

NATIONAL COMPLAINT & INVESTIGATION GUIDELINES



June 2013

1. Application

These *National Complaint & Investigation Guidelines* (**Guidelines**) apply to an Australian Football league that is conducted or administered by:

- (a) a State or Territory league or body that is affiliated with the AFL, including:
 - a. NSW/ACT: AFL (NSW/ACT) Commission Ltd ACN 086 839 385;
 - b. NT: AFL (Northern Territory) Ltd ACN 097 620 525;
 - c. QLD: AFL (Queensland) ACN 090 629 342;
 - d. SA: South Australian Football League Inc ABN 59 518 757 737;
 - e. TAS AFL (TAS) ACN 135 346 986;
 - f. Victoria: Australian Football League (Victoria) ACN 147 664 579;
 - g. WA: West Australian Football Commission Inc ABN 51 167 923 136); or
- (b) an entity or body that is affiliated with (or licensed by) an Affiliated State or Territory Body.

(Football Body)

Australian Football: players; coaches; officials; spectators; and administrators and all people reasonably connected to the Football Body (**Members**) must comply with these Guidelines.

1. Application

If a Member subject to the *Rules & Regulations* and, if applicable, the *By-Laws (Rules)* of a Football Body is reasonably suspected to have breached the Rules of that Football Body, or the *National Member Protection Policy*, the Member may be subject to a Complaint and, if necessary, an Investigation conducted in accordance with these *National Complaint & Investigation Guidelines*.

2. Disciplinary & Match Investigations

An alleged breach of the Rules of a Football Body may relate to conduct/alleged conduct occurring:

- (a) in the course of an Australian Football match (**Alleged Match Breach**).
- (a) outside the course of an Australian Football Match (**Alleged Disciplinary Breach**).

3. Power to Complain

Any Member of a Football Body (**Complainant**) may make a complaint about another Member who is subject to the Rules of a Football Body.

4. Where to Complain

Complaints made in accordance with section 3 above shall be reported:

- (a) where the complaint relates to alleged conduct at the elite State & Territory level, to the relevant person defined in Affiliated State & Territory Body's *Rules & Regulations*, or the CEO of the relevant Affiliated State & Territory Body, or to a person nominated by the CEO of the relevant Affiliated State & Territory Body; and
- (b) where the complaint relates to alleged conduct at all other levels, to the relevant person defined in the *Rules & Regulations* (and, if applicable, *the By-Laws*) of the community Football Body, or the CEO of that league or body or a person nominated by the CEO of the community Football Body.

Only complaints that relate to alleged conduct at the national level and the most serious cases from club and state level should be referred to the Affiliated State & Territory Bodies and, if necessary, the AFL.

5. Complaint Procedures

Unless the CEO of the Football Body determines that a complaint must be subject to formal complaint procedures, the Complainant may choose to make the complaint a formal complaint or an informal complaint.

- (a) a formal complaint shall be made using the *Formal Record of Complaint* template set out in Annexure 1 to these guidelines (**Formal Complaint**);
- (b) an informal complaint shall be made using the *Informal Record of Complaint* template set out in Annexure 2 to these guidelines (**Informal Complaint**).

All complaints shall be dealt with promptly, seriously, sensitively and confidentially. Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection, criminal or other relevant legislation.

6. Informal Complaints

If a Member of the Football Body receives an Informal Complaint in accordance with sections 4 and 5 above, the Member must use the *Informal Record of Complaint* and:

- (a) take confidential notes about the complaint;
- (b) try to find out the facts of the allegation;
- (c) ask what outcome/how the Complainant wants the problem resolved and if they need support;
- (d) provide possible options for the Complainant to resolve the problem;
- (e) act as a support person if requested by the Complainant;
- (f) inform the relevant government authorities and/or police if required by law to do so.

Nothing in this section 6 should be construed as limiting the power of the Member of the Football Body to refer the Informal Complaint to an investigator in accordance with section 10 below or, if applicable, to a Disciplinary or Match Tribunal in accordance with the *National Disciplinary Tribunal Guidelines* and the *National Match Tribunal Guidelines*, if the Member believes in good faith that the complaint relates to a breach of the *National Member Protection Policy* or a breach of the Rules of the Football Body

7. Formal Complaints

If a Member of the Football Body receives a Formal Complaint in accordance with sections 4 and 5 above, the member must use the *Formal Record of Complaint* and:

- (a) take confidential notes about the complaint;
- (b) try to find out the facts of the allegation;
- (c) if the Member believes in good faith that the allegation amounts to a breach of the *National Member Protection Policy* or a breach of Rules of the Football Body, refer the Formal Complaint to a Disciplinary or Match Tribunal in accordance with the *National Disciplinary Tribunal Guidelines* (if applicable) and the *National Match Tribunal Guidelines* (if applicable); or
- (d) if the Member believes in good faith that further facts and information need to be ascertained before a decision can be made to refer the allegation to a Disciplinary or Match Tribunal in accordance with the *National Disciplinary Tribunal Guidelines* (if applicable) and the *National Match Tribunal Guidelines* (if applicable), order an investigation in accordance with section 10 below; and
- (e) inform the relevant government authorities and/or police if required by law to do so.

8. Victimisation

The Football Body should ensure that any Member who exercises their power to complain in accordance with section 4 above is not subject to any threat, detriment or unfair treatment because that Member has or intends to make a complaint or for supporting another Member that has made or intends to make a complaint (**Victimisation**).

A Member alleged to have engaged in Victimisation may face disciplinary action in accordance with the *National Disciplinary Tribunal Guidelines* (if applicable), as well as legal consequences.

9. Vexatious complaints

If the CEO of the Football Body believes in good faith that a Complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to a Disciplinary Tribunal action in accordance with the *National Disciplinary Tribunal Guidelines* (if applicable) for appropriate action which may include disciplinary action against the Complainant.

10 Power to Investigate

An investigation into an Alleged Match Breach and/or an Alleged Disciplinary Breach may be ordered by:

- (a) in respect of the alleged breach occurring at Affiliated State & Territory Body level, the CEO of the Affiliated State & Territory Body; or
- (b) in respect of the alleged breach occurring other than at the Affiliated State & Territory Body level, the CEO of the community Football Body in which it alleged breach occurred.

11 Alleged Breach: Good Faith Belief

The CEO of the Football Body may order an investigation into any matter the CEO believes in good faith that an investigation is reasonably necessary to determine of a question of fact regarding an allegation of conduct that is contrary to the Rules.

12 Investigation Notice

Any Member that is to be the subject of an investigation by the Football Body should be sent an *Investigation Notice* that is completed by the CEO of the Football Body. A template *Investigation Notice* is set out in Annexure 3 to these Guidelines.

13 Investigation Script

If the investigator determines that Members need to be interviewed as part of the investigation, the investigator should read from the *Investigation Script*. A template *Investigation Script* is set out in Annexure 4 to this policy.

14 Investigation Report

Investigators should deliver a report to the CEO of the Football Body ordering the investigation. The investigation report should substantially replicate the template *Investigation Report* set out in Annexure 5 to these Guidelines.

15 Accreditation of Investigators

The AFL may from time to time accredit investigators who may act on the CEO's behalf, subject to terms and conditions it deems necessary in its complete discretion. The AFL may maintain a register of all accredited investigators.

ANNEXURE 2

CONFIDENTIAL RECORD OF FORMAL COMPLAINT

Complainant's Name	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	Date Formal Complaint Received: / /
Complainant's contact details	Phone: Email:	
Complainant's Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Name of person complained about (respondent)	<input type="checkbox"/> Over 18 <input type="checkbox"/> Under 18	
Respondent's Role/status	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Athlete/player <input type="checkbox"/> Spectator <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Support Personnel <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other <input type="checkbox"/> Official	
Location/event of alleged issue		
Description of alleged issue		
Nature of complaint (category/basis/grounds) Can tick more than one box	<input type="checkbox"/> Harassment or <input type="checkbox"/> Discrimination <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Selection dispute <input type="checkbox"/> Coaching methods <input type="checkbox"/> Sexuality <input type="checkbox"/> Personality clash <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Race <input type="checkbox"/> Bullying <input type="checkbox"/> Physical abuse <input type="checkbox"/> Religion <input type="checkbox"/> Disability <input type="checkbox"/> Victimisation <input type="checkbox"/> Pregnancy <input type="checkbox"/> Child Abuse <input type="checkbox"/> Unfair decision <input type="checkbox"/> Other	
Methods (if any) of attempted informal resolution		
Formal resolution procedures followed (outline)		

If investigated: Finding -	
If went to hearing tribunal: Decision - Action recommended -	
If mediated: Date of mediation - Were both parties present - Terms of Agreement - Any other action taken -	
If went to appeals tribunal: Decision Action recommended	
Resolution	<input type="checkbox"/> Less than 3 months to resolve <input type="checkbox"/> Between 3 – 8 months to resolve <input type="checkbox"/> More than 8 months to resolve
Completed by	Name: Position: Signature: / /
Signed by:	Complainant: Respondent:

This record and any notes must be kept in a confidential and safe place – do not enter it on a computer system. If the issue becomes a formal complaint, this record is to be sent to the person nominated to investigate the complaint.

ANNEXURE 3

NOTICE OF INVESTIGATION

TO: [###] Football Club
 Attn: Football Manager
 [###]
 [###]

Please **TAKE NOTICE** that [player/official] [##] is required for interview as part of an Investigation to be conducted in accordance with the *National Disciplinary & Match Investigation Guidelines*. A number of important matters that relate to the Investigation are on the reverse side of this notice.

INVESTIGATION

Date of Interview: _____ / _____ / _____

Name of Investigator: _____

Accreditation Number: _____

Name of Interviewee: _____

Interview: In person Telephone

Location of interview (if in person): _____

Interview recorded: Yes Audio Video

Names of others present: _____

<u>DETAILS OF ALLEGED INCIDENT</u>	
Date: / / 20	Round No. Venue:
.....	
Match Between*: and	
Brief description of alleged incident:	
.....	
Result of incident (injury, etc.):	

Lodged with the Football Manager of the [###] Football Club on: _____ / _____ / _____ (date)
at _____ (time).

Signed: _____
 (Chief Executive Officer)

PLEASE NOTE

- You are being investigated in your capacity as an [insert].
- The investigation may relate to your alleged behaviour or the alleged behaviour of another individual or individuals.
- If the investigation relates to your alleged behaviour, you may face a sanction under the National Member Protection Policy, as well as the Rules & Regulations and, if applicable, the By-Laws of your League.
- You must give an honest account of matters that are asked of you as part of this investigation or you may face sanction
- You have the right to decline to answer questions asked of you in limited circumstances including if you believe you will incriminate yourself.
- You have the right to have a support person present with you during the Investigation Interview.
- If you are under 18 years of age, you **must** have a support person present.
- A support person present for an interviewee under the age of 18 must have procured the consent of the interviewee.

ANNEXURE 4

INVESTIGATION SCRIPTS

ALLEGED OFFENDER

1. Introduction

This is a tape recorded interview between **[investigation officer's name]** of **[league name]** and **[alleged offender's name]** of **[club name]** at **[location of interview]** on **[date of interview]** at **[commencement time of interview]**.

The interview is conducted in the presence of **[names of other attendees, if any, including position and employer]**. This interview and the circumstances giving rise to the investigation are strictly confidential – you must not communicate any information relating to this interview or the circumstances giving rise to the investigation other than in accordance with the express direction of the League. You may face sanction if you breach this obligation of confidentiality

I will now ask everyone to state their name and organisation for the transcript **[each member present in the interview states name and organisation]**.

Do you agree that the time is **[current time]**?

I will now produce to you my identification evidencing that I am an authorised officer appointed by **[league name]** to conduct this interview.

Today I am investigating an incident involving **[brief description of incident]**. You have been identified as someone of interest in this investigation. I have been appointed by **[appointing authority]** to conduct this investigation by reason of a **[oral/written complaint/good faith belief held by the League CEO/President involving an allegation of a breach of the League Rules & Regulations]**. The recording of this interview will be provided to the tribunal and will form part of the tribunal's evidence.

You are being investigated in your capacity as a Person subject to the League Rules & Regulations. You may face a financial sanction as a result of my investigation. You must give an honest account of matters that are asked of you as part of this investigation or you may face sanction for failure to do so. You have the right to decline to answer questions asked of you in limited circumstances including if you believe you will incriminate yourself or you believe the answer(s) are subject to legal professional privilege. **[If you are being investigated for alleged criminal activity, this interview and my investigation report may be obtained by police via a subpoena.]** You have the right to have a support person present with you during the Investigation Interview.

[if an issue arises] If you refuse to co-operate, failure to co-operate will not prevent me from delivering my report, nor will it prevent the tribunal from making a finding. Do you understand that?

2. Questioning

How old are you? *(NOTE: If the individual being questioned is under the age of 18 years, a parent or guardian should be present during the questioning. If parent or guardian is not present, and if no written consent has been provided, the interview should not continue).*

What is your full name?

What is your occupation?

What is your address?

It has been alleged that on **[date]** **[during the football match between [club/team names]]** an incident occurred between you and **[aggrieved party]** wherein **[details of incident as alleged by complainant]**. It is alleged that such incident resulted in **[aggrieved party]** suffering the following injury **[injury details]**.

[If investigation relates to an incident in a football match:

Do you agree that on **[date of alleged incident]** there was a **[sport e.g. football]** match between **[club/team names]**?

Were you involved in this match?

What position were you playing on **[date of match]**?

Where were you at the time of the alleged incident?

What did you see?

Was your vision partially or wholly obscured in any way?

What was the score at the time of the alleged incident?

How far from the incident were you?]

If you own words, can you please tell me about the incident and how it occurred?

Is there anything else you would like to say in relation to the incident?

3. Conclusion

Thank you for your time and cooperation today. We will now prepare a written report to be provided to the relevant state league official in order to determine whether or not a sanction will apply and the appropriate penalty. You may apply for a copy of this Investigator Report

Do you have any questions?

Do you agree the time is now **[current time]** on **[date]**?

I will now conclude the interview and will turn off the tape.

WITNESS/COMPLAINANT

1. Introduction

This is a tape recorded interview between **[investigation officer's name]** of **[league name]** and **[witness/aggrieved person's name]** at **[location of interview]** on **[date of interview]** at **[commencement time of interview]**.

The interview is conducted in the presence of **[names of other attendees, if any, including position and employer]**. This interview and the circumstances giving rise to the investigation are strictly confidential – you must not communicate any information relating to this interview or the circumstances giving rise to the investigation other than in accordance with the express direction of the League. You may face sanction if you breach this obligation of confidentiality.

I will now ask everyone to state their name and organisation for the transcript **[each member present in the interview states name and organisation]**.

Do you agree that the time is **[current time]**?

I will now produce to you my identification evidencing that I am an authorised officer appointed by **[league name]** to conduct this interview.

I refer to the complaint dated **[date of complaint]** wherein it is alleged that an incident occurred on **[date of incident]** between **[aggrieved person]** and **[alleged offender]**. I have been appointed by **[appointing authority]** to conduct this investigation by reason of **[oral/written complaint/good faith belief held by the League CEO/President involving an allegation of a breach of the League Rules & Regulations]**. The recording of this interview will be provided to the tribunal and will form part of the tribunal's evidence. . The recording of this interview will be provided to the tribunal and will form part of the tribunal's evidence.

You are being interviewed in your capacity as a **[witness/complainant]** in relation to conduct which may involve a breach of the League Rules & Regulations You may face a sanction as a result of my investigation. You must give an honest account of matters that are asked of you as part of this investigation or you may face sanction for failure to do so. You have the right to decline to answer questions asked of you if you believe you will incriminate yourself or you believe you will divulge information that is subject to legal professional privilege **[If you are being investigated for alleged criminal activity, this interview and my investigation report may be obtained by police via a subpoena.]** You have the right to have a support person present with you during the Investigation Interview.

2. Questioning

How old are you? *(NOTE: If the individual being questioned is under the age of 18 years, a parent or guardian should be present during the questioning. If parent or guardian is not present, and if no written consent has been provided, the interview should not continue).*

What is your full name?

What is your occupation?

What is your address?

It has been alleged that on **[date]** an incident occurred between **[name of alleged offender]** and **[you/name of aggrieved party]** wherein **[details of incident as alleged by complainant]**. It is alleged that such incident resulted in **[aggrieved party]** suffering the following injury **[injury details if applicable]**.

Were you present at **[insert venue]** on **[date of alleged incident]**? Was there an incident as I described??

Were you involved in this incident?

Where were you at the time of the alleged incident?

What did you see?

Was your vision partially or wholly obscured in any way?

How far from the incident were you?

If you own words, can you please tell me about the incident and how it occurred?

Is there anything else you would like to say in relation to the incident?

3. Conclusion

Thank you for your time and cooperation today. I/We will now prepare a written report to be provided to the AFL in order to determine whether or not a sanction will apply and the appropriate penalty. You may apply for a copy of this Investigator Report

Do you have any questions?

Do you agree the time is now **[current time]** on **[date]**?

I will now conclude the interview and will turn off the tape.

ANNEXURE 5
INVESTIGATION REPORT

PRIVATE & CONFIDENTIAL

[INSERT LEAGUE]

INVESTIGATOR REPORT

TO: [President/CEO/Coach]
[Club]
[address]
[address]
[address]
email@address.com.au

Dear [President/CEO/Coach],

Investigator: _____
AFL Accreditation No: _____
Date of Investigation: ____/____/____

<u>DETAILS OF ALLEGED INCIDENT</u>	
Date: / / 20	Round No.
Venue:	
Match Between*: and	
Time: : AM/PM	and Stage of game*:.....
Field location of alleged incident*:	
Brief description of alleged incident:	
.....	
Result of incident (injury, etc.):	

- 1) **Summary**
- 2) **Findings**
- 3) **Recommendation**

Interviews

Person/Player Investigated:

Name:

Phone: Email:

Address:

Player Official Spectator Other:

Club/member body/occupation (as appropriate):

Victim Player/Official (if any):

Name:

Phone: Email:

Address:

Player Official Spectator Other:

Club/member body/occupation (as appropriate):

Umpire(s)/Witness(es) (if any):

Name:

Phone: Email:

Address:

Player Official Spectator Other

Club/member body/occupation (as appropriate):

Name:

Phone: Email:

Address:

Player Official Spectator Other:

Club/member body/occupation (as appropriate):

EVIDENCE OF INCIDENT

Video evidence available: Yes No

Medical report available: Yes No

Other evidence available: Yes No

Nature of other evidence (if any):

INVESTIGATOR CHECKLIST

Date of interview: / / 20

Name of investigator:

Date of appointment: / / 20

Name of party being interviewed:

Is party being interviewed over 18? Yes No

If no, is a Parent/Guardian present? Yes No

Name and contact details of Parent/Guardian:
.....
.....

Signature of Parent/Guardian:

*If no, has Parental/Guardian consent been provided? Yes No

*NOTE - If no consent has been provided by a Parent/Guardian for the interview of a party under 18 years of age, the interview cannot be conducted until consent is given by a Parent/Guardian.

Interview: In person Telephone

Location of interview (if in person):
.....

Interview recorded: Yes No Audio Video

Names of others present:

Interviewee represented: Yes No

Name of representative:

Occupation of representative:

Relationship of representative to interviewee:

Did subject fully co-operate during interview? Yes No

If no, reason given (if applicable):