



## MAKING A COMPLAINT UNDER THE CLUB CODE OF PRACTICE

### 1 BEFORE MAKING A COMPLAINT TO THE CODE AUTHORITY

- You must try to resolve the matter directly with the Club before submitting a complaint to the Code Authority. Most complaints are most quickly and easily dealt with at the club level.
- Some complaints are resolved with a simple phone call to the Club's management. Ask to speak to the person who deals with your type of complaint, tell them about your complaint, and ask if they can help.
- If your complaint is serious or you are not satisfied with the Club's initial response, you should send a letter to the Club's Chief Executive Officer asking that it be discussed with the Club's Board of Directors. The letter should outline your concerns and the outcome you are seeking. In most cases, your letter will need to be tabled at the next meeting of the Board, so you should allow reasonable time for the Club to respond – at least one month.
- You may be rightly upset or frustrated over your complaint however try to remain polite and constructive when dealing with the Club. A positive approach makes it more likely that you will get the outcome you seek, and avoids the situation worsening unnecessarily.
- If you have tried to resolve the matter directly with the Club and are dissatisfied with the outcome, then you can escalate the complaint to the Code Authority.
- Typically, the Code Authority will not consider a matter which is being dealt with by another body, so please advise the Code Authority if you have lodged a complaint with any other organisations (such as government agencies). You should also notify Code Authority staff if there are any relevant legal proceedings underway.

### 2 HOW DO I MAKE A COMPLAINT?

- Complaints under the Club Code of Practice must be in writing. You can lodge your complaint by completing the Code Breach Allegation Form.
- The Code Breach Allegation Form must be submitted to ClubsNSW by completing a webform.
- If you are unable to submit the webform, please contact ClubsNSW for further advice.
- The Code of Practice aims to resolve complaints in an efficient, economical and informal way, however typically the complaints process will take between 3 to 6 months (noting that the Code Authority only meets periodically), so please be patient as we work to resolve your complaint. We encourage complainants to make their complaint in their own words and we will contact you if we have any questions.

### 3 WHAT SHOULD I WRITE ON THE CODE BREACH ALLEGATION FORM?

#### Question 1

- When completing this section, you must specify one or more articles of the Code of Practice that you believe the Club has breached.
- If you do not identify a specific breach, your complaint cannot be formally considered.
- Please refer to Part B (pages 7-12) of the Code of Practice for a list of the relevant articles.
- Likewise, you may believe that the Club has also breached its own Constitution. While this may be included as part of your complaint, you must still also identify what part of the Code of Practice the Club has breached.
- The complaint process under the Code of Practice is not to be used a 'fishing expedition' and it is important that you do not reference articles without clear reasons as to why you say that it has been breached.

#### Question 2

- Clearly explain how the Club breached the Code of Practice. This is where you list the facts of your complaint.
- When you complete this section, please consider:
  - What happened? Describe the incident(s). When did it happen? Who was involved?
  - Do you have any evidence, such as letters or emails, Club newsletter or Annual Report, incident reports, photographs, to support your claim? You may wish to include copies.
  - Do you have a supporting witness? If so, you may wish to include a brief written statement from this person.
- Some complaints are complex. Using a timeline or a series of dot points may help you organise your information.
- Please include enough information to allow us to assess your complaint but take care to ensure information provided is relevant and concise. Any information that does not directly related to the breach allegation (including 'background information' or materials provided 'for information') will not be considered by the Code Administrator/Code Authority.
- The Code Authority cannot make determinations based on hearsay. If you provide evidence to support your complaint, this will increase your chances of a positive result.

#### Question 3

- As stated above, before lodging a Code of Practice complaint, you must attempt to resolve your concerns directly with the Club. Please outline what contact you have had with the Club so far concerning your complaint, and briefly summarise any response you have received.

- If you have sent and/or received correspondence to the Club about your complaint, it would be helpful to include a copy.

#### **Question 4**

- When completing this section, you must identify an outcome or action you would like to be taken.
- This helps us to work out what response would be acceptable to you. If you clearly specify what you want the Club to do to address your concerns, your complaint may be able to be resolved sooner.
- A list of possible recommendations that can be made by the Code Authority can be found at article 76 (page 15) of the Club Code of Practice. Please reference one or more the list of recommendations in answering this question.
- Please note that there are limits as to what the Code Authority can recommend. Any outcome or action that is not included in the list at article 76 is unable to be considered.
- The Code Authority does not have the power to issue fines or to pay compensation to a complainant. However, it can recommend that a Club provide compensation, if appropriate.
- The Code Authority does not have the power to overturn club elections, or to remove or terminate directors or staff. However, it can recommend that procedures be amended to prevent issues in future.
- In cases where a significant and serious breach may have occurred, the Code Authority may refer a matter to Liquor and Gaming NSW, the Australian Securities and Investments Commission, or relevant other enforcement agency for consideration.

#### **4 CONFIDENTIALITY**

- All materials that you submit will be forwarded to the Club, so that it can respond to the allegations against it. You should keep this in mind when completing the form and any other documents.
- If you have any concerns about confidentiality or privacy, please advise us when submitting your complaint.
- Unfortunately, anonymous complaints cannot be considered by the Code Authority.

## **5 WHAT HAPPENS ONCE I SUBMIT MY COMPLAINT?**

- After your complaint is received, it will be carefully reviewed by Code of Practice staff to determine what action is required. We may informally seek information from the Club and/or contact you for further details to help us assess your complaint.

### ***If we decide not to investigate your complaint:***

- The Code Administrator will advise you in writing that no breach of the Code has been identified, or that a breach may have occurred but that the matter has been satisfactorily resolved.
- We will explain why the Code Administrator has chosen not to take further action.
- In some cases, we may also provide additional information or advice to help resolve the concerns you have raised.

### ***If we decide to investigate your complaint:***

- The Code Administrator will advise you in writing that your complaint is under consideration. We may also seek further information from you.
- We will then contact the Club, provide it with a copy of your complaint, and request that the Club provide a written response.
- The Club is usually given one calendar month to respond to the complaint. This allows the complaint to be tabled with the Board of Directors, so that the Club may thoroughly review the allegations and give a suitably detailed response. Complainants are not entitled to receive a copy of the Club's response to their complaint.
- Sometimes the Club provides a solution or explanation which we believe equitably resolves the matter and should satisfy the complainant. In such cases we will notify the complainant that the matter appears to be resolved, and suggest that the matter may be closed.
- Otherwise, the complaint will be considered by the Code Authority at its next meeting.

## **6 WHAT IS THE CODE AUTHORITY?**

- The Code Authority is an independent panel of club industry experts who review and determine alleged breaches of the Club Code of Practice. The Code Authority meets approximately quarterly in order to consider complaints, and to monitor the overall operation of the Code of Practice.
- The complaint process is an administrative one. This means that the complainant and the Club submit all evidence and arguments in writing which is then assessed (by the papers on the balance of probabilities) by the Code Administrator and if relevant, the Code Authority. Neither party is required to, or has the right to appear before the Authority. The Code Administrator and Code Authority do not conduct site visits or interviews, nor do they perform any investigation into the matter to ascertain the veracity or otherwise of any evidence or arguments provided.

- The Code Authority does not have powers of subpoena. We may ask the Club to address certain points in a complaint or to provide a particular document. Most clubs comply with these requests. However, we cannot mandate that specific files or documents be provided or conduct a search or audit of the Club.

## **7 WHAT HAPPENS WHEN THE CODE AUTHORITY CONSIDERS MY COMPLAINT?**

- The Code Authority reviews all materials provided by both you and the Club. It also reviews relevant sections of the Club's Constitution.
- After consideration of these documents the Code Authority determines , on the balance of probabilities, whether or not the Club has breached the Code of Practice.

### ***If the Code Authority determines that the Club has not breached the Code of Practice:***

- We will write to both you and the Club to inform you of the decision and outline the reasons.
- In some cases, the Code Authority may find that the Club has not breached the Code of Practice but could have responded to the issue better or differently. The Authority may provide advice to the Club on ways to avoid problems in future.

### ***If the Code Authority determines that the Club has breached the Code of Practice:***

- The Authority may recommend that the Club take steps to remedy the breach. These may include:
  - **amending a decision** (for example, reversing a member's suspension or conducting a new disciplinary hearing);
  - **changing a rule or procedure, or other specific steps to prevent the breach occurring** in future (for example, conducting staff training in a particular area, enforcing a new policy, or making changes to the Constitution or by-laws);
  - **apologising** to the complainant.
- After the meeting, the Code Administrator notifies the Club of the Code Authority's determination and recommendations, and asks what action the Club intends to take. If the Club takes steps that are satisfactory to the Code Authority, the matter is considered closed.
- Clubs cannot be forced to comply with recommendations, but almost all do so.
- If clubs do not co-operate with the Code Authority or implement its recommendations, they may be named in the ClubsNSW Annual Report as having breached the Code; have their membership of ClubsNSW cancelled; and/or be referred to Liquor, Gaming NSW, and/or other government authorities.
- After seeking feedback from the Club, we contact the complainant. We will inform you of the outcome of the complaint, provide reasons for the Authority's determination, and (where appropriate) list the steps that the Club has agreed to take in response.
- In almost all instances, the Code of Practice complaint process achieves a satisfactory outcome for both parties. We aim to get a result that addresses the complainant's concerns and ensures that the Club is compliant with the Code in the future.

## 8 HOW LONG DOES THE COMPLAINT PROCESS TAKE?

- We work to respond to complaints as quickly as possible. You can generally expect us to contact you within 14 days of receiving your complaint. In some cases, a matter can be resolved to everyone's satisfaction within a few days of receiving the complaint.
- However, due to the meeting schedule of the Code Authority and the need for complaints to be submitted to club Boards of Directors for response, it may take longer for your matter to be determined and finalised. In some cases, this can take several months.

## 9 ENGAGING WITH THE CODE ADMINISTRATOR?

- If you wish to seek further information about how to submit a complaint, please consult this guide in the first instance. or if you cannot find the answer to your question in this guide, you can contact the Code Administrator at [codeadministrator@clubsnsw.com.au](mailto:codeadministrator@clubsnsw.com.au). Please be advised that, depending on the current caseload, the Code Administrator may not be able to respond to you straight away, but will endeavour to do so within 14 days.
- In order to ensure that your complaint can be processed orderly and efficiently please do not send additional information to the Code Administrator after you have lodged your claim via the online webform. Any additional information provided may, unless it has been specifically requested by the Code Administrator, not be considered in the Code Administrator/Code Authority's assessment of the complaint.
- When engaging with the Code Authority, please use the same courteous terms you would expect to receive in our reply to you. Offensive or abusive correspondence of any kind will not be tolerated; will not receive a response; and may result in any further assessment of your complaint being terminated.
- The fair, just and efficient resolution of complaints lodged under the Code of Practice is central to ensuring that the governance objectives under the Code of Practice are achieved. Therefore, if the Code Administrator reasonably considers that a complainant is abusing the Code of Practice process by engaging in frivolous, vexatious or disorderly conduct (including a pattern of complaints such that they could reasonably be considered a 'serial' complainant), then the Code Administrator may, on notice to the complainant, refuse to continue engaging with such complainants.