

# **Complaints Handling & Dispute Resolution Policy**

**of**

**Little Athletics Association of  
Victoria Inc**

**Version 1.0**

**Registration Number: A0003260D**

**RELEASED: September 2022**

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## SECTION 1 – OVERVIEW

### 1.1 Context

- (a) This Policy has been developed utilising the Play By the Rules Member Protection Policy and Little Athletics Victoria ('LAVic') Constitution as guiding documents. These policies offer a thorough and fair process for hearing complaints and resolving disputes.
- (b) This policy replaces Regulation 16 Grievance Procedures.
- (c) This Complaints Handling & Dispute Resolution Policy is subject to endorsement by the board of Little Athletics Victoria noting that the LAVic board retains the ultimate authority to expel, suspend or fine members as per the LAVic Constitution (10.1)
- (d) The following parties are bound by the Policy:
- i. Affiliated Centres and their Clubs
  - ii. Region personnel
  - iii. Competitive Members (registered athletes)
  - iv. Parents/ Guardians of Competitive Members
  - v. Associate Members
  - vi. Honorary Members
  - vii. Volunteers
  - viii. Coaches
  - ix. Officials
  - x. Spectators
  - xi. Directors
  - xii. Employees
- (e) In all cases apart from where an exception is noted in this policy, the lowest level at which a matter can be dealt with shall always be the level to which the complaint should be directed. (e.g. if the complaint is at Club, Centre or Region level then the Club, Centre or Region should deal with the complaint in the first instance). If a complaint relates to behaviour or an incident that occurred at a State level or involves people operating at the State level, then the complaint should be reported or referred to LAVic and handled by them in the first instance.
- (f) Clubs and Centres in hearing complaints, resolving disputes and taking disciplinary procedures should follow the process as outlined in their Constitutions and any relevant by-laws.
- (g) Regions and LAVic in hearing complaints, resolving disputes and taking disciplinary procedures should follow the process as outlined in the LAVic Constitution and this Policy.
- (h) A complaint may be dealt with formally or informally. The complainant usually may indicate their preferred option which will be followed unless the matter has been referred to the LAVic Complaints Officer, CEO or other authorised person, and they consider that the complaint falls outside this Policy and would be better dealt with in another manner and/or the law requires the complaint/allegation be reported to an appropriate authority.

## 1.2 Actions Covered by the Complaints & Dispute Resolution Policy

- (a) Actions covered by this policy include:
- (i) Breaching the LAVic Code of Conduct that sets out the expected standards of behaviour for little athletes, coaches, officials, administrators, parents and spectators.
  - (ii) Bringing the sport, the Club, the Centre, the Region or LAVic into disrepute, or acting in a manner likely to bring the sport or the Club, the Centre, the Region or LAVic into disrepute.
  - (iii) Failing to follow the Club, Centre or LAVic's policies (including this Policy) and procedures for the protection, safety and well-being of children.
  - (iv) Discriminating against, harassing or bullying (including cyber-bullying) any person.
  - (v) Victimising another person for making or supporting a complaint.
  - (vi) Engaging in an inappropriate intimate relationship with a person that he or she supervises, or has influence, authority or power over.
  - (vii) Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within the sport.
  - (viii) Disclosing to any unauthorised person or organisation any of LAVic's information that is of a private, confidential or privileged nature.
  - (ix) Making a complaint that they know to be untrue, vexatious, malicious or improper.
  - (x) Failing to comply with a penalty imposed after a finding that the individual or organisation has breached this policy.
  - (xi) Failing to comply with a direction given to the individual or organisation as part of a disciplinary process.
  - (xii) Appointing or continuing to appoint a person to a role that involves working with children and young people when that individual is not permitted to work with children or young people.

## SECTION 2 – COMPLAINTS HANDLING PROCESS

### 2.1 Complaints handling process

- (a) LAVic aims to provide a simple procedure for complaints based on the principles of procedural fairness (natural justice).
- (b) Any person (a complainant) may report a complaint about a person/s or body (a respondent) bound by this Policy if they have been discriminated against, harassed, bullied or there has been any other breach of this policy as outlined at (1.2) Actions Covered by the Complaints & Dispute Resolution Policy.
- (c) A complaint should be reported to the Centre or Club Secretary, to the Region Secretary if the complaint occurred at a Region event, or to the LAVic Complaints Officer if the complaint occurred at a State Event.
- (d) All complaints will be dealt with promptly, seriously, sensitively and confidentially.
- (e) Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection, criminal or other relevant legislation.

## SECTION 3 – COMPLAINTS HANDLING PROCEDURE

### 3.1 Preamble

- (a) Is expected that all minors (under the age of 18 years) will be supported by their parents or legal guardians throughout the process of reporting and handling complaints and solving disputes.
- (b) All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint. Individuals and organisations may also pursue their complaint externally under anti-discrimination, child protection or other relevant legislation.
- (c) If a complainant wishes to remain anonymous, LAVic may have difficulty assisting in resolving the complaint. Procedural fairness (natural justice) means that LAVic is required to provide the person/people complained about with full details of the complaint so they have a fair chance to respond.

### 3.2 Informal complaints

- (a) **Step 1:**
  - (i) Talk with the other person (where this is reasonable, safe and appropriate).
  - (ii) In the first instance, you (the Complainant) should try to resolve the problem with the person or people involved (respondent) if you feel able to do so.
- (b) **Step 2:**
  - (i) Contact the Club/Centre/Region Secretary if the complaint is at Club/Centre/Region level or the LAVic Complaints Officer if at State level.
  - (ii) We encourage you to talk with the Centre or Region Member Protection Information Officer ('MPIO') or LAVic Complaints Officer (in the instance of State based complaints). If step 1 (above) is not appropriate, or you are not sure how to handle the problem by yourself, or to find out what options are available to address your concern or the concern continues after you approached the other person, the MPIO or LAVic Complaints Officer will:
    - (A) Ask how you would like your concern to be resolved and if you need support.
    - (B) Seek to provide different options for you to address your concern.
    - (C) Where possible and appropriate, maintain confidentiality.
- (c) **Step 3:**
  - (i) Decide how to address your concern. After completing step 2 you may decide:
    - (A) There is no problem.
    - (B) The problem is minor and you do not wish to take the matter forward.

- (C) To try and resolve the problem yourself, with or without a support person.
- (D) To resolve the problem with the help of someone impartial, such as a mediator.
- (E) To resolve the matter through a formal process.

### 3.3 Formal complaints

- (a) **Step 4: Making a Formal complaint.** If your complaint is not resolved or informal approaches are not appropriate or possible, you may:
  - (i) Make a formal complaint in writing to the Secretary of the Club, Centre or LAVic CEO.
  - (ii) Approach a relevant external agency, such as an anti-discrimination or equal opportunity commission for advice and assistance.
- (b) After receiving a formal complaint, and based on the material you provide, the Club or Centre will follow the process outlined in their Constitution and by-laws. In the case of Region or State based complaints the CEO will decide whether:
  - (i) He or she is the most appropriate person to receive and handle the complaint.
  - (ii) The nature and seriousness of the complaint requires a formal resolution procedure.
  - (iii) To refer the complaint to **mediation** (see Appendix 1).
  - (iv) To appoint a person to **investigate** the complaint (see Appendix 2).
  - (v) To refer the complaint to a **Tribunal** hearing (see Appendix 3).
  - (vi) To refer the matter to the police or other appropriate authority; and/or,
  - (vii) To implement any interim arrangements that will apply until the complaint process is completed.
- (c) In dealing with your formal complaint, the CEO will take into account:
  - (i) Whether he or she has had any personal involvement in the circumstances and if so, whether it is appropriate someone else should handle the complaint.
  - (ii) Your wishes, and the wishes of the respondent, regarding how the complaint should be handled.
  - (iii) The relationship between the CEO and the respondent (e.g. an actual or perceived power imbalance between you and the respondent).
  - (iv) Whether the facts of the complaint are in dispute; and,
  - (v) The urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.
- (d) If the CEO is the appropriate person to handle the complaint, he or she will, where appropriate and/or necessary:

- (i) Provide the information received from you to the other person(s) involved and ask for a response
- (ii) Decide if there is enough information to determine whether the matter alleged in your complaint did or did not occur; and/or
- (iii) Determine what, if any, further action to take, including referring the matter for investigation or disciplinary action in accordance with this policy.

### **3.4 Investigating the complaint**

- (a) In some cases, an investigation may be required to determine the facts surrounding the complaint. The investigations procedure is outlined in Appendix 2.
- (b) Following the investigation, a written report will be provided to the CEO:
  - (i) If the complaint is referred to mediation, we will follow the steps outlined (Appendix 1) or as agreed by you, the respondent and the mediator.
  - (ii) If the complaint is referred to a Tribunal hearing, the hearing will be conducted according to the steps outlined in Appendix 3.
  - (iii) 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.
- (c) 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 CEO for consideration.

### **3.5 Reconsidering a complaint or appealing a decision**

- (a) If the matter is referred to mediation and is not resolved at mediation, you may request that the CEO reconsider the complaint in accordance with this policy.



### 3.6 Documenting the resolution

- (a) In all matters the Club, Centre or the CEO 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 State level, the information will be stored by the State association.
- (b) If the matter is of a serious nature, or if it was dealt with at the national level, the information will be stored by LAA and a copy stored by the State Association.

### 3.7 Improper and Vexatious Complaints

- (a) LAVic aims to ensure its complaints procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process the CEO considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious or intended to cause distress to the person complained of, the complaint may be rejected and the matter may be referred to the Tribunal for review and appropriate action, including possible disciplinary action against the Complainant. This includes complaints at Club, Centre and Region level that are referred to the CEO on the basis that the Club, Centre or Region consider the complaint to be vexatious.
- (b) Clubs, Centres, Regions and LAVic will also take necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures may be imposed on anyone who harasses or victimises another person for making a complaint.

### 3.8 Disciplinary Measures

- (a) If an individual or organisation to which this Policy applies breaches this Policy, one or more forms of discipline may be imposed. These may include the following for individuals and organisations:
  - (i) **Individuals:** Subject to contractual and employment requirements, if a finding is made by the Tribunal that an individual has breached this Policy (including the Codes of Conduct) one or more of the following forms of discipline may be imposed by the Tribunal:
    - (A) A direction that the individual make a verbal and/or written apology
    - (B) A written warning
    - (C) A direction that the individual attend counselling to address their behaviour
    - (D) A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any activities or events held or sanctioned by LAVic.
    - (E) A demotion or transfer of the individual to another location, role or activity
    - (F) A suspension of the individual's membership or participation or engagement in a role or activity

- (G) A recommendation that LAVic terminate the individual's membership, appointment or engagement
  - (H) In the case of a coach or official, a recommendation that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently
  - (I) A fine.
- (ii) **Organisations:** If a finding is made by the Tribunal that LAVic, a Member Association or any body or affiliate of either has breached this Policy (including the Code of Conduct) one or more of the following forms of discipline may be imposed by the Tribunal:
- (A) A written warning.
  - (B) A direction that any funding granted or given to it by LAVic cease from a specified date.
  - (C) A recommendation to the national body and/or association that its membership of the national body or association be suspended or terminated in accordance with the relevant Constitution or rules.
  - (D) Any other form of discipline considered reasonable and appropriate.
  - (E) Any disciplinary measure imposed under this Policy must be read in conjunction with LAVic's Constitution and Regulations and must:
    - (1) observe and be applied consistently with any contractual and/or employment rules and requirements;
    - (2) conform to the principles of natural justice and be fair and reasonable;
    - (3) be based on the evidence and information presented and the seriousness of the breach; and
    - (4) be within the powers of the Tribunal to impose the disciplinary measure.

### 3.11 Factors to Consider

- (a) The form of discipline to be imposed on an individual or organisation will depend on factors such as:
  - (i) The nature and seriousness of the breach.
  - (ii) If the person knew, or should have known, that the behaviour was a breach of the policy.
  - (iii) The person's level of contrition.
  - (iv) The effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences.

- (v) If there have been any relevant prior warnings or disciplinary action.
- (vi) The ability to enforce disciplinary measures if the person is a parent or spectator (even if they are bound by the policy).
- (vii) Any other mitigating circumstances.

### 3.12 Withholding of Information

- (a) Respondent/s are expected to participate in an investigation or Tribunal proceeding 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 or the Tribunal, 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 Tribunal may impose a disciplinary measure as permitted under their authority.

### 3.13 Approaching External Organisations

- (a) If you feel that you have been harassed or discriminated against, you can seek advice from your State or territory 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.
- (b) The Commission may investigate your complaint. The Commission may also 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 Tribunal 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 our organisation will be available to support you during the process. You may also wish to have a legal representation, particularly if the complaint goes to a formal hearing.
- (c) Contact details for the:
  - (i) [Victorian Anti-Discrimination and Equal Opportunity Commission](#).
  - (ii) [Anti-Discrimination New South Wales](#)
  - (iii) <http://www.playbytherules.net.au/resources/quick-reference-guide>
- (d) Serious incidents, such as assault or sexual assault, should be reported to the police.

## SECTION 4 – APPENDICES

### Appendix 1: Mediation

- (a)** Mediation is a process during which people in conflict are helped to communicate with each other to identify the areas of dispute and to make decisions about resolving it. The following outlines the general procedure of mediation that will be followed by LAVic.
- (b)** If mediation is chosen, the LAVic Complaints Officer, under the direction of the LAVic and in consultation with the complainant and the respondent(s), will arrange for a mediator.
- (c)** The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
- (d)** The mediation will be conducted confidentially and without prejudice to the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
- (e)** At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached which will be signed by them as their agreement.
- (f)** If the complaint is not resolved by mediation, the complainant may:

  - (i)** Write to the CEO to reconsider the complaint in accordance with this policy.
  - (ii)** Approach an external agency such as an anti-discrimination commission.
- (g)** Mediation will not be recommended if:

  - (i)** The respondent has a completely different version of the events and will not deviate from these.
  - (ii)** The complainant or respondent are unwilling to attempt mediation.
  - (iii)** Due to the nature of the complaint, the relationship between the complainant and the respondent(s) or any other relevant factors, the complaint is not suitable for mediation.
  - (iv)** The matter involves proven serious allegations, regardless of the wishes of the complainant.

## Appendix 2: Investigation Process

- (a) If an investigation needs to be conducted to gather more information the following steps will be followed unless otherwise agreed:
  - (i) Little Athletics Victoria (LAVic) will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
    - (A) Interview the complainant and record the interview in writing.
    - (B) Convey full details of the complaint to the respondent (s) so that they can respond.
    - (C) Interview the respondent to allow them to answer the complaint, and record the interview in writing.
    - (D) Obtain statements from witnesses and other relevant evidence.
    - (E) Make a finding as to whether the complaint is:
      - 1. **substantiated** (there is sufficient evidence to support the complaint);
      - 2. **inconclusive** (there is insufficient evidence either way);
      - 3. **unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded);
      - 4. **mischievous**, vexatious or knowingly untrue.
    - (F) Provide a report to LAVic documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
  - (b) LAVic 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.
  - (c) The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser.
  - (d) The complainant and the respondent(s) may have the right to a hearing by a Tribunal in relation to any decision based on the investigation. (see Appendix 3).

## Appendix 3: Tribunal & Appeals

- (a)** The LAVic Board may from time to time establish a Tribunal to hear disputes, complaints or disciplinary matters.
- (b)** The LAVic Board will appoint the members of all Tribunals and will determine the terms of office and number of persons to serve on each Tribunal. The CEO on behalf of the Board may ask Members to submit nominations for persons to be appointed to these Tribunals, however the Board is not obliged to appoint any such nominee.
- (c)** No person appointed to a Tribunal may participate in any hearing before that Tribunal if the person could not reasonably be considered to be impartial by reason of his or her relationship with any party to the matter to be considered by the Tribunal.
- (d)** Except as otherwise provided in this policy the procedures of each Tribunal are as follows:
  - (i)** Each Tribunal:
    - (A)** Will provide any person whose interest will be directly and adversely affected by its decision a reasonable opportunity to be heard.
    - (B)** Will conduct a fair hearing.
    - (C)** Will hear and determine the matter before it in an unbiased manner.
    - (D)** Will inform the person before it of the charges against him or her.
    - (E)** Will hear the appeal giving due consideration to the Constitution and all relevant Regulations and Rules of LAVic.
    - (F)** Will make a decision that a reasonable body could honestly arrive at.
    - (G)** Will provide a reasoned decision in writing; and,
    - (H)** Is governed by the laws applicable in the State of Victoria (or other State as determined by the origin of events leading the complaint).
- (e)** Subject to the LAVic Constitution:
  - (i)** Any procedure or requirement regulating the function of a Tribunal is directory in nature and any decision of a Tribunal is not invalid by reason of that procedure or requirement not being fulfilled.
  - (ii)** Each Tribunal may regulate any proceedings brought before it in such manner as it thinks fit.
- (f)** Each matter before a Tribunal will deal with as a new hearing and the Tribunal will reach its own decision regarding the matter irrespective of any prior decision in respect of which appeal may be made.
- (g)** A hearing before a Tribunal will be:
  - (i)** Inquisitorial in nature.

- (ii)** Conducted with as little formality and technicality and with as much expedition as the proper consideration of the matter before it permits.
- (iii)** Decided according to the laws applicable in Victoria (or the State in which the events leading to the complaint took place).
- (iv)** Confidential.
- (h)** Each Tribunal is not bound by the rules of evidence or by practices and procedures applicable to courts of record but may inform itself as to any matter in such manner as it thinks fit.
- (i)** The applicant in any matter before a Tribunal has the right to present evidence, including the right to call and cross examine witnesses and bears the onus of showing that his, her or its application or appeal (as the case may be) should be decided in his, her or its favour.
- (j)** The standard of proof before all Tribunals is the balance of probabilities.
- (k)** All persons appearing before any Tribunal have the right to be represented however they may not be legally trained.
- (l)** A Tribunal may proceed to hear and determine a matter notwithstanding the failure of any party to attend a hearing.
- (m)** All parties to a hearing before a Tribunal will bear their own costs of and incidental to the hearing.
- (n)** Each Tribunal will give its decision as soon as practicable after the hearing of the matter.
- (o)** Any decisions or determinations of the Tribunal that involve an expulsion, suspension, or fine to an individual needs to be ratified by the LAVic Board (as per the LAVic Constitution).

## Appendix 4: Tribunal Appeals (as per the LAVic Constitution)

- (a)** If the Member wishes to appeal the decision of the Tribunal (as ratified by the LAVic Board) the Member must provide the LAVic CEO with a notice setting out that within 48 hours of the decision being received.
- (b)** Where the CEO receives such a notice, they shall notify the LAVic Board who shall convene a Special General Meeting.
- (c)** At that General Meeting:
  - (i)** No business other than the question of the appeal may be conducted.
  - (ii)** The Board may place before the meeting such details regarding the grounds for the resolution as it deems necessary.
  - (iii)** The Member (either personally or through a representative who shall not be legally trained) will be given an opportunity to be heard.
  - (iv)** The Members present and entitled to vote shall vote by secret ballot on the question whether the Board's resolution should be confirmed or revoked.
  - (v)** The Board's resolution shall be confirmed if two-thirds of the Members present and entitled to vote, vote in favour of the resolution.



**SECTION 5 - DOCUMENT HISTORY**

**5.1 VERSION CONTROL**

<b>Date</b>	<b>Version #</b>	<b>Action Taken / Updates</b>
September 2022	1.0	New document