



Victorian Equal Opportunity
& Human Rights Commission

VICSPORT



RACISM IS AGAINST THE RULES

A GUIDE FOR SPORTING CLUBS
AND ORGANISATIONS



Everyone should be able to get involved, keep fit and have fun playing sport.¹ Sporting clubs, organisations and their staff have an obligation to make sure everyone involved in sport is treated with respect and equality, and that everyone feels safe regardless of their race.

Safe, inclusive and fair sporting clubs and organisations enrich the experience of playing sport and help to attract talent.

Racial discrimination and racial vilification are against the law. It is important that when discrimination or vilification occurs, sporting clubs and organisations respond appropriately to resolve the issue and prevent it from happening again.

This brochure deals with racial discrimination and vilification in sport. The law also protects people from other forms of discrimination and in other areas of public life, such as at work or in school. It is also against the law to vilify someone because of their religious belief or activity. Please contact the Commission (see back page for contact details) for more information about other forms of discrimination and religious vilification.

¹ The terms 'sport' and 'sporting activities' have been interpreted broadly in legal cases. Such activities may also include games or pastimes where physical athleticism is not a factor – such as chess or debating.



Racial discrimination and vilification in sport

In Victoria, the *Equal Opportunity Act 2010* provides protection from discrimination, including on the basis of a person's race.² The *Racial and Religious Tolerance Act 2001* also provides protection from racial vilification.

Sporting players or people who are part of a sports team, such as coaches or volunteers are protected under the law. They also have obligations not to discriminate or vilify others in sport.

Race discrimination means treating someone unfavourably, or proposing to treat someone unfavourably, because of their race.

Race means a person's colour, descent, nationality, ancestry, ethnic background or any attribute associated with a particular race.³ This definition includes Aboriginal and Torres Strait Islander people.

It is also against the law for clubs to discriminate against applicants for club membership, for example by refusing a membership application or by deciding who should be offered membership on the basis of race.⁴

Discrimination can also take place if an unreasonable policy or practice is applied that disadvantages someone because of their race.

The Equal Opportunity Act covers playing, coaching, umpiring, refereeing and participating in the administration of a sporting activity (such as through a management committee). It also operates in a number of other areas that can be relevant to sport, such as club membership, employment and the provision of goods and services.

'Services' is defined under the Act to include the provision of recreation, refreshment or entertainment services.⁵ The provision of sporting facilities, as well as access to sporting teams and competitions can be considered to be provision of services.

For example, it may be unlawful for a sporting body to refuse to provide the same range of sporting equipment to a team with players from a particular racial background. It may also be unlawful not to offer the same competition or training opportunities to that team.

Discrimination may take place where a person, because of their race, is:

- not selected in a sporting team or for a particular position or role
- excluded from participating in a sport or competition, including coaching, umpiring or sport administration
- refused a job they have applied for in a sporting club or organisation
- denied access to promotions, training or other employment benefits; dismissed; or subjected to any other detriment, in their employment in a sporting club or organisation
- refused access to a service, such as first aid, training, physiotherapy or food at a canteen.

² Further, under Victoria's Charter of Human Rights and Responsibilities public authorities have a duty to act compatibly with human rights and give proper consideration to human rights when making a decision. For example, government schools and leisure centres run by local councils are public authorities, and have obligations under the Charter. In addition to Victorian laws, there are also federal anti-discrimination laws which create similar obligations. You can find out more on the Australian Human Rights Commission website at humanrights.gov.au and the Fair Work Commission website at fwc.gov.au.

³ *Equal Opportunity Act 2010* (Vic) s 4; *Racial and Religious Tolerance Act 2001* (Vic) s 3.

⁴ For clubs with a liquor licence, there may be additional obligations that apply. See *Equal Opportunity Act 2010* (Vic) ss 64, 69.

⁵ *Equal Opportunity Act 2010* (Vic) s 4.

THE LAW ON RACIAL VILIFICATION IN SPORT

The *Racial and Religious Tolerance Act 2001* makes it against the law to vilify a person or a group of people on the basis of their race or religion. Racial vilification is behaviour that encourages others to hate, severely ridicule, have serious contempt for or feel revulsion towards a person or group of people because of their race.

It is also against the law to give permission to or help someone to vilify others.

Examples of behaviour in sport that could be seen as racial vilification include:

- a spectator who ridicules a player because of the player's race or skin colour
- a group of spectators who yell out comments that encourage violence against members of a team who belong to a particular race
- a coach who makes racist remarks to a player and encourages other team members to join in
- a team with players from a particular racial background are ridiculed on a public Facebook page, which also encourages people to graffiti their club.

EXAMPLE: RESPONDING TO RACIAL VILIFICATION

The Albion Heights Netball Club has heard racist taunts coming from a group of members at their home games, directed at players on other teams. The club and the netball league should take action by making it clear to spectators that racial vilification is not acceptable. This might mean by making announcements over a PA system, posting notices or removing offending spectators from the match.



WHAT SHOULD SPORTS CLUBS AND ORGANISATIONS DO IF SOMEONE REPORTS RACIAL DISCRIMINATION OR VILIFICATION?

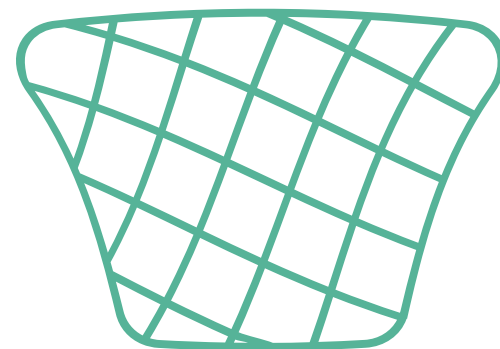
If a player or club member wishes to report racial discrimination or vilification, they should be able to go directly to the club or organisation.

Clubs and organisations can attempt to resolve the issue informally by:

- providing more information to the person complaining (for example, to clarify club policies and procedures)
- suggesting the person talks directly with the person being reported
- meeting with the person being complained about
- holding an informal meeting with those involved in the complaint.

Sporting clubs and organisations should:

- take all reports seriously and act promptly
- listen to both sides of the story
- treat people fairly (for example, not take sides and focus on the facts)
- keep everyone informed
- maintain confidentiality
- take disciplinary action appropriate to the breach of policy
- make sure the person complaining is not victimised.⁶



Victimisation is when a person is punished or threatened because they have asserted their rights, made a complaint or helped someone else make a complaint. Victimisation is against the law.

The Commission can provide sporting club and associations with advice on how to respond to reports of discrimination or vilification.

If a person doesn't wish to report directly to their club or sport organisation, if they feel their issue has not been resolved or they have been victimised, they may also contact the Commission.⁷

⁶ For more information, see playbytherules.net.au/complaints-handling.

⁷ Other formal options are: mediation; hearing and decision by a management committee or tribunal; and escalation to your state sporting or recreation organisation.

WHAT ARE THE RESPONSIBILITIES OF SPORTING CLUBS AND ORGANISATIONS?

The Equal Opportunity Act places a responsibility on sporting clubs and organisations to take reasonable and proportionate measures to eliminate discrimination and victimisation as far as possible, within reason. The duty includes taking proactive steps to prevent discrimination from happening. This is called the 'positive duty'.

It means instead of simply reacting to complaints of discrimination when they happen, organisations are required to take action to improve their systems, policies and practices to prevent it from occurring in the first place.

EXAMPLE: RESPONDING TO RACIAL DISCRIMINATION

Mark is an Aboriginal football player who has often been the subject of racial slurs from his coach. For example sometimes when there are family and cultural commitments, Mark can't attend training. His coach jokes in front of other players that Mark has 'gone walkabout' and later drops him from the team.

Mark raises this with the team manager, who arranges a meeting between Mark and his coach. With a greater understanding of Mark's cultural practices, the coach apologises and agrees to show more respect to all Aboriginal players in the team in future. Mark is also given back his position in the team.

The club decides to offer Aboriginal cultural awareness training for all staff, volunteers and coaches.



NEXT STEPS: DEVELOPING A POLICY TO REDUCE RACIAL DISCRIMINATION AND VILIFICATION

The steps taken to satisfy the 'positive duty' to reduce racial discrimination and vilification will be different for every sporting club and association. What is 'reasonable and proportionate' will depend on the size of the organisation and the resources available.

Every club or organisation, regardless of size, should take the following minimum steps to comply with the positive duty.

- ✓ Scan your club or organisation to identify any existing racial discrimination and vilification.
- ✓ Develop a 'reducing racism' policy that aims to stamp out racial discrimination and vilification. This policy should include proactive measures the club or organisation will take to achieve this.
- ✓ Ensure that all players, coaches, management and support staff are aware of the policy and are committed to reducing racism.
- ✓ Develop a fair, effective and confidential complaints process for players and staff, and ensure people know about it.
- ✓ Engage in regular training and education sessions, such as cultural awareness training.
- ✓ Check in regularly with people from diverse racial, ethnic and religious backgrounds to ensure they are not experiencing racial discrimination and respond promptly to any concerns raised.

LEVELLING THE PLAYING FIELD: SPECIAL MEASURES

Under the Equal Opportunity Act, sporting clubs and organisations are allowed to take positive steps to 'level the playing field' to assist people who may otherwise face discrimination. For example, a sports club might have a policy to recruit more Aboriginal people to their club. As a 'special measure', this does not amount to discrimination under the law.

A special measure must meet a number of criteria, including that it is:

- undertaken in good faith to promote or achieve substantive equality for members of the group
- a reasonable and proportionate way of achieving substantive equality
- justified because group members have a particular need for advancement or assistance.

EXAMPLE: SPECIAL MEASURE TO INCREASE INCLUSIVENESS IN SPORT

A basketball league has evidence of the underrepresentation of African people in junior basketball and wants to increase participation. The league decides to support the creation of an exclusively African team by promoting and funding a new team made up of exclusively African players. This allows for more African kids to participate that might not otherwise be confident or willing to play. This is a special measure and is not unlawful.

THE FAIR PLAY CODE

Everyone involved in sport in Victoria should abide by the Fair Play Code.⁸ The Code was developed by Sport and Recreation Victoria and states that 'people should refrain from any form of discrimination, harassment, bullying, abuse, child abuse, intimidation, vilification and victimisation of others'. If someone feels like another person has breached the Code, they may complain directly to their club or sporting organisation.

If they wish to take it further, they can make an enquiry with the Commission to find out if we can help to resolve the complaint.

HOW WE CAN HELP?

Players, their families and anyone participating in a sporting club or organisation are encouraged to contact the Commission for information or advice, or to make a complaint.

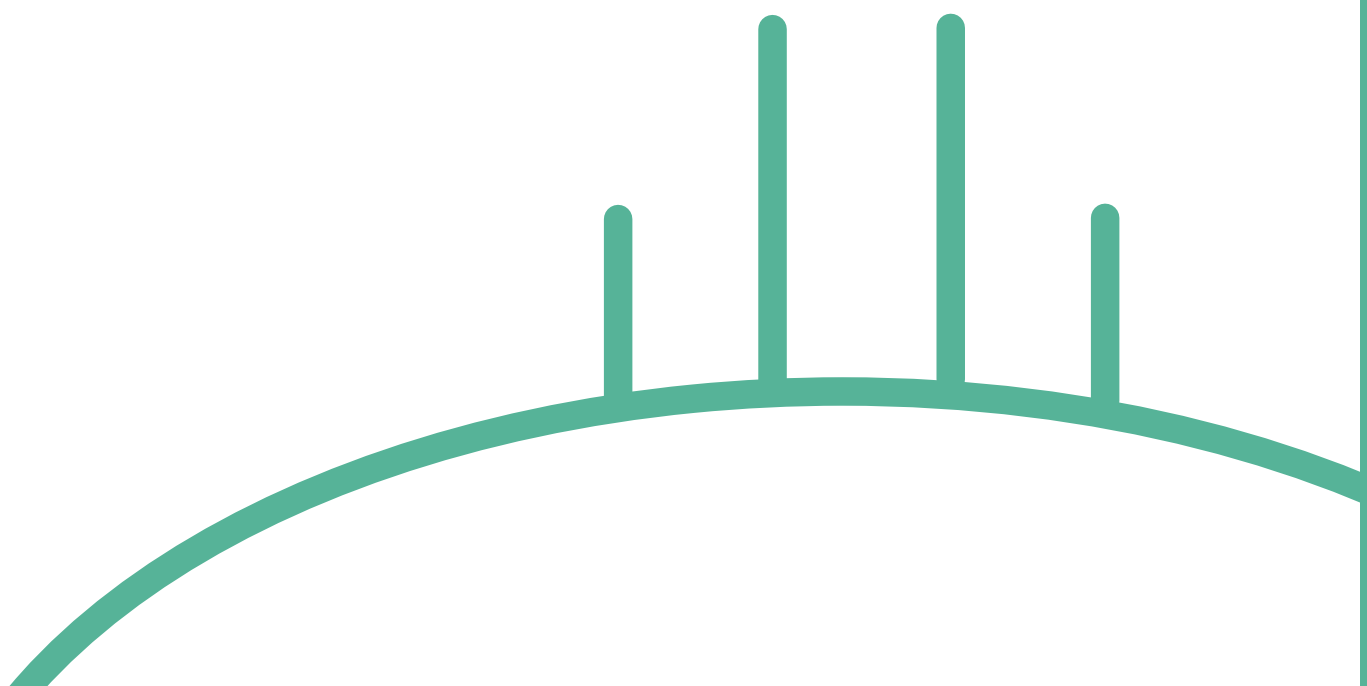
Sporting clubs and organisations can contact the Commission for information, advice or help in responding to complaints of discrimination or vilification.

The Commission offers a free, fair and timely dispute resolution service. Parties can participate in a voluntary conciliation to help them find a way to resolve the complaint and reach an agreement.

Complaints can be resolved in many different ways, for example by an apology, a change in policy, staff training or compensation. The Commission does not have the power to make orders or award compensation, but instead acts as an independent third party to assist the parties to negotiate an outcome.

The Commission also offers education, training and consultancy services to help service providers, employers and sporting clubs and organisations understand their rights and responsibilities. The Commission can also review policies and procedures for compliance with the Equal Opportunity Act.

⁸ For more information see: sport.vic.gov.au/publications-and-resources/community-sport-resources/fair-play-code



How we can help

You can contact the Victorian Equal Opportunity and Human Rights Commission to find out more information or advice, or to make a report or complaint.

Even if you don't want to make a complaint, we can help you. If you have questions about racial discrimination, vilification or victimisation, you can contact the Commission. We won't take any further action unless you ask us to.

Victorian Equal Opportunity and Human Rights Commission

1300 292 153 or (03) 9032 3583
enquiries@veohrc.vic.gov.au
humanrightscommission.vic.gov.au

For more information or to register in a course, visit humanrightscommission.vic.gov.au/training or call (03) 9032 3415.

Deaf, hearing or speech impaired? Contact the national relay service:
1800 555 660 or go to relayservice.com.au

More information

Vicsport

The peak body for sport and active recreation in Victoria.

vicsport.com.au

Sport and Recreation Victoria

Government authority dedicated to supporting Victoria's sport and recreation sector.

1300 650 172
sport.vic.gov.au

Play by the Rules

For more help to keep sport safe, fair and inclusive and tackle racism in sport visit playbytherules.net.au

Racism. It stops with me

National campaign to help the community respond to prejudice.

itstopswithme.humanrights.gov.au

This information is intended as a guide only. It is not a substitute for legal advice.

The Victorian Equal Opportunity and Human Rights Commission respectfully acknowledges and celebrates the Traditional Owners of the lands throughout Victoria and we pay our respects to their Elders, past and present.

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