



# LABRADOR SPORTS CLUB INC COMPLAINTS HANDLING PROCEDURE

## Preamble

LSC aims to support people associated with our sport to make and resolve any complaints they may have in a fair, timely and effective way. We will keep all complaints confidential. We will not provide information about the complaint to another person without the Complainant's consent, except if the law requires us to disclose this information or if it is necessary to properly resolve the complaint.

To ensure fairness for everyone involved, we will provide the full details of the complaint to the person or people against whom the complaint has been made and ask for their response. As a result, it may be difficult for us to resolve complaints made anonymously. We will provide informal and formal procedures to resolve complaints. Individuals can also complain to external organisations under anti-discrimination, child protection and other relevant laws.

As Club administrators, we will handle complaints in a fair, just, and transparent way observing natural justice principles following the procedures set out in our complaints handling procedure. We will apply the following principles:

- Treat complaints seriously.
- Act promptly.
- Treat people fairly, listening to all persons affected by the complaint.
- Stay neutral.
- Keep parties to the complaint informed.
- As far as is legal, maintain confidentiality.
- Protect against victimization.
- Keep accurate records.
- Make decisions based only on information gathered, not personal views.
- Issue disciplinary action relative to the breach.

## Informal Approaches

**Step 1: Talk with the other person (if safe, reasonable and appropriate).**

If you feel confident to do so, you can approach the other person to discuss the issues and try to resolve the problem directly.

**Step 2: Contact your Hockey Coordinator (names and contact details on the club website).**

We encourage you to talk with one of our Coordinators if:

- Step 1 is not possible or reasonable
- you are not sure how to handle the problem by yourself
- you want to talk confidentially with someone and find out what options are available to resolve the problem, or
- the problem continues after you approached the other person.

The Coordinator will:

- Take confidential notes about your complaint
- Try to find out the facts of your complaint
- Ask how you would like the problem to be resolved and if you need support
- Seek to provide different options for you to resolve the problem
- Act as a support person, if you wish
- Refer you to an appropriate person (e.g. a mediator) to help you resolve the problem, if appropriate

- Inform the relevant government authorities and/or police, if required by law to do so
- Where possible and appropriate maintain confidentiality.

**Step 3: Decide how to resolve the problem.**

After talking with your Coordinator, you may decide:

- There is no problem
- The problem is minor, and you do not wish to take the matter forward
- To try and resolve the problem yourself, with or without a support person
- To resolve the problem with the help of someone impartial, such as a mediator
- To resolve the matter through a formal process.

We have to be fair to both sides which means that you are required to provide the person/s you have complained about with full details of the complaint through LSC, so they have a fair chance to respond to all the allegations.

**Formal Approaches**

**Step 4: Making a Formal complaint.**

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

- Make a formal complaint in writing to the President or nominated representative; or
- Approach a relevant external agency such as an anti-discrimination commission or equal opportunity commission for advice.

On receiving a formal complaint and based on the material you have provided, the President or nominated representative will decide whether:

- He/she is the most appropriate person to receive and handle the complaint
- Make enquiries about the information received to ascertain whether or not it appears to them that, prima facie, there has been a breach of Club Policy, then consider whether the nature and seriousness of the complaint requires a formal resolution procedure and if so he/she will decide to undertake the most appropriate action from the following:
  - to refer the complaint to mediation
  - to appoint a person to investigate the complaint
  - to refer the matter to the police or other appropriate authority
  - to implement any interim arrangements that will apply until the complaint process is completed.

In making this decision, the President or nominated representative will take into account:

- Whether he/she has had any personal involvement in the circumstances and if someone else should handle the complaint
- Your wishes, and the wishes of the Respondent, regarding how the complaint should be handled
- The relationship between you and the Respondent (e.g. an actual or perceived power imbalance between you and the Respondent)
- Whether the facts of the complaint are in dispute
- Whether, due to the nature of the complaint, specific expertise or experience may be required to manage the complaint
- The urgency of the complaint, including the possibility that you may face further unacceptable behaviour while the complaint process is underway.

If the President or nominated representative is the appropriate person to handle the complaint he/she will, where appropriate or necessary:

- Provide the information received from you to the person(s) involved and ask for their response
- Decide if there is enough information to determine whether the matter alleged in your complaint did or didn't happen, and/or;

- Determine what, if any, further action to take. This may include not taking any further action, referring the matter for investigation or disciplinary action in accordance with this policy. Such decision is to be made at the sole discretion of the President or nominated representative.

#### **Step 5: Investigation of the complaint.**

In some cases, a formal investigation may be required to determine the facts surrounding the complaint. Our investigations procedure is outlined below. Following the formal investigation, a written report will be provided to the President or nominated representative who will determine what, if any, further action to take.

- If the complaint is referred to mediation, we will follow the steps outlined as agreed by you, the respondent and the mediator.
- If the complaint is referred to the police or another external agency, we will endeavour to provide all reasonable assistance required by the police or the agency.

Please note: it is not the role of the investigator (if other than the President or nominated representative) to seek to resolve the matter, nor to impose a penalty. Any determination, finding or recommendation arising out of the investigation will be referred in the first instance to the President or nominated representative for consideration.

#### **Step 6: Reconsideration of a complaint or appeal decision.**

If mediation is unable to resolve the matter, you may request that the President or nominated representative reconsider the complaint in accordance with Step 3. You or the respondent(s) may also appeal a decision made by the President or nominated representative. The grounds and process for appeals are set out below.

#### **Step 7: Documenting the resolution.**

The President or nominated representative will record the complaint, the steps taken to resolve it and the outcome. This information will be stored in a confidential and secure place. If the complaint was dealt with at the Club level, the information will be stored by the Club.

#### **Improper Complaints and related victimisation.**

LSC aims to ensure that the Complaints Procedure has integrity and is free of unfair repercussions or victimisation against the person making the complaint. All necessary steps will be taken to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint or supporting another person's complaint. If at any point in the complaint handling process the President or nominated representative considers that a Complainant has knowingly made an untrue complaint, or the complaint is malicious, vexatious or intended to cause distress to the Respondent, the complaint may be rejected, and the matter may be referred to an investigator for review and appropriate action, including possible disciplinary action against the Complainant.

#### **Withholding of Information.**

Respondent/s are expected to participate in an Investigation in good faith, and as such to ensure complete disclosure regarding the matter under investigation or being heard. If a respondent is suspected of and found to have lied or deliberately withheld information or documentation requested by an Investigator, in the interest of Natural Justice, this action will be referred for substantiation to a separate hearing. If the action is verified as being either a deliberate withholding of information or documentation, or in providing testimony the Respondent has lied, the President or nominated representative may impose a disciplinary measure as permitted under their authority.

### **External Approaches**

If you feel that you have been harassed or discriminated against, you can seek advice from our state anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be

within its jurisdiction, you may choose to lodge a formal complaint with the commission. Once a complaint is received by the commission, it may investigate the matter.

If it appears that unlawful harassment or discrimination has occurred, the commission will attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The panel will make a finding and decide what action, if any, will be taken.

If you do lodge a complaint with the commission, an appropriate person from LSC (e.g. President or nominated representative) will be available to support you during the process. It is also common to have legal representation, particularly if the complaint goes to a formal hearing.

Contact details for the state anti-discrimination and equal opportunity commissions are available on the Play by the Rules website:

<http://www.playbytherules.net.au/resources/quick-reference-guide> or the State anti-discrimination agency via the following link:

<https://www.humanrights.gov.au/informationemployers-contacts#state>

Serious incidents, such as assault or sexual assault, should be reported to the Police.

## Mediation

Mediation is a process that allows the people involved in a complaint to talk through the issues with an impartial person – the mediator – and work out a mutually agreeable solution. The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to talk through the issues and makes sure that the process is as fair as possible for all concerned.

The following outlines the Mediation procedure that will be followed by LSC:

1. The people involved in a formal complaint (Complainant and Respondent) may work out their own resolution of the complaint or seek the assistance of a neutral third person or mediator. Mediation may occur either before or after an investigation of the complaint.
2. Mediation (getting those involved to come to a joint agreement about how the complaint should be resolved) will only be recommended:
  - a. After the Complainant and Respondent have had their chance to tell their version of events to the President or nominated representative on their own, and;
  - b. The President or nominated representative does not believe that any of the allegations warrant any form of disciplinary action – proven serious allegations will not be mediated;
  - c. Mediation looks like it will work i.e. the versions given by each party appear as though it will be possible for each party to understand the other's point of view.
3. Mediation will not be recommended if:
  - a. The Respondent has a completely different version of the events and they won't deviate from these;
  - b. The Complainant or Respondent are unwilling to attempt mediation;
  - c. When/if there is a real or perceived power imbalance between the people involved
  - d. Due to the nature of the complaint, the relationship between the parties or any other relevant factor, the complaint is not suitable for mediation.
4. The President or nominated representative will notify the Respondent/s that a formal complaint has been made, provide them with details of the complaint and notify/confirm that LSC has decided to refer the matter to mediation for resolution.
5. If mediation is chosen to try to resolve the complaint, the President or nominated representative will, in consultation with the Complainant and respondent, arrange for a Mediator to mediate the complaint.
6. The Mediator will be an independent person in the context of the complaint, however this does not preclude a person with an association with LSC acting as a mediator.

7. The Mediator will talk with the Complainant and Respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
8. All issues raised during mediation will be treated confidentially. We also respect the rights of the Complainant and the Respondent(s) to pursue an alternative process if the complaint is not resolved.
9. If the complaint is resolved by mediation, the mediator will prepare a document that sets out the agreement that has been reached. This agreement will be signed by the Complainant and the respondent(s). We expect the parties involved to respect the terms of the agreement.
10. If the complaint is not resolved by mediation, the Complainant may:
  - a. Write to the President or nominated representative to request that the President or nominated representative reconsider the complaint in accordance with Step 3
  - b. Approach an external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

### **Investigation Process**

There will be times when a complaint will need to be formally investigated and evidence gathered. An investigation helps determine the facts relating to the incident, as well as possible findings and recommendations. Any formal investigation that we conduct will be fair to all people involved and will be undertaken by an unbiased person. If LSC decides that a complaint should be formally investigated, the following steps will apply:

1. LSC will provide directions in writing to the investigator that sets out the terms of engagement and his or her roles and responsibilities. The investigator will:
  - 1.1. Interview the Complainant and record the interview in writing.
  - 1.2. Provide full details of the complaint and attached/accompanying documentation to the Respondent (s) so that they can respond.
  - 1.3. Interview the Respondent(s) to allow them to answer the complaint and record the interview in writing.
  - 1.4. Obtain statements from witnesses and collect other relevant evidence if there is a dispute over the facts. All persons bound by this Policy shall comply with all reasonable requests by the Investigator for requests of copies of documentation and need to cooperate in the conduct of the Investigation.
  - 1.5. Make a finding as to whether the complaint is:
    - substantiated (there is sufficient evidence to support the complaint);
    - inconclusive (there is insufficient evidence either way);
    - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
    - mischievous, vexatious or knowingly untrue.
  - 1.6. Provide a report to the President or nominated representative documenting the complaint, investigation process, evidence, finding/s and any recommendations.
2. LSC will provide a report to the Complainant and the Respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The Complainant and the Respondent(s) will be entitled to support throughout this process from their chosen support person/adviser (e.g. Coordinator or another person).
4. The Complainant and the Respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is provided below.
5. If it is the view of the Investigator that the Respondent/s have lied or deliberately withheld information or documentation, they shall recommend that this matter be referred to the President or nominated representative. Please note: it is not the role of the investigator to seek to resolve the matter, nor to impose a penalty. Any determination, finding or

recommendation arising out of the investigation will be referred in the first instance to the President or nominated representative for consideration.

## **Appeals Procedure**

### ***Appeal Panel***

If an appeal hearing is granted, the President or nominated representative shall convene an Appeal Panel to hear and determine the appeal in accordance with this procedure.

- a) An Appeal Panel shall consist of no fewer than three (3) persons appointed by LSC from time to time to hear appeals. Members of an Appeal Panel shall be drawn from the LSC executive or suitably qualified professional persons (eg. Lawyers)
- b) Only Appeal panel members who were not involved in the original hearing of a matter that was the subject of an appeal shall be eligible to sit on an Appeal Panel.
- c) The Panel chairperson shall be nominated by the President or nominated representative.

### ***Proceedings and Authority of the Appeal Panel***

1. If a Complainant or a Respondent(s) is not satisfied with the outcome of mediation or an investigation decision, he or she can lodge via the LSC President or nominated representative, one appeal on one or more of the following bases:
  - That a denial of natural justice has occurred
  - That the disciplinary measure(s) imposed is unjust and/or unreasonable
  - That the decision was not supported by the information/evidence provided to the President/Mediator/Investigator.
2. A person wanting to appeal must lodge a letter setting out the basis for their appeal with the LSC Secretary or designated nominee within 5 business days of being advised of the relevant decision. A non-refundable appeal fee of \$60.00 (incl GST) shall be included with the letter of intention to appeal the grounds of the appeal in writing and provide copies to the other party, to the President or nominated representative who established the investigation that made the decision which is the subject of the appeal.
3. If the letter of appeal is not received by the Secretary within the time period the right of appeal lapses. If the letter of appeal is received but the appeal fee is not received by the relevant time, the appeal shall be deemed withdrawn.
4. The letter of appeal and notice of investigation decision will be forwarded to the Chair of the Appeal Panel to review and decide whether there are sufficient grounds for the appeal to proceed.
5. If the appellant has not shown sufficient grounds for appeal in accordance with clause 1 of the Appeal Panel procedure, then the appeal will be rejected. The appellant will be notified with reasons.
6. If the appeal is accepted, an Appeal Panel comprising of different persons to that of the original investigation, will be convened to rehear the complaint. The Appeal Procedure for the conduct of the Appeal Hearing shall be followed for the appeal i.e. the Appeal and persons appearing before it are bound by the same procedures under this procedure as if the Appeal was an investigation hearing a matter at first instance.
7. An Appeal Panel shall have the power to:
  - dismiss the appeal;
  - uphold the appeal;
  - impose any of the penalties set out in the procedure;
  - reduce, increase or otherwise vary any penalty imposed by the initial hearings investigation;
  - conduct the hearing at their discretion as a complete re-hearing or to limit the hearing to consideration of the ground(s) of appeal relied upon by the Appellant under Clause 1 of the Appeal procedure.



The Chair of the Appeal Panel may invite any witness/es to the hearing it believes are required to make an informed decision in such manner as it thinks fit.

8. The Appeal Panel is not obliged to give oral or written reasons for a decision.
9. At the conclusion of the appeal, the Chairperson of the Appeal Panel shall ensure that the Appellant is correctly informed of the determinations of the Appeal Panel. The Chairperson shall also notify the President or nominated representative of the decision of the Appeal Panel and provide to LSC all minutes and written records relating to the hearing, for record keeping purposes.
10. The decision of the Appeal Panel will be final and binding.
11. LSC will keep Hearing and Appeal Panel records for a period of 12 months.