



# HDCA Code of Conduct Procedures

## Contents

ARTICLE 1. SCOPE AND APPLICATION .....	2
ARTICLE 2. OFFENCES .....	2
2.1 Level 1 Offences:.....	2
2.2 Level 2 Offences: .....	3
2.3 Level 3 Offences:.....	4
2.4 Level 4 Offences:.....	5
ARTICLE 3. REPORTING AN ALLEGED OFFENCE .....	6
ARTICLE 4. NOTIFICATION PROCEDURE .....	7
ARTICLE 5. THE DISCIPLINARY PROCEDURE .....	8
General Principles of Procedure .....	9
ARTICLE 6. STANDARD OF PROOF AND EVIDENCE .....	11
ARTICLE 7. SANCTIONS ON REPORTED PERSONS.....	11
Prescribed Sanctions.....	12
ARTICLE 8. APPEALS.....	15
ARTICLE 9. CODE OF CONDUCT COMMISSIONER.....	16
ARTICLE 10. JUDICIARY .....	17



## ARTICLE 1. SCOPE AND APPLICATION

**1.1** All Players, umpires (officially appointed and club supplied), HDCA office bearers and representative coaches, club members and club officials (including coaches, managers, scorers, selectors and officebearers) are automatically bound by and required to comply with all of the provisions of the NSWCA By Laws Clause 4 - Code of Conduct.

The application of this Code of Conduct is such that it is incumbent on ALL players, coaches, officials, parents/guardians and volunteers to act in good faith in the best interests of Highlands Cricket over and above self-interest. This means that everyone covered by this Code needs to show respect for each other and the roles of office bearers during matches, organised meetings, functions and training gatherings.

Accordingly, by their participation, attendance or involvement in any way in the sport of cricket, such Players and others 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 Code of Conduct, including what behaviour constitutes an offence under the Code of Conduct;

**1.1.2** To submit to the exclusive jurisdiction of any Code of Conduct Commissioner or Judiciary (as the case may be) convened under the Code of Conduct to hear and determine charges brought pursuant to the Code of Conduct.

## ARTICLE 2. OFFENCES

### 2.1 Level 1 Offences:

**2.1.1** Abuse of cricket equipment or clothing, ground equipment or fixtures and fittings during a Match.

**NOTE:** Article 2.1.1 includes any action(s) outside the course of normal cricket actions, such as hitting or kicking the wickets and any action(s) that intentionally or negligently results in damage to the advertising boards, boundary fences, dressing room doors, mirrors, windows and other fixtures and fittings.

**2.1.2** Showing dissent at an Umpire's decision during a Match.

**NOTE:** Article 2.1.2 includes: (a) excessive, obvious or inappropriate disappointment with an Umpire's decision; (b) an obvious delay in resuming play or leaving the wicket; (c) shaking the head; (d) pointing or looking at the inside edge when given out lbw; (e) pointing to the pad or rubbing the shoulder when caught behind; (f) snatching the cap from the Umpire; (g) arguing or entering into a prolonged discussion with the Umpire about his or her decision.

**2.1.3** Using language or a gesture that is obscene, offensive or insulting during a Match.

**NOTE:** Article 2.1.3 includes: (a) audible or repetitious swearing; and (b) obscene gestures which are not directed at another person, such as swearing in frustration at one's own poor play or fortune. This offence is not intended to penalise trivial behaviour.

When assessing the seriousness of the breach, the Umpire shall be required to take into account the context of the particular situation and whether the words or gesture are likely to: (a) be regarded as obscene; (b) give offence; or (c) insult another person.

**2.1.4** Excessive appealing during a Match.

**NOTE:** For the purposes of Article 2.1.4, 'excessive' shall include: (a) repeated appealing of the same decision/appeal; (b) repeated appealing of different decisions/appeals when the bowler/fielder knows the batter is not out with the intention of



placing the Umpire under pressure; or (c) celebrating or assuming a dismissal before the decision has been given. It is not intended to prevent loud or enthusiastic appealing.

**2.1.5** Pointing or gesturing towards the pavilion by a bowler or other member of the fielding side upon the dismissal of a batsman during a Match.

**2.1.6** Where the facts of the alleged incident are not adequately or clearly covered by any of the above offences, conduct at any time that either: (a) is contrary to the spirit of the game; (b) is unbecoming of a representative or official; (c) is or could be harmful to the interests of cricket; or (d) does or could bring the game of cricket into disrepute

**NOTE:** Article 2.1.6 is intended to be a 'catch-all' provision to cover all types of misconduct of a serious nature that is not (and, because of its nature, cannot be) adequately covered by the specific offences set out elsewhere in this Code of Conduct.

- Article 2.2.8 includes but is not limited to:
  - On-Field » Any conduct that is considered 'unfair play' under Law 41 of the Laws of Cricket or against the spirit in which the game of cricket should be played; » Failure to comply with the provisions of the playing conditions for the relevant competition of which the relevant Match forms part; and/or (ii) Off-Field » Public acts of misconduct; » Unruly public behaviour;

## **2.2 Level 2 Offences:**

**2.2.1** Showing serious dissent at an Umpire's decision during a Match.

**NOTE:** Dissent, including the examples given in Article 2.1.2 above, will be classified as 'serious' when the conduct contains an element of anger or abuse that is directed at the Umpire or the Umpire's decision or where there is excessive delay in resuming play or leaving the wicket or where there is persistent reference to the incident over time. It shall not be a defence to any charge brought under this Article to show that the Umpire might have been wrong.

**2.2.2** Inappropriate and deliberate physical contact with Players, Umpires or other Persons, during a Match.

**NOTE:** Cricket is a non-contact sport and, as such, inappropriate physical contact of a serious nature will not be tolerated. Without limitation, Players will breach this regulation if they deliberately walk or run into or shoulder another Player. Accidental or genuinely unavoidable physical contact which occurs during the course of play shall not be considered an offence under this Article 2.2.2.

**2.2.3** Charging or advancing towards the Umpire in an aggressive manner when appealing during a Match.

**2.2.4** Deliberate and malicious distraction or obstruction of a Player or Umpire on the field of play during a Match.

**NOTE:** This regulation includes Players deliberately attempting to distract a striker by words or gestures or deliberately shepherding a batsman while running or attempting to run between the wickets.

**2.2.5** Throwing a ball (or any other item of cricket equipment such as a water bottle) at or near a Player, Umpire or any other third person in an inappropriate and/or dangerous manner during a Match.

**NOTE:** This regulation will not prohibit a fielder or bowler from returning the ball to the stumps in the normal fashion.

**2.2.6** Using language or gesture(s) that is seriously obscene, seriously offensive or of a seriously insulting nature to another Reported Person or any other third person during a Match.

**NOTE:** It is acknowledged that there will be verbal exchanges between Players in the course of play. Rather than seeking to eliminate these exchanges entirely, Umpires will be required to report such conduct that falls below an acceptable standard. This offence is not intended to penalise trivial behaviour. When assessing the seriousness of the breach, the Umpire shall be required to take into account the context of the particular situation and whether the words or gesture are likely to: (a) be



regarded as seriously obscene; or (b) give serious offence; or (c) seriously insult another person.

### **2.2.7** Changing the condition of the ball in breach of Law 41.3 of the Laws of Cricket.

**NOTE:** Any action(s) likely to alter the condition of the ball which were not specifically permitted under Law 41.3.2.1 -.3 may be regarded as 'unfair'. The following actions shall not be permitted (this list of actions is not exhaustive but included for illustrative purposes):

- (a) deliberately throwing the ball into the ground for the purpose of roughening it up;
- (b) applying any artificial substance to the ball; and applying any non-artificial substance for any purpose other than to polish the ball;
- (c) lifting or otherwise interfering with any of the seams of the ball;
- (d) Scratching the surface of the ball with finger or thumb nails or any implement.

The Umpires shall use their judgment to apply the principle that actions taken to maintain or enhance the condition of the ball, provided no artificial substances are used, shall be permitted. Any actions taken with the purpose of damaging the condition of the ball or accelerating the deterioration of the condition of the ball shall not be permitted.

### **2.2.8** Where the facts of the alleged incident are not adequately or clearly covered by any of the above offences, conduct at any time that either:

- (a) is contrary to the spirit of the game;
- (b) is unbecoming of a representative or official;
- (c) is or could be harmful to the interests of cricket; or
- (d) does or could bring the game of cricket into disrepute.

**NOTE:** Article 2.2.8 is intended to be a 'catch-all' provision to cover all types of misconduct of a serious nature that is not (and, because of its nature, cannot be) adequately covered by the specific offences set out elsewhere in this Code of Conduct.

Article 2.2.8 includes but is not limited to:

- (i) On-Field
  - » Any conduct that is considered 'unfair play' under Rule 41 of the Laws of Cricket or against the spirit in which the game of cricket should be played;
  - » Failure to comply with the provisions of the playing conditions for the relevant competition of which the relevant Match forms part; and/or
- (ii) Off-Field
  - » Public acts of misconduct;
  - » Unruly public behaviour; and/or

## **2.3 Level 3 Offences:**

**2.3.1** Intimidation or attempted intimidation of an Umpire, whether by language or behaviour (including gestures) during a Match.

**NOTE:** Includes appealing in an aggressive or threatening manner.

**2.3.2** Threat of assault on another Player, or any other person (including a spectator) during a Match.

**NOTE:** This offence is not intended to cover threats of assault against Umpires, which are prohibited under Article 2.4.1.

**2.3.3** Use language or gestures that offend, insult, humiliate, intimidate, threaten, disparage or vilify another person on the basis of that person's race, religion, gender, colour, descent, sexuality or national or ethnic origin.

**NOTE:** This offence is not intended to limit the operation of the NSWCA By Law Clause 4A - Racial and Religious Vilification



Code.

**2.3.4** Where the facts of the alleged incident are not adequately or clearly covered by any of the above offences, conduct at any time that either:

- (a) is contrary to the spirit of the game;
- (b) is unbecoming of a representative or official;
- (c) is or could be harmful to the interests of cricket; or
- (d) does or could bring the game of cricket into disrepute.

**NOTE:** Article 2.3.4 is intended to be a 'catch-all' provision to cover all types of misconduct of a very serious nature that is not (and, because of its nature, cannot be) adequately covered by the specific offences set out elsewhere in this Code of Conduct.

Article 2.3.4 includes but is not limited to:

(i) On-Field

- » Failure to comply with the provisions of the playing conditions for the relevant competition of which the relevant Match forms part; and/or
- » Any conduct that is considered 'unfair play' under Rule 41 of the Laws of Cricket or against the spirit in which the game of cricket should be played.

(ii) Off-Field

- » Serious or repeated public acts of misconduct;
- » Serious or repeated unruly public behaviour.

## **2.4 Level 4 Offences:**

**2.4.1** Threat of assault on an Umpire during a Match.

**2.4.2** Physical assault of another Player, Umpire, or any other person (including a spectator) during a Match.

**2.4.3** Any act of violence on the field of play during a Match.

**NOTE:** Cricket is a non-contact sport and, as such, inappropriate physical contact of a serious nature will not be tolerated.

**2.4.4** Use language or gestures that seriously offend, insult, humiliate, intimidate, threaten, disparage or vilify another person on the basis of that person's race, religion, gender, colour, descent, sexuality or national or ethnic origin.

**NOTE:** This offence is not intended to limit the operation of the NSWCA By Laws Clause 4A - Racial and Religious Vilification Code.

**2.4.5** Where the facts of the alleged incident are not adequately or clearly covered by any of the above offences, conduct at any time that either:

- (a) is contrary to the spirit of the game;
- (b) is unbecoming of a representative or official;
- (c) is or could be harmful to the interests of cricket; or
- (d) does or could bring the game of cricket into disrepute.

**NOTE:** Article 2.4.5 is intended to be a 'catch-all' provision to cover all types of misconduct of an extremely serious nature that is not (and, because of its nature, cannot be) adequately covered by the specific offences set out elsewhere in this Code of Conduct.

Article 2.4.5 includes but is not limited to:

(i) On-Field



- » Failure to comply with the provisions of the playing conditions for the relevant competition of which the relevant Match forms part; and/or
- » Any conduct that is considered 'unfair play' under Rule 41 of the Laws of Cricket or against the spirit in which the game of cricket should be played.

(ii) Off-Field

- » Extremely serious or repeated public acts of misconduct;
- » Extremely serious or repeated unruly public behaviour.

## ARTICLE 3. REPORTING AN ALLEGED OFFENCE

**3.1** Any one of the following individuals can report an alleged offence under the Code of Conduct by lodging a report in the manner described in Article 3.2, below (a **"Report"**):

**3.1.1** An Umpire who officiated in the Match during or in relation to which the alleged offence was committed;

**3.1.2** An Officer Bearer or appointed official of either of the two Cricket Clubs whose representative teams participated in the Match during or in relation to which the alleged offence was committed;

**3.1.3** Voting Board Members of the Governing Body

**3.2** All Reports must be completed on Form "Rep 1" (or such other form as may be made available for such purpose by the HDCA). All Reports must be signed and dated by the person lodging the Report.

**3.2.1** Where the Report is lodged by any of the individuals described in Articles 3.1.1 or 3.1.2 in relation to:

**3.2.1.1** an Offence that is alleged to have been committed on the field of play during a Match, then the Report must be lodged with the HDCA or their designee by 1800h the following Monday for a match played on a Saturday or Sunday and 1800h the following day for a midweek match. (Note – the Code of Commissioner has discretion to allow a report past this time due to extenuating circumstances. See Clause 9.3.3).

**3.2.2** Where the Report is lodged by any of the individuals described in Article 3.1.3:

**3.2.2.1** a Level 2 Offence that is alleged to have been committed at any time or place other than on the field of play during a Match, then the Report must be lodged with the Code of Conduct Commissioner by 1800h the following Monday for a match played on a Saturday or Sunday and 1800h the following day for a midweek match; or

**3.2.2.2** a Level 3 Offence or a Level 4 Offence that is alleged to have been committed at any time or place (whether on the field of play during a Match or otherwise), then the Report must be lodged with the Code of Conduct Commissioner by 1800h the following Monday for a match played on a Saturday or Sunday and 1800h the following day for a midweek match.

**3.3** Where it is alleged that a Reported Person has committed more than one offence under the Code of Conduct (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 that are alleged to have been committed.



## **ARTICLE 4. NOTIFICATION PROCEDURE**

### **Level 1 Offences and Level 2 Offences (except 2.2.8 – “off-field”)**

**4.1** Where a Report lodged under Article 3.2.1.1, the Umpire or Club designee must promptly provide a copy of the Report, to the following individuals:

**4.1.1** The Governing Body’s appointed Commissioner, and

**4.1.2** the secretary of the local Umpires’ Association, and

**4.2** The Code of Conduct Commissioner may choose to deal only with the Reported Person’s Club and need not make direct contact with the Reported Person. Any information provided by that Club in respect of the Reported Person is binding on the Reported Person. It is the Reported Person’s Club that is responsible for passing on all information to the Reported Person. The Commissioner must attempt to notify the Reported Person’s Club as per 4.7. The Reported Person has three (3) options;

**4.2.1** he/she may admit the offence as reported and proposed sanction by the Commissioner. In which case a Judiciary hearing is not required.

**4.2.2** he/she may admit the offence as reported but challenge the proposed sanction by the Commissioner. In which case a Judiciary hearing shall only be required to determination any sanction that may be imposed.

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

### **Level 2.2.8 (“Off-Field” only) Offences, Level 3 Offences and Level 4 Offences:**

**4.3** Where the Code of Conduct Commissioner receives a Report lodged under Articles 3.2.1.2, 3.2.2.1, 3.2.2.2, 3.2.2.3 or 3.2.3, he / she must promptly conduct a review to determine whether the Reported Person named in the Report has a case to answer in relation to the specific type and/or level of offence identified in the Report.

**4.4** If the initial review of the Report reveals that there is no case to answer in relation to the specific type and/or level of offence, then the Code of Conduct Commissioner shall notify the Reported Person’s Club and local Umpires’ Association, who will inform the person who filed the Report of that fact, advising them of the reasons that such a determination has been made and, where applicable, providing guidance on which specific type and level of offence considers to be appropriate.

**4.5** If the initial review of the Report reveals that there is a case to answer, or a revised Report is lodged pursuant to Article 4.4, then the Commissioner shall promptly provide a copy of the Report, to the following individuals:

**4.5.1** the Reported Person named in the Report (via the Club if appropriate); and

**4.5.2** The Club or Representative Body of the relevant Reported Person named in the Report; and

**4.5.3** The Chair of the Association to which the relevant Reported Person is affiliated.

**4.6** The Notice of Charge shall specify that the Reported Person shall have the following options:

**4.6.1** he/she may admit the offence charged in the Notice of Charge. In such circumstances, and provided that such admission has been received by the Code of Conduct Commissioner prior to the commencement of the hearing at the time/place specified in the Notice of Charge, the hearing before the Judiciary shall only be required to for the



determination of any sanction that may be imposed.

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

#### **4.7 Timelines**

**4.7.1** Reports are to be received by the HDCA or their designee or Code of Conduct Commissioner as per 3.2:

- 1800h the following Monday for a Saturday or Sunday match;
- 1800h the following business day for a midweek match

**4.7.2** The Commissioner is to advise the applicable Club by:

- 1800h Tuesday subsequent to the match for a Saturday or Sunday match;
- 1800h two (2) business days subsequent to a midweek match

**4.7.3** The Club is to reply to the Commissioner by:

- 1800h Wednesday subsequent to the match for a Saturday or Sunday match
- 1800h three (3) business days subsequent to a midweek match

**NOTE:** Should the player or players club not respond to the Commissioner by the prescribed time, this will automatically enter a guilty plea and the maximum sanction will apply.

**4.7.4** If the reported person wishes to deny the charge the Judiciary will convene on:

- 1800h Thursday subsequent to the match for a Saturday or Sunday match
- 1800h four (4) business days subsequent to a midweek match

**4.7.5** The exception being the Judiciary will convene and render a decision prior to the next round be played

## **ARTICLE 5. THE DISCIPLINARY PROCEDURE**

### **Level 1 Offences and Level 2 Offences (except 2.2.8 – “Off-Field”):**

**5.1** Where a matter proceeds to a hearing under Article 4.2.2 or 4.2.3, then the case shall be referred to the Judiciary for adjudication in accordance with the following procedure:

**5.1.1** Subject to the discretion of the Judiciary, the hearing will take place at the time and date specified (which should be held as soon as practicable, after the receipt by the Reported Person of the Report – ideally within 7 business days after the Commissioner has received the report back.)

**5.1.2** The procedure followed at the hearing shall be at the discretion of the Judiciary, provided that the hearing is conducted in a manner which offers the Reported Person a fair and reasonable opportunity to present evidence (including the right to call and to question witnesses where necessary), address the Judiciary and present his/her case. Except to the extent specifically set out in Article 5 the Judiciary:

- (a) will conduct the hearing:
  - (i) in private unless the Judiciary agrees otherwise;
  - (ii) in all other respects as the Judiciary determines;
  - (iii) with as little formality and technicality; and
  - (iv) as quickly, as proper consideration of the Report permits.

**5.1.3** Unless exceptional circumstances apply, each of the following individuals must attend any hearing before the Judiciary:

- (a) the Reported Person who has been charged with the alleged offence; and
- (b) the Reporting Person who lodged the Report.

Where any such individual has a compelling justification for his/her nonattendance that is accepted by the Judiciary



in their absolute discretion, then they shall be given the opportunity to participate in the hearing before the Judiciary by telephone (if available). Without prejudice to the Reported Person'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 5.1.5, one of the Team Captain, Team Vice-Captain or Team Manager of the team that the Reported Person represents may also attend such a hearing to provide additional support and assistance to the Player or Other Person. However, as this is community cricket, such support person or representative is NOT to be a legal representative.

**5.1.3(c)** The reporting person may request to have a private meeting with the Judiciary prior to the Hearing. The intent for this request is to provide clarity of any written statement provided.

**5.1.4** The non-attendance of any Reported Person or his/her representative at the hearing shall not prevent the Judiciary from proceeding with the hearing in his/her absence and issuing a ruling in relation to the offence charged.

**5.1.5** At the end of a hearing, where the Judiciary considers that further evidence is necessary or further time is required to consider the evidence that has been presented, they shall adjourn the hearing for an appropriate period of time and make such directions as may be necessary.

**5.1.6** Alternatively, at the end of a hearing:

**5.1.6.1** brought under Article 4.2. as soon as possible after the conclusion of the hearing, the Judiciary will confirm the decision in writing, with reasons, setting out:

- (a) what sanctions, if any, are to be imposed (including any fine and/or period of suspension);
- (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.

**5.1.7** Notwithstanding 5.1.6, the Judiciary shall have the discretion to announce the substance of their decision prior to the issue of the written decision referred to in Article 5.1.6.

**5.1.8** A copy of the written decision will be provided to the Reported Person (via their Club or Representative Body) and the Chair of the Reported Person's Cricket Association.

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

**5.1.10** Notwithstanding anything else in the Code of Conduct, where a Reported Person is alleged to have committed a Level 2 Offence and wishes to have the offence with which they have been charged referred to a hearing (as would be permitted pursuant to Article 4.2.2) and the Reported Person or another Player or Other Person is alleged to have committed a Level 3 Offence or Level 4 Offence arising from the same incident or same set of facts, the Commissioner must refer the Level 2 Offence to the Judiciary for adjudication in accordance with Article 5.2 (but as a Level 2 Offence).

### **Level 2.2.8 ('Off-Field' only) Offences, Level 3 Offences and Level 4 Offences:**

**5.2** Where a matter proceeds to a hearing under Article 4.6.1 or 4.6.2, or where a matter is referred to the Judiciary by the Commissioner pursuant to Article 5.1.10, then the case shall be heard by the Governing Body appointed Judiciary.

## ***General Principles of Procedure***

**5.3** Where a Report is filed by more than one of the individuals described in Article 3.2 in relation to the same alleged offence under the Code of Conduct, then the Reported Person alleged to have committed the offence will only be served with one—



Report in accordance with the procedures set out in Article 4. However, all persons who filed a Report in relation to the alleged offence are required to attend the hearing before the Judiciary 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).

**5.4** Where two or more Reported Persons are alleged to have committed offences under the Code of Conduct, 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 as follows:

**5.4.1** any number of Level 1 Offences and/or Level 2 Offences (except Level 2.2.8 – “Off Field”) can all be determined by a Judiciary at the same hearing; and

**5.4.2** any number of Level 2.2.8 (“Off-Field”) Offences, Level 3 Offences and/or Level 4 Offences can all be determined by the Judiciary; and

**5.4.3** a Level 1 Offence and/or Level 2 Offence (other than Level 2.2.8 – “Off Field”) cannot be determined at the same hearing as a Level 3 Offence or a Level 4 Offence (and vice versa) and separate proceedings should therefore be issued in relation to each alleged offence, unless the Level 2 Offence is referred to the Judiciary by a Commissioner pursuant to Article 5.1.10; but

**5.4.4** a Level 3 Offence or Level 4 Offence cannot be determined by a Judiciary at the same hearing as a Level 1 Offence or a Level 2 Offence, and separate proceedings should therefore be issued in relation to each alleged offence, unless the Level 2 Offence is referred to the Judiciary by a Commissioner pursuant to Article 5.1.10.

**5.5** Where a Reported Person is alleged to have committed more than one breach of the Code of Conduct during, or in relation to the same Match, then all of the alleged offences may be dealt with at the same hearing as follows:

**5.5.1** any number of Level 1 Offences and/or Level 2 Offences (except Level 2.2.8 – “Off Field”) can all be determined by a Judiciary at the same hearing; and

**5.5.2** any number of Level 2.2.8 (“Off-Field” only) Offences, Level 3 Offences and/or Level 4 Offences can all be determined by the Judiciary; and

**5.5.3** a Level 1 Offence or Level 2 Offence (other than Level 2.2.8 – “Off Field”) can be determined by the Judiciary or where required proceed to a Judiciary hearing as a Level 3 Offence or a Level 4 Offence; but

**5.5.4** a Level 3 Offence or Level 4 Offence cannot be determined by a Judiciary at the same hearing as a Level 1 Offence or a Level 2 Offence, and separate proceedings should therefore be issued in relation to each alleged offence, unless the Level 2 Offence is referred to the Judiciary by a Commissioner pursuant to Article 5.1.10.

**5.6** Any failure or refusal by any Reported Person to provide assistance to a Commissioner or Judiciary in connection with any charge made pursuant to this Code of Conduct may constitute a separate offence (depending upon the seriousness and context of such failure or refusal).

**5.7** Where a Judiciary member is, or becomes unwilling or unable to hear a Report, then the Code of Conduct Commissioner shall have the discretion to appoint another Judiciary member to hear the Report as the Association deems to be appropriate in all the circumstances.

**5.8** A Judiciary or Code of Conduct Commissioner (as the case may be) has an absolute discretion to waive compliance with any procedural requirement of this Code of Conduct 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 Code of Conduct shall be whether the Code of Conduct Commissioner or Judiciary is comfortably satisfied, bearing in mind the seriousness of the allegation that is made, that the alleged offence has been committed.

**6.2** The Code of Conduct Commissioner or Judiciary shall not be bound by judicial rules governing the admissibility of evidence. Instead, facts relating to an offence allegedly committed under the Code of Conduct may be established by any reliable means, including admissions.

**6.3** The Code of Conduct Commissioner or Judiciary may draw an inference adverse to the Reported Person who is asserted to have committed an offence under the Code of Conduct 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 Code of Conduct Commissioner or Judiciary) and/or to answer any relevant questions.

## ARTICLE 7. SANCTIONS ON REPORTED PERSONS

**7.1** Where a Code of Conduct Commissioner or Judiciary determines that an offence under the Code of Conduct has been committed, they will be required to impose an appropriate sanction on the Reported Person.

**7.2** In order to determine the sanction that is to be imposed in each case, the Code of Conduct Commissioner or Judiciary must first consider whether the Reported Person has previously been found guilty of any offences (but not necessarily under the same Article) of the Code of Conduct (or any predecessor regulations that may have applied) within a period of:

- (a) eighteen (18) months prior to the date on which the proven offence took place for previous offences committed **prior to** the 1<sup>st</sup> of August 2023
- (b) five (5) years prior to the date on which the proven offence took place for previous offences committed **after** the 1<sup>st</sup> of August 2023

**7.3** Once the Code of Conduct Commissioner or Judiciary has established whether this is a repeat offence within the relevant eighteen month period, then they shall go on to take into account any other factors that they deem relevant and appropriate to the mitigation or aggravation of the nature of the Code of Conduct offence before determining, in accordance with the table below, the appropriate sanction(s). Those factors may include:

1. The seriousness of the breach;
2. The harm caused by the breach to the interests of cricket;
3. The Player's or Other Person reported's seniority and standing in the game;
4. Any remorse shown by the Reported Person and the prospect of further breaches;
5. The prior record of the Reported Person in abiding by this Code of Conduct.



## ***Prescribed Sanctions***

<b>Level of Offence</b>	<b>Range of Permissible Sanctions (1<sup>st</sup> Offence)</b>	<b>Range of Permissible Sanctions (2<sup>nd</sup> Offence within 18 months / five (5) years as per 7.2</b>	<b>Range of Permissible Sanctions (3<sup>rd</sup> Offence within 18 months / five (5) years as per 7.2</b>	<b>Range of Permissible Sanctions (4<sup>th</sup> &amp; subsequent Offence within 18 months / five (5) years as per 7.2</b>
Level 1**	(a) Reprimand; Or (b) one (1) Match.	(a) Minimum (1) Match up to (2) Matches	The imposition of between two (2) and eight (8) Matches	The imposition of eight (8) Matches or a suspension for a fixed period of time ranging between the equivalent of eight (8) Matches and one (1) year.*
Level 2**	(a) Minimum (1) Match up to (2) Matches	The imposition of between two (2) and eight (8) Suspension Points.*	The imposition of eight (8) Suspension Points or a suspension for a fixed period of time ranging between the Equivalent of eight (8) Matches and one (1) year.*	The imposition of a Suspension of between one (1) and a lifetime
Level 3**	The imposition of between four (4) and eight (8) Matches. Time suspension alternative up to twelve (12) months	The imposition of eight (8) Matches or a Suspension for a fixed period of time ranging between the equivalent of eight (8) Suspension Points and one (1) year.*	The imposition of a suspension between one (1) year and a lifetime.	n/a
Level 4**	The imposition of eight (8) Matches or a suspension for a fixed period of time ranging between, at a minimum, the lesser of the equivalent of eight (8) Matches and one (1) year, up to a maximum of a lifetime's suspension.	The imposition of a suspension of between one (1) year and a lifetime	n/a	n/a



Level of Offence	Range of Permissible Sanctions (1 <sup>st</sup> Offence)	Range of Permissible Sanctions (2 <sup>nd</sup> Offence within 18 months / five (5) years as per 7.2	Range of Permissible Sanctions (3 <sup>rd</sup> Offence within 18 months / five (5) years as per 7.2	Range of Permissible Sanctions (4 <sup>th</sup> & subsequent Offence within 18 months / five (5) years as per 7.2
Any of offences 2.2.8, 2.3.4, 2.3.5 or 2.4.5	Any one or more of the following penalties: (a) the imposition of a suspension of between one (1) suspension Point up to a maximum of a lifetime's suspension; (b) banning the person from holding (or continuing to hold) any position within NSWCA or any of its affiliates or (c) direct that the person make reparation for damage caused by that person to any property; (d) require the person undergo counselling for a specified time; (e) require the person perform voluntary service to cricket or the community; and/or (f) reprimand the person	*** Same as for first offence	*** Same as for first offence	*** Same as for first offence



**NOTE:** In all cases marked with a \*, the maximum 'actual' period of suspension shall be no more than one (1) year, irrespective of the number and/or the practical application of any Playing Days that might be imposed.

\*\* Excludes Offences listed in 2.2.8, 2.3.4, 2.3.5 and 2.4.5.

\*\*\* For the purposes of ascertaining whether it is a second, third or fourth offence in 18 months, any of offences 2.2.8, 2.3.4, 2.3.5.

**7.4** Where a Code of Conduct Commissioner or Judiciary imposes a period of suspension on any Reported Person, 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 Matches.

**7.5** In addition to any penalty imposed under this Article, a reported person who is found guilty of a charge shall be ineligible for any individual, voted award (including but not limited to the senior first grade player of the year award).

**7.6** In addition to any ban imposed under this Article (and without limiting the Commissioner's or Judiciary's powers with respect to Level 2, Level 3 and Level 4 suspensions), the Commissioner or Judiciary may, if they deem appropriate, ban a Player from participation in any other cricket match or matches under the auspices of the Association for a specified period of time.

**7.7** Where a Reported Person has had Matches imposed against him/her or has been suspended for a fixed period of time (including a lifetime), he/she may not play, coach or otherwise participate or be involved in any capacity in any Matches which:

- (a) are covered by the application of his/her Matches as determined in accordance with Article 7.5; or
- (b) Take place during the fixed period of his/her suspension.

**NOTE:** For the avoidance of any doubt, a Reported Person who has had Matches imposed against him/her or has been suspended for a fixed period of time shall not, during the Matches which are covered or the period of suspension:

- (a) be nominated as, or carry out any of the duties or responsibilities of, a substitute fielder; or
- (b) enter any part of the playing area (which shall include, for the avoidance of doubt, the field of play and the area between the boundary and perimeter boards) at any time, including during any scheduled or unscheduled breaks in play.

Finally, any Reported Person so sanctioned shall not be prevented from attending any post-match ceremonies or presentations taking place anywhere on the field of play or otherwise following the conclusion of a Match covered or by the period of suspension unless the suspension has been imposed in respect of a Level 3 or Level 4 Offence under this Code of Conduct. In such circumstances, the Reported Person shall not be permitted to attend such ceremonies or presentations.

**7.8** Once any Matches or fixed period of suspension has expired, the Reported Person will automatically become re-eligible to participate in Matches.

**7.9** Suspended player(s) not to be replaced. No replacement player or substitute is allowed for any player who is suspended during the course of a match. However, a substitute fielder is permitted.

**7.10** Should a match not be played due to weather or other reason beyond the control of the Reported Person, the match shall still be counted as being served according to the sanction originally given.

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

**7.10.1** the Code of Conduct Commissioner or Judiciary will have no jurisdiction to adjust, reverse or amend the results of any Match;

**7.10.2** where a Player or other Person reported is found guilty of committing two separate Code of Conduct 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);



**7.10.3** where a Player or other Person reported is found guilty of committing two Code of Conduct offences in relation to the same incident or set of circumstances arising during a Match and sanctioned separately, then any sanctions imposed should run concurrently (and not cumulatively);

**7.10.4** nothing in this Code of Conduct shall permit plea bargaining in relation to any alleged offence committed under this Code of Conduct;

**7.10.5** where the Code of Conduct Commissioner or Judiciary finds a Player or other person reported not guilty of the offence allegedly committed under the Code of Conduct, then it remains open to them, at their absolute discretion, to find the Player or other Person reported guilty of an offence of a lower level than that with which he/she has been charged. For example, where a Player or Other Person reported has been charged with (but been found not guilty of) the Level 2 Offence of 'showing serious dissent at an Umpire's decision' (Article 2.2.1), the Judiciary may, instead, find the Player or other Person reported guilty of the Level 1 Offence of 'showing dissent at an Umpire's decision' (Article 2.1.3) and impose an appropriate sanction;

**7.10.6** where a fine and/or costs award is imposed against a Player or other Person reported, then such fine and/or costs award must be paid: (a) by the Player or Other Person reported (and not any other third party, including a Club or Association); (b) to the Governing Body Association within thirty (30) days of receipt of the decision imposing the fine. However, the Governing Body Association will consider any request from any Player or Other Person reported to make the payment of such fines and/or costs over a prolonged period of time solely in its absolute discretion and on the grounds of financial hardship. Should any fine and/or costs award (or agreed part-payment or instalment thereof) not be paid to the Governing Body Association within such deadline or by the time of the next agreed payment date, the Player or Other Person reported may not play, coach or otherwise participate or be involved in any capacity in any Match until such payment has been satisfied in full; and

**7.10.7** A Report may be withdrawn at any time before a hearing by the individual responsible for lodging the Report alleging a breach of the Code of Conduct.

## ARTICLE 8. APPEALS

### 8.1 Appeals from decisions in relation to a Commissioner referring a matter to the Judiciary

**8.1.1** Decisions made by the Commissioner to refer a matter straight to the Judiciary cannot be appealed against.

**8.2.2** Decisions made by the Judiciary are final and binding and are not subject to appeal. For the sake of clarity, a Judiciary finding cannot be appealed against to a higher Governing Body within CNSW, except on a point of Law.

### 8.2 No appeal in relation to an accepted sanction

For the avoidance of doubt, where a Reported Person admits the offence charged and accedes to the proposed sanction specified in the Notice of Charge in accordance with the procedure described in Articles 4.2.1 or 4.4.1, the Reported Person waives his/her right to any appeal against the imposition of such a sanction.



## **ARTICLE 9. CODE OF CONDUCT COMMISSIONER**

### **9.1 Appointment**

The Code of Conduct Commissioner ("Commissioner") is appointed by the HDCA (*currently Rodney Cavalier*). They shall also appoint an alternative Commissioner based on availability issues. The Commissioner and the alternative shall not be currently playing within the same Association or be a member of one of the Clubs within the Association.

### **9.2 Own enquiries**

The Commissioner may conduct their own preliminary investigations into each Report for the sole purposes of making initial decisions on whether or not the report should proceed or in determining a proposed sanction.

### **9.3 Powers**

In relation to each Report received by the Commissioner, they are able to;

9.3.1 Accept an early plea of guilt and acceptance of proposed sanction

9.3.2 Refer a Report straight to the Judiciary if the matter is sufficiently serious or for any reason they deem it appropriate

9.3.3 At their sole and absolute discretion, they may vary, amend or waive compliance with a procedural step (or timing) referred to in this Code if they take the view that non-compliance does not adversely affect the Reported Person.

### **9.4 Records**

The Commissioner must;

9.4.1 Retain a register of all Reports for a period of at least 3 years covering;

9.4.1.1 All Reports laid

9.4.1.1 All Reports and sanctions accepted by Reported persons

9.4.1.3 All Commissioner and Judiciary findings / decisions

9.4.2 Communicate with the Reported Person's Club or Body in relation to the Report, Judiciary timings and outcomes covering decisions and sanctions.

9.4.3 Provide the Judiciary with a copy of the Code of Conduct Register (covering previous Reports and decisions as per 9.4.1 above).



## **ARTICLE 10. JUDICIARY**

### **10.1 Appointment**

The Judiciary is appointed by the local Governing Body for cricket. The Judiciary will consist of between five (5) and seven (7) members, however, only three (3) need to be available to sit and preside at a hearing. At the hearing, one shall be chosen by the members present to chair the hearing.

If for whatever reason, the Judiciary cannot make a quorum, the Board of the HDCA reserve the right to appoint a Voting Member of the HDCA Board to the Judiciary in the interests of conducting the hearing within the prescribed timeline. For interests of neutrality, the Board members may not be a member of the reported person's Club, nor be in the same grade of the competition of the reported person.

### **10.2 Powers and functions**

The powers and functions of the Judiciary are contained within this Code. When conducting a hearing following a Report, the Judiciary may:

10.2.1 Reduce or increase the sanction after taking into account exception circumstances such as

10.2.1.1 the seriousness of the breach,

10.2.1.2 the harm caused to the interests of cricket, and

10.2.1.3 the Reported Person's seniority and standing in the game.

10.2.2 Decide and direct the Reported Person not to captain the team or hold a Club office position for a specified period of time or number of matches.

### **10.3 Hearings**

The Judiciary may convene via whatever practical means to facilitate the hearing. This includes, but not limited to, telephone, on-line provisions or in person. In person is the preferred method.



## ARTICLE 11. RESPONSIBILITY OF THE CAPTAIN

The MCC Law is: **Responsibility of captains**

The Captains are responsible at all times for ensuring that play is conducted within The Spirit of Cricket as well as within the Laws. See The Preamble – The Spirit of Cricket and Law 41.1 (Fair and unfair play – responsibility of captains) (Law 1.4).

- 11.1** If a player is charged with a Level 2, 3 or 4 offence, the Captain of the team on the day will automatically be reported with the next Level down of the offence. For example, if a player is reported under a Level 2 Offence, the Captain will be reported for Level 1 and so forth. The Captain will be liable to the sanctions as applicable to the level of the offence.
- 11.2** If a player from the same club / grade is reported for a level 1 Offence on more than one (1) occasion during the season, the Captain of the team on the day will be reported for Level 1 Offence. However, the reporting person has the discretion to report the Captain even if it is the first time for the season if they feel that the captain failed to exercise satisfactory control.

As a guide the Captain would be reported under the following:

- (a) is contrary to the spirit of the game;
- (b) is unbecoming of a captain;
- (c) is or could be harmful to the interests of cricket; or
- (d) does or could bring the game of cricket into disrepute.