF AND EVIDENCE**

- 6.1** Unless otherwise described herein, the standard of proof in all cases brought under the *Anti-Racism Code* shall be whether the *Judicial Commissioner* is comfortably satisfied, bearing in mind the seriousness of the allegation that is made, that the alleged offence has been committed.
- 6.2** The *Judicial Commissioner* shall not be bound by judicial rules governing the admissibility of evidence. Instead, facts relating to any alleged offence under the *Anti-Racism Code* may be established by any reliable means, including admissions. However, all statements, submissions and/or evidence made, heard or disclosed during any part of any conciliation process pursuant to Article 4.3, shall be so made, heard or disclosed strictly (unless the relevant party agrees) on a 'without prejudice' basis and used for the purposes of the conciliation process only. Accordingly, no such statements, submissions and/or evidence shall be adduced, given or accepted during any

disciplinary hearing before the *Judicial Commissioner* without the express consent of the relevant party.

- 6.3** The *Judicial Commissioner* may draw an inference adverse to the *Player* or *Player Support Personnel* who is asserted to have committed an offence under the *Anti-Racism Code* based on his/her refusal, without compelling justification, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the *Judicial Commissioner*) and/or to answer any relevant questions.

**ARTICLE 7 SANCTIONS**

- 7.1** Where a *Judicial Commissioner* determines that an offence under the *Anti-Racism Code* has been committed, he/she will be required to impose an appropriate sanction on the *Player* or *Player Support Personnel*.
- 7.2** In order to determine the appropriate sanction that is to be imposed in each case, the *Judicial Commissioner* must first consider whether the *Player* or *Player Support Personnel* has previously been found guilty of an offence under the *Anti-Racism Code* or any predecessor regulations that may have applied.
- 7.3** Once the *Judicial Commissioner* has established whether this is a repeat offence, then he/she shall go on to take into account any other factors that he/she deems relevant and appropriate to the mitigation or aggravation of the nature of the offence (including, without limitation, the nature and frequency of any previous offences under the *Anti-Racism Code* or any predecessor regulations) before determining, in accordance with the following table, what the appropriate sanction(s) should be:

RANGE OF PERMISSIBLE SANCTIONS (FIRST OFFENCE)	RANGE OF PERMISSIBLE SANCTIONS (SECOND OFFENCE)	RANGE OF PERMISSIBLE SANCTIONS (THIRD AND SUBSEQUENT OFFENCES)
The imposition of between four (4) and eight (8) <i>Suspension Points</i> .	The imposition of between eight (8) <i>Suspension Points</i> and a lifetime's suspension.	The imposition of a suspension of between one (1) year and a lifetime.
<p style="text-align: center;"><b>AND (in all cases)</b></p> <p style="text-align: center;">The mandatory requirement to undergo a programme of education/counselling designed to promote the understanding and awareness of issues directly relevant to the offence that the <i>Player</i> or <i>Player Support Personnel</i> has been determined to have committed.</p>		

- 7.4** Where a *Judicial Commissioner* imposes a period of suspension on any *Player* or *Player Support Personnel*, then, unless such period is for a fixed period of time (for example, one year) then, any such period of suspension shall be referenced by *Suspension Points*, which shall carry the following weightings:

- 7.4.1** a *Match* of at least 3 days in duration is given a weighting of two (2) *Suspension Points*; and

- 7.4.2** a *Match* of one or two days duration or which is a Twenty20 match is given a weighting of one (1) *Suspension Point*.
- 7.5** Where *Suspension Points* are imposed against a *Player* or *Player Support Personnel*, then such *Suspension Points* will be applied in accordance with the following principles:
- 7.5.1** the *Judicial Commissioner* shall have regard to the *Player's* or *Player Support Personnel's* participation in the various formats of *Matches* over the previous two years in order to determine (to the best of his/her ability) which of the forthcoming *Matches* the *Player* is most likely to participate in or the *Player Support Personnel* is most likely to assist the participation of a *Player* in. The exact number of suspension points shall be applied and within the shortest period available. For example, a four-day and one-day *Player* who receives a penalty of 2 suspension points, and is scheduled to next play a one-day match followed by a four-day followed by another one-day match, shall be ineligible to participate in each of the one-day matches, but shall be eligible to participate in the four-day match to ensure the full and exact application of the 2 suspension points to the sequence of scheduled games as quickly as possible;
- 7.5.2** where necessary, the *Judicial Commissioner* shall be entitled to consult with CA in order to make a determination as to which of the forthcoming *Matches* the *Player* is most likely to participate in or the *Player Support Personnel* is most likely to assist the participation of a *Player* in;
- 7.5.3** in so far as is reasonably possible, the *Judicial Commissioner* shall apply the *Suspension Points* to the subsequent *Matches* in which the *Player* is most likely to participate in or the *Player Support Personnel* is most likely to assist the participation of a *Player* in, on a chronological basis immediately following the announcement of the decision;
- 7.5.4** where a *Player* or *Player Support Personnel* has his/her *Suspension Points* applied to a *Match* that is subsequently cancelled, postponed or otherwise abandoned prior to the actual day on which it is scheduled to take place, then such *Suspension Points* must be reallocated to the next subsequent *Matches* in which the *Player* is most likely to participate in or the *Player Support Personnel* is most likely to assist the participation of a *Player* in. Where a *Match* is cancelled, postponed or otherwise abandoned at any time on the actual day on which it is scheduled to take place, then the *Suspension Points* will remain allocated to that *Match*, irrespective of such cancellation, postponement or abandonment.
- 7.6** In addition to any ban imposed under this Article, the *Judicial Commissioner* may, if he or she deems appropriate, ban a *Player* from participation in any club/grade cricket match or matches in Australia for a specified period of time.
- 7.7** In the event that a *Player* receives an ICC imposed *Match* ban for an offence set out in the ICC Anti-Racism Code for Players and Player Support Personnel (or equivalent from time to time), a *Judicial Commissioner* nominated by CA's *Chief Executive Officer* may conduct a hearing to determine whether the *Player* should also receive a domestic *Match* ban during the period commencing on the first day of the ICC imposed ban and the last day of the ICC imposed ban and, if so, the type of *Match* or *Matches* in which the ban is to be served. As far as appropriate, the provisions of Article 5 of this *Anti-Racism Code* will apply to any hearing under this Article 7.7 except that:
- 7.7.1** the hearing will be a hearing as to penalty only (and will not be a review of the guilt or innocence of the *Player* under the ICC Anti-Racism Code for Players and Player Support Personnel or a rule of this *Anti-Racism Code*); and

**7.7.2** the hearing must be convened within 10 business days of the relevant decision (or the determination of an appeal from that decision) under the ICC Anti-Racism Code for Players and Player Support Personnel.

When imposing any penalty under this Article 7.7 the following principles will apply:

- (i) the *Judicial Commissioner* may not impose a ban in relation to *Test Matches*, *One Day International Matches* or *Twenty20 International Matches*;
- (ii) the *Judicial Commissioner* may not impose a ban which extends beyond the last day of the ICC imposed *Match* ban;
- (iii) the number of domestic *Matches* in a ban imposed by the *Judicial Commissioner* must not exceed the number of *Matches* forming part of the ICC imposed *Match* ban (for example, a *Player* who receives a three *Test Match* ban may not receive a ban of more than three *Sheffield Shield Matches*); and
- (iv) the *Judicial Commissioner* may take into account any circumstance he or she considers relevant, including those listed in Article 7.3.

**7.8** In the event that a *Player* receives a ban from playing club/grade cricket matches as a result of a breach of any offences set out in any applicable anti-racism rules governing such club/grade cricket matches ("**Club Ban**"), a *Judicial Commissioner* nominated by *CA's Chief Executive Officer* may, solely at the request of the *Senior Manager - Integrity*, conduct a hearing to determine whether the *Player* should receive a *Match* ban during the period commencing on the first day of the *Club Ban* and concluding on the last day of the *Club Ban*, and if so, the number and type of *Match* or *Matches* in which the ban is to be served. As far as appropriate, the provisions of Article 5 of this *Anti-Racism Code* will apply to any hearing under this Article 7.8 except that:

**7.8.1** the hearing will be a hearing as to penalty only (and will not be a review of the guilt or innocence of the *Player* under the club rules or a rule of this *Anti-Racism Code*); and

**7.8.2** the hearing must be convened within 10 business days of the relevant decision (or an appeal from that decision) under the club/grade rules.

When imposing any penalty under this Article 7.8 the following principles will apply:

- (i) the *Judicial Commissioner* may not impose a ban in relation to *Test Matches*, *One Day International Matches* or *Twenty20 International Matches*;
- (ii) the *Judicial Commissioner* may not impose a ban which extends beyond the last day of the *Club Ban*; and
- (iii) the *Judicial Commissioner* may take into account any circumstance it considers relevant, including those listed in Article 7.3.

**7.9** For the avoidance of any doubt:

**7.9.1** the *Judicial Commissioner* will have no jurisdiction to adjust, reverse or amend the results of any *Match*;

- 7.9.2** where a *Player* or *Player Support Personnel* is found guilty of committing two separate *Anti-Racism Code* offences that do not relate to the same incident or set of circumstances arising during a *Match* and sanctioned separately for each offence, then any sanctions should run cumulatively (and not concurrently);
- 7.9.3** where a *Player* or *Player Support Personnel* is found guilty of committing two *Anti-Racism Code* offences in relation to the same incident or set of circumstances during an *International Match* and sanctioned separately, then any sanctions imposed should run concurrently (and not cumulatively); and
- 7.9.4** nothing in this *Anti-Racism Code* shall permit plea bargaining in relation to any alleged offence committed under this *Anti-Racism Code*.
- 7.10** Where a *Player* or *Player Support Personnel* has had *Suspension Points* imposed against him/her or has been suspended for a fixed period of time, he/she may not play, coach or otherwise participate or be involved in any capacity in the *Match(es)* which: (a) are covered by the application of his/her *Suspension Points* as determined in accordance with Article 7.5; or (b) take place during the fixed period of his/her suspension.
- 7.11** Once any period of suspension has expired, the *Player* or *Player Support Personnel* will automatically become re-eligible to participate (in the case of a *Player*) or assist a *Player's* participation (in the case of a *Player Support Personnel*) in *Matches* provided that he/she has first; (a) completed the official programme of education/counselling to the reasonable satisfaction of the relevant programme organiser or demonstrated that he/she continues to fully participate in such programme; and (b) satisfied, in full, any award of costs made against him/her by any *Appeal Panel* pursuant to Article 8.3.5.

## **ARTICLE 8 APPEALS**

- 8.1** Decisions made under the *Anti-Racism Code* by a *Judicial Commissioner* may be challenged solely by appeal as set out in Article 8. Such decisions shall remain in effect while under appeal unless any *Appeal Panel* properly convened to hear the appeal orders otherwise.
- 8.2** The only parties who may appeal a decision made under the *Anti-Racism Code* shall be: (a) the *Player* or *Player Support Personnel* found guilty of the offence, provided a \$2,000 appeal deposit is paid to CA at the time such appeal is lodged in accordance with Article 8.3; and (b) CA's *Chief Executive Officer* (or his/her designee).
- 8.3** Any notice to appeal under this Article must be lodged with the *Senior Manager – Integrity* within seven (7) days of receipt of the written decision of the *Judicial Commissioner*. In all cases, a copy of such notice (which will be in a form prescribed by the *Senior Manager – Integrity* and available on CA's official website) will also be provided to the Chief Executive Officer of the State or Territory Cricket Association to which the *Player* or *Player Support Personnel* is affiliated. Thereafter, the following will apply:
- 8.3.1** Within five (5) days of receipt of a notice to appeal: (a) the *Senior Manager – Integrity* will appoint three members of the *Code of Behaviour Commission* to sit as the *Appeal Panel* to hear the appeal; and (b) the *Judicial Commissioner* whose decision is being appealed will provide a written statement to the *Senior Manager – Integrity* setting out any relevant facts (to be copied to the *Player* or *Player Support Personnel*).
- 8.3.2** The provisions of Articles 5.1.2 to 5.1.16, applicable to proceedings before the *Judicial Commissioner*, shall apply *mutatis mutandis* (ie with changes deemed to have been made as required to reflect the different context) to appeal hearings before the *Appeal Panel*. CA

may appoint a *Commission Counsel* to assist the *Appeal Panel* in the conduct of any hearing.

- 8.3.3** The *Appeal Panel* shall hear and determine all issues arising from any matter which is appealed to it pursuant to this Article on a *de novo* basis, ie it shall hear the matter over again, from the beginning, without being bound in any way by the decision being appealed. For the avoidance of doubt, the *Appeal Panel* shall have the power to increase or decrease, amend or otherwise substitute a new decision on the appropriateness (or otherwise) of the sanction imposed at first instance, provided that any new sanction must be within the permitted range of sanctions set out in the table in Article 7.3.
- 8.3.4** Appeal hearings pursuant to this Article 8 should be completed expeditiously. Save where all parties agree or fairness requires otherwise, the appeal hearing shall be commenced no later than thirty (30) days after the appointment of the *Appeal Panel*. The *Senior Manager - Integrity* must notify in writing the parties to the appeal of all relevant details of the appeal as soon as practicable.
- 8.3.5** The *Appeal Panel* shall have the power to order some or all of the costs of the appeal proceedings (including the costs of holding the hearing, any interpretation costs, the legal and/or travel/accommodation costs of the *Appeal Panel* and/or any other relevant parties, including CA) to be paid by the appealing party if it considers that such party has acted, spuriously, frivolously or otherwise in bad faith.
- 8.3.6** Any decision made by the *Appeal Panel* under this Article 8, shall be the full, final and complete disposition of the matter and will be binding on all parties.

#### **8.4 No appeal in relation to an accepted sanction**

For the avoidance of doubt, where a *Player* or *Player Support Personnel* admits the offence charged and accedes to the proposed sanction specified in the *Notice of Charge* in accordance with the procedure described in Article 4.5.1, the *Player* or *Player Support Personnel* waives his/her right to any appeal against the imposition of such a sanction.

#### **8.5 Appeal Deposit and Costs**

- 8.5.1** If an appeal heard under Article 8 is dismissed, the *Judicial Commissioner* or *Appeals Panel* (as the case may be) shall order the forfeiture of the \$2,000 appeal deposit.
- 8.5.2** If an appeal heard under Article 8 is upheld, a *Judicial Commissioner* or *Appeals Panel* (as the case may be) has an absolute discretion to refund up to half of a party's \$2,000 appeal deposit.
- 8.5.3** Unless otherwise directed by the *Judicial Commissioner* or *Appeals Panel* (as the case may be), each party to the appeal shall be responsible for their own costs associated with the appeal.

### **ARTICLE 9 RECOGNITION OF DECISIONS**

Any hearing results or other final adjudications under the Code of Behaviour shall be recognised and respected by CA and the State or Territory Cricket Associations automatically upon receipt of notice of the same, without the need for any further formality. Each of CA and the State or Territory Cricket Associations shall take all steps legally available to it to enforce and give effect to such decisions.

## ARTICLE 10 AMENDMENT AND INTERPRETATION OF THE *ANTI-RACISM CODE*

- 10.1** The *Anti-Racism Code* may be amended from time to time by CA, with such amendments coming into effect on the date specified by CA.
- 10.2** The headings used for the various Articles of the *Anti-Racism Code* are for the purpose of guidance only and shall not be deemed to be part of the substance of the *Anti-Racism Code* or to inform or affect in any way the language of the provisions to which they refer.
- 10.3** The *Anti-Racism Code* shall come into full force and effect on 1 October 2014 (the “**Effective Date**”). It shall not apply retrospectively to matters pending before the *Effective Date*; provided, however, that any case pending prior to the *Effective Date*, or brought after the *Effective Date* but based on an offence that is alleged to have occurred before the *Effective Date*, shall be governed by the predecessor version of the *Anti-Racism Code* in force at the time of the alleged offence, subject to any application of the principle of *lex mitior* by the hearing panel determining the case.
- 10.4** If any Article or provision of this *Anti-Racism Code* is held invalid, unenforceable or illegal for any reason, the *Anti-Racism Code* shall remain otherwise in full force apart from such Article or provision which shall be deemed deleted insofar as it is invalid, unenforceable or illegal.
- 10.5** The *Anti-Racism Code* is governed by and shall be construed in accordance with the laws of the State of Victoria, Australia. Strictly without prejudice to the arbitration provisions of Articles 5 and 8 of the *Anti-Racism Code*, disputes relating to the *Anti-Racism Code* shall be subject to the exclusive jurisdiction of the Victorian courts.

## APPENDIX 1 - DEFINITIONS

Appeal Panel. A panel of three persons appointed by CA from the members of the *Code of Behaviour Commission*, to perform the functions assigned to the *Appeal Panel* under the *Anti-Racism Code*.

CA. *Cricket Australia or its designee.*

CA's Chief Executive Officer. The person appointed by the CA from time to time to act as the CA's Chief Executive Officer (or his/her designee).

Code of Behaviour Commission. An official committee of CA established under Appendix 2 of the CA Code of Behaviour.

Commission Counsel means an independent person appointed by CA to assist the *Judicial Commissioner* or *Appeal Panel* in the conduct of a hearing.

Conciliator. An independent expert, trained in mediation and, where possible, with specialist expertise in the area of race relations (or such other expertise as may be relevant to the nature of any alleged offence), who is appointed by CA to perform the functions assigned to the *Conciliator* under the *Anti-Racism Code*.

Effective Date. As defined in Article 10.3.

ICC's Operating Manual. The ICC's Official Operating Manual in force from time to time.

Judicial Commissioner. The independent person appointed by CA from the *Code of Behaviour Commission*, to perform the functions assigned to the *Judicial Commissioner* under the *Anti-Racism Code*.

Match. Any cricket match:

- (a) played as part of a Test series, One Day International series or Twenty20 International series (whether or not one or more matches are played as part of that series), whether in Australia or overseas, and whether or not played under the auspices of the ICC or any other country's governing authority for cricket;
- (b) played as part of a Cricket Australia-approved cricket tour (whether in Australia or overseas);
- (c) played as part of the domestic one-day competition in Australia;
- (d) played as part of the domestic four-day competition in Australia;
- (e) played as part of the domestic Twenty20 competition in Australia;
- (f) played by a State Association (including the Champions League Twenty20) team against a touring international team in Australia or against any other team overseas (including the Champions League Twenty20);
- (g) played by a Big Bash League team against a touring team in Australia or against any team overseas;
- (h) played as part of the WNCL competition;
- (i) played as part of the WT20 competition;

- (j) played as part of the Futures League competition;
- (k) played as part of the National Under 19 Male Championships;
- (l) played as part of the National Under 18 Female Championships;
- (m) played as part of the National Under 17 Male Championships;
- (n) played as part of the National Under 15 Female Championships;

and includes any other matches played under the jurisdiction or auspices or with the consent or approval of CA or any State or Territory Association.

Match Referee. The independent person appointed by CA (or any other relevant party) as the official match referee for a designated Match, whether such Match Referee carries out his/her functions remotely or otherwise. Where a Match Referee is not physically present at a particular Match, he/she may be assisted in the administrative performance of his/her duties under this *Anti-Racism Code* by any official 'Match Manager' who may be appointed to officiate at such Match.

Notice of Charge. As defined in Article 4.4.

One Day International Match. As defined by Section 33 (ICC Classification of Official Cricket) of the ICC's *Operating Manual*.

Player. Any cricketer who is selected in any playing or touring team or squad that is chosen to represent CA or a State or Territory Cricket Association in any Match or series of Matches or any cricketer that is contracted to CA or a State or Territory Association to play cricket.

Player Support Personnel. Any Umpire, Match Referee, coach, trainer, manager, selector, team official, doctor, physiotherapist, fitness or other health related advisor or any other person employed by, contracted to, representing or otherwise affiliated to CA or any State or Territory Association or Big Bash League team or any other person employed by, contracted to, representing or otherwise affiliated to a team or squad that is chosen to represent CA or a State or Territory Cricket Association in any Match or series of Matches.

Report. As defined in Article 3.1.

Senior Manager – Integrity. The person holding that position at CA from time to time (including any person acting in that position).

Suspension Points. The weighting points used to determine the period of suspension imposed against any Player or Player Support Personnel pursuant to Article 7 of the *Anti-Racism Code*.

Team Captain or Vice Captain. The official captain or vice-captain of any team participating in a Match.

Team Manager. The official manager of any team participating in a Match.

Test Match. As defined by Section 33 (ICC Classification of Official Cricket) of the ICC's *Operating Manual*.

Twenty20 International Match. As defined by Section 33 (ICC Classification of Official Cricket) of the ICC's *Operating Manual*.

Umpire. Any umpire (including a third or other umpires) appointed to officiate in a Match.