



**White Hills Bowls Club Inc. (WHBC)**

**Regulation #3**

**Mediation Policy**





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**Glossary / Definitions**

Term	Definition
<i>"Abuse towards umpire"</i>	The abuse can be <u>verbal abuse</u> (such as <u>name calling</u> ), or <u>physical abuse</u> (such as <u>punching</u> ). In the WHBC physical contact with an umpire is a reportable offence. The use of minor indecent language or threatening behaviour are reportable offences in the WHBC. Abuse in general terms would be acts akin to alleging the umpire is cheating, that he has accepted a bribe or anything that impinges upon the character of the umpire. The actual abuse does not necessarily need to be heard by the umpire but would require another person to refer the incident to the CAO at the WHBC.
<i>"Balance of Probabilities"</i>	"One party's case needs only be more probable than the other. The corollary of this is the rare occurrence when the evidence is evenly balanced. In that case, victory goes to the defendant as the burden of proof is with the plaintiff, who initiates legal proceedings"
<i>"Board of Management"</i>	The elected officials that are to govern the White Hills Bowls Club Inc.
<i>"Bring the game of bowls into disrepute"</i>	A Participant shall at all times act in the best interests of the <b>game</b> and shall not act in any manner which is improper or <b>brings the game into disrepute</b> or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour." By way of example a current player convicted of a drug offence and it is known that he plays bowls could bring the game into disrepute. An administrator of a bowls club could be held to bring the game of bowls into disrepute if found to have stolen from the bowls club or others associated with bowls. A coach of a bowls side is convicted of Family Violence.
<i>"Complaints Administration Officer (CAO)"</i>	The official selected by the WHBC Board of Management to manage all complaints
<i>"Disrespectful behaviour"</i>	To disrespect someone is to act in an insulting way toward them. When you disrespect people, you think very little of them. Disrespect is all about not showing respect. It's about showing the opposite of respect, by acting rude, impolite, and offensive.
<i>"Egregious misconduct"</i>	Egregious meaning outstandingly bad, shocking in nature and Misconduct meaning unacceptable or improper behaviour. Example - a player is reported for using threatening language, the player before departing escalates incident by using extreme indecent language and gestures and continues to make threats. Offence to be utilised along with minor, moderate and significant incidents that may have also been committed.
<i>"Intimidating Play"</i>	To frighten or scare an opponent during a game by action, deed or verbal interaction.
<i>"Malicious Game Play"</i>	In reference to throwing a "bowl" in such way that could have the possible effect of injuring another player or spectator. Any act that could be construed as dangerous and done with malicious intent.
<i>"Natural Justice"</i>	The key elements to natural justice are as follows: <ol style="list-style-type: none"> <li>1. That the person charged with the offence has the right to know what they have allegedly done. To comply with this obligation, it is necessary for not only the rule which has been breached to be quoted, but also the person is entitled to know the particulars of what they allegedly have done.</li> <li>2. The tribunal must not be biased. This is often where natural justice fails in that the tribunal is biased. Often some excuse is used to justify persons who have prejudged the matter sitting in the determination of the matter.</li> <li>3. The person is entitled to be heard in their own defence. A reasonable opportunity needs to be given to the person and where there is a reasonable explanation adjournment should be given to fully allow a person the opportunity to be heard.</li> </ol>

	<p>There are a couple of other issue which are not strictly principles of natural justice but lead to the provision of natural justice.</p> <ol style="list-style-type: none"> <li>1. The right of the person charged to receive all of the material which has been provided to the tribunal in sufficient time to enable them to consider the material to enable appropriate submissions to be made and potentially conflicting evidence to be provided.</li> <li>2. It is often considered that the right to be legally represented is a right of natural justice. That is not the case. Often rules of organisations in fact strictly prohibit the right to be legally represented before the tribunal. Tribunals should act fairly in that regard in all of the circumstances and consider the ability of the person to represent themselves, particularly in matter which has serious consequences. I think careful consideration needs to be given as to whether a person should be allowed to be represented by competent counsel.</li> <li>3. There is a requirement to reach a reasoned and unbiased decision. Unless the rules of the organisation provide, there is no strict obligation for the tribunal to provide reasons.</li> <li>4. The final matter is a requirement that if there are rights of appeal from the tribunal, that the respondent is notified of those appeal rights.</li> </ol>
"Sledging"	A term to describe the practice whereby some players seek to gain an advantage by insulting or verbally intimidating the opposing player. The purpose is to try to weaken the opponent's concentration, thereby causing them to make mistakes or underperform.
"Unsportsmanlike conduct"	Unsportsmanlike conduct (also called unsporting behaviour or ungentlemanly conduct or bad sportsmanship or poor sportsmanship) is a <u>foul</u> or offense that violates the sport's generally accepted rules of <u>sportsmanship</u> and participant conduct. Examples include <u>verbal abuse</u> or taunting of an opponent, an excessive celebration following a scoring play, or feigning injury.
"Vilification - Racial, Religious and Gender"	<p>Means a person must not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of their <b>race</b> by threatening or inciting other to threaten physical harm to the person, or members of the group, or to property of the person or members of the group.</p> <p>Behaviour that is likely to be racial, religious or gender vilification includes -</p> <ul style="list-style-type: none"> <li>• speaking about a person's race, religion or gender in a way that could make other people hate or ridicule them</li> <li>• publishing claims that a racial, religious or gender group is involved in serious crimes without any proof</li> <li>• repeated and serious spoken or physical abuse about the race, religion or gender of another person</li> <li>• encouraging violence against people who belong to a particular race, religion or gender also includes damaging their property</li> <li>• encouraging people to hate a racial or religious group using flyers, stickers, posters, a speech or publication, or using websites or email.</li> </ul> <p>Vilification is behaviour that incites hatred, serious contempt for, or revulsion or severe ridicule of a person or group of people because of their gender, ability, cultural background, religion and sexual orientation. The legal <b>definition</b> is conduct that 'incites hatred, serious contempt, revulsion or severe ridicule.</p>
"WHBC"	White Hills Bowls Club Inc.

### **Purpose of White Hills Bowls Club Mediation Regulation**

The purpose of this regulation is to formalise a process, adapted from *Bowls Victoria Membership Protection Policy, January 2011*, that best suits the membership of the White Hills Bowls Club in resolving disputes between members.

Mediation is a process by which people who are in conflict can be helped to communicate with each other about what is important for them and how to make decisions about resolving their dispute. Mediators provide a supportive atmosphere and method of talking to one another, to assist in sorting out the issues, coming up with acceptable solutions and making mutually satisfactory agreements. This attachment outlines the general procedure of mediation that will be followed by the WHBC.

1. The people involved in a formal complaint (complainant and respondent(s)) may work 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:
  - 2.1 After the complainant and respondent have had their chance to tell their version of events to the WHBC CAO on their own; and
  - 2.2 The CAO does not believe that any of the allegations warrant any form of disciplinary action - proven serious allegations will not be mediated, no matter what the complainant desires; and
  - 2.3 Mediation will appear to lead to mutual agreement (i.e. the versions given by the complainant and respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
3. Mediation will not be recommended if:
  - 3.1 The respondent has a completely different version of the events and they won't deviate from these;
  - 3.2 The complainant or respondent are unwilling to attempt mediation; or
  - 3.3 Due to the nature of the complaint, the relationship between you and the respondent(s) and any other relevant factors, the complaint is not suitable for mediation.
  - 3.4 The incident referred to, as part of the complaint, is of such a nature that the CAO believes a different path should be followed. Requesting the complainant to complete a WHBC Form #1 – Report Sheet
4. If mediation is chosen to try and resolve the complaint, the CAO will, under the direction of the WHBC Board of Management and in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.

5. The CAO will notify the respondent(s) that a formal complaint has been made, provide them with details of the complaint and notify them that the WHBC has decided to refer the matter to mediation to resolve the complaint.
6. 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.
7. 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.
8. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.
9. If the formal complaint is not resolved by mediation, the complainant may:
  - 9.1 Within 7 days of the mediation failing, write to the CAO who can reconsider the complaint in accordance with Step 5 and possibly follow another path in the complaint process; or
  - 9.2 Approach an external agency such as an anti-discrimination commission