



QUEENSLAND
CRICKET

COMPLAINTS, DISPUTES & DISCIPLINE POLICY

COMPLAINTS, DISPUTES AND DISCIPLINE POLICY

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1. INTRODUCTION

- 1.1 The Complaints, Disputes and Discipline Policy (**Policy**) supports the QC Integrity Framework by ensuring that the process of receiving and dealing with Complaints, disputes or any subsequent investigation is managed in an efficient, consistent, fair and transparent manner by QC and all Cricket Organisations.
- 1.2 It is incumbent on the Cricket Participant to read and familiarise themselves with the key words defined in the QC Integrity Framework – Key Terms in order to fully understand the application of this Policy.

2. PROHIBITED CONDUCT

- 2.1 A Cricket Participant or Cricket Organisation is in breach of this Policy if it commits Prohibited Conduct as defined in the QC Integrity Framework – Key Terms. For the avoidance of doubt, a Cricket Participant or Cricket Organisation will also breach this Policy if they:
 - 2.1.1 fail to report any conduct, without reasonable excuse, which is reasonably likely to be Prohibited Conduct as soon as reasonably practicable after they become aware of it;
 - 2.1.2 deliberately or wilfully withhold information in relation to any conduct which is reasonably likely to be Prohibited Conduct;
 - 2.1.3 fail to provide further information or documentation as requested during the Complaints Process without reasonable excuse;
 - 2.1.4 fail to comply with a Breach Notice;
 - 2.1.5 knowingly provide any inaccurate and/or misleading information during the course of any Complaint Process under this Policy;
 - 2.1.6 fail to comply with obligations under this Policy to keep information confidential.
- 2.2 A Cricket Participant or Cricket Organisation will not be deemed to have breached this Policy if they fail to answer a question or provide information without reasonable excuse on the grounds that doing so could incriminate themselves in any criminal investigation.

- 2.3 QC may initiate disciplinary action in accordance with this Policy if it becomes aware of a potential breach of Section 2.1 of this Policy.

3. MAKING A COMPLAINT OR REPORT

- 3.1 This Policy sets out the processes for making a Complaint or Report; and the process to be followed in the assessment of such Complaint or Report.
- 3.2 The process for managing a Report will be at the discretion of QC Complaints Assessment Committee. In some circumstances, Reports may progress to be formally managed through the Complaints Process.
- 3.3 Factors that may be considered in determining whether to progress a Report through the Complaints Process include, but are not limited to:
- 3.3.1 the seriousness of the alleged conduct;
 - 3.3.2 the availability of evidence that could be relied upon in an investigation;
 - 3.3.3 whether a person or organisation has been directly affected by the alleged Prohibited Conduct;
 - 3.3.4 the perceived risk to the sport; and
 - 3.3.5 whether there have been other Reports relating to similar allegations.
- 3.4 If a Report is to progress through the Complaints Process, any reference to a Complaint throughout this Policy will apply to the Report.
- 3.5 A Report, other than a game day Report, may be made anonymously, however, this may limit the action that can be taken in relation to the allegations.
- 3.6 A Complaint or Report must be submitted to QC and may be referred to the Queensland Police Service where it relates to alleged Prohibited Conduct under the Safeguarding of Children and Young People Policy, or to criminal conduct.
- 3.7 Complaints relating to matters such as personal grievances, issues related to employment, governance, eligibility and selection disputes, and competition-related rules are not Prohibited Conduct and will not be managed by the Relevant Policies.
- 3.8 A Complaint or Report may be submitted to QC or a Cricket Organisation where it relates to any alleged Prohibited Conduct.

- 3.9 All Complaints and Reports must be in writing, which includes an electronic submission.
- 3.10 Time frames for making Complaints and Reports must be complied with. The time frames documented in the QC Code of Behaviour for game day related Reports applies to this Policy. Prohibited Conduct Complaints (non-game day) should be reported within 48 hours of the alleged Complainant becoming aware of the Prohibited Conduct.
- 3.11 All Complaints in relation to Safeguarding of Children and Young People Policy or any criminal conduct must be reported immediately on becoming aware or observing such conduct. If a person believes that a child or young person is in imminent risk of harm or immediate danger, that person must report the situation directly to the police, followed by immediate advice to QC or the Cricket Organisation in accordance with this Policy.

4. MANAGING COMPLAINTS OR REPORTS

- 4.1 Where a Complaint relates to alleged Prohibited Conduct, QC may delegate its functions and responsibilities relating to managing Complaints under this Policy to a Cricket Organisation. QC must consider any significant or perceived conflicts of interest, and whether it can be appropriately managed by that Cricket Organisation.
- 4.2 If the Complaint is delegated to a Cricket Organisation the following should occur:
- 4.2.1 the matter remains subject to overview and review by QC, who may require the Cricket Organisation managing the Complaint to remedy any failure to discharge a delegated responsibility and/or improper exercise of a delegated function;
 - 4.2.2 the Cricket Organisation managing the Complaint may appoint an independent investigator at its own cost and discretion where appropriate but will remain responsible for overall management of the Complaint; and
 - 4.2.3 the organisation must report the outcome of the Complaint to QC.
- 4.3 Any matter that relates to Prohibited Conduct of a more serious nature, must be referred to QC who will decide how the matter will be dealt with. Options are listed in the flow chart at Appendix 1.
- 4.4 Where a Complaint or Report relates to alleged Prohibited Conduct under the Safeguarding Children and Young People Policy, or any other criminal conduct, QC must refer that Complaint or Report to the relevant law enforcement authority

and/or Government Department (some matters, such as assault, will require consultation with the victim prior to making a police Complaint).

4.5 Withdrawing a Complaint

- 4.5.1 A Complaint submitted in accordance with this Policy cannot be withdrawn by the submitting party after it has been submitted, unless otherwise approved by QC or a Complaints Manager.

4.6 Confidentiality

- 4.6.1 QC or a Cricket Organisation involved in managing a Complaint or Report must use all reasonable endeavours to keep any information regarding the Complaint or Report confidential, subject to the principles of procedural fairness and natural justice.
- 4.6.2 QC or a Cricket Organisation may disclose information as required in reporting any reasonable suspicion of criminal conduct to relevant authorities or authorised by law.
- 4.6.3 QC or a Cricket Organisation may release information of a Complaint or Report publicly in considering the betterment of the game. In doing so, identifying information should be de-identified to the extent that it is possible.

4.7 Appointment of Complaints Manager

- 4.7.1 Each affiliate, zone and Premier Cricket club must appoint a Complaints Manager who will be responsible for managing the obligations mentioned earlier in this Policy (see Appendix 2). The Complaints Manager must have the ability to properly assess, manage, interpret and overview Complaints and Reports.

4.8 Vexatious Complaints

- 4.8.1 A Cricket Participant or Cricket Organisation must not knowingly submit a Complaint that is untrue, vexatious, or malicious. The submission of a vexatious Complaint may be considered Prohibited Conduct.

5. INVESTIGATIONS

- 5.1 As soon as practicable after QC receive a Complaint or Report through its “Report Something Portal” (as per the Complaints Assessment Committee Policy), an assessment of the allegations contained in the Complaint or Report must be

undertaken. Once the matter is assessed, the process as outlined in Appendix 1 is to be followed.

- 5.2 QC or the Cricket Organisation undertaking the investigation can use reasonable measures to establish the facts of the alleged breach of policy (including interviewing any complainant or report maker and taking witness statements).
- 5.3 QC or the Cricket Organisation must notify the Respondent and their Club of the investigation as soon as practicable.
- 5.4 In the conducting of an investigation, investigators must adhere to the principles of procedural fairness and natural justice including by allowing reasonable time for Complainants, witnesses and Respondents to be heard and to provide any necessary relevant particulars of the allegations and supporting material.
- 5.5 During the course of investigations, investigators should digitally record any interview and advise the Complainant, witnesses, or Respondent that such interview is being recorded. Recording of an interview will remove any doubt as to versions of events by the persons interviewed. Any recording should be made available to the person recorded, upon request.
- 5.6 The investigation of some breaches of this policy and other relevant policies may include matters of a sensitive nature including, but not limited to sexual harassment, or vilification. In these circumstances, investigators are expected to conduct a Trauma led investigation, which considers the welfare and state of mind of persons involved. Such investigation should provide persons involved with necessary support, information about processes and other considerations as needed.
- 5.7 At the conclusion of the investigation, the relevant investigator will complete a written investigation report and forward to the relevant Complaints Manager. A completed investigation report should clearly state the findings and recommendations of the investigator (a sample investigation report is attached as **Appendix 3**).
- 5.8 If, in the view of the Complaints Manager there is sufficient evidence to proceed with the Complaints Process, the matter can then be referred to a Conduct Commissioner for penalty determination. If QC have investigated the Complaint, they may refer the matter back to the relevant Cricket Organisation for resolution.

5.9 Where a Respondent has been found guilty of an offence amounting to Prohibited Conduct under this Policy or any other Relevant Policy, either by a Court, tribunal, or any other disciplinary body, then such Respondent will be deemed under this Policy to have committed Prohibited Conduct and no further investigation is required under this process. QC or the Cricket Organisation can proceed straight to a penalty against this Respondent.

5.10 **Standard of Proof**

5.10.1 The standard of proof that applies to all substantive decisions made under this Policy in respect of allegations of Prohibited Conduct is on the Balance of Probabilities.

5.11 **Co-operation with investigation**

5.11.1 All Cricket Participants and/or Cricket Organisations must co-operate with any Complaints Process and/or outcome they are involved in. A failure to do so may amount to Prohibited Conduct under this Policy.

5.11.2 A Respondent, the subject of an investigation under this Policy, and other persons relevant to an investigation must:

5.11.2.1 answer questions and provide statements truthfully during the investigation;

5.11.2.2 not make any false or misleading statement; and

5.11.2.3 comply with any reasonable request during the investigation.

5.11.3 A Respondent is permitted to have a support person present during any interview arising from the investigation. The support person is not permitted to answer questions but can request the interview be paused where necessary.

5.12 **Failure to Co-operate**

5.12.1 If a Respondent fails or refuses, without reasonable excuse, to:

5.12.1.1 respond after a request has been made in a reasonable time in advance;

5.12.1.2 answer any relevant question,

5.12.1.3 provide relevant documentation;

5.12.1.4 participate in a Complaints Process or recommended outcome

then QC, a Hearing Tribunal or an Appeals Tribunal (as applicable) may make findings based on the available information.

5.13 Investigations involving minors

5.13.1 Where a person involved in an investigation under this Policy is under the age of eighteen (18) years, then during the investigation that person must always be supported by: a parent/guardian, nominated adult or carer of the person.

5.13.2 The person supporting the minor must not be a Respondent or witness to the matter which is the subject of the investigation.

6. RESOLUTION PROCESS

6.1 Either QC or the Cricket Organisation responsible for managing the Complaint must implement an appropriate resolution process.

6.2 QC or the Cricket Organisation managing the Complaint is responsible for issuing a Breach Notice to the Respondent, applying and administering sanctions and any other necessary measures as it sees fit.

6.3 Where a Respondent admits the alleged breach and accepts the sanction or fails to respond to the Breach Notice within the time prescribed within the Breach Notice, the Complaint Manager may impose the sanction and proceed to finalise the Complaint.

6.4 Provisional Action

6.4.1 Where an allegation suggests a risk of harm to a Cricket Participant which justifies imposing Provisional Action, the organisation managing the Complaint will determine whether any Provisional Action will be

taken to mitigate any potential harm to any person and/or interference in an investigation.

6.4.2 Provisional Action may include suspension, supervision, restriction of duties, temporary re-deployment, suspension or restriction of rights, privileges or benefits.

6.4.3 If a decision is made to impose Provisional Action, a Respondent may seek to have that decision reviewed by a Hearing Tribunal. The Hearing Tribunal will only consider whether the decision to impose the Provisional Action is proportionate to the perceived risk of harm and will not consider the merits of the Complaint.

6.5 Notification to parties

6.5.1 The Complaints Manager responsible for managing the Complaint will overview the Complaint and if necessary, refer the matter to a Hearing Tribunal for any such further action it considers appropriate.

6.5.2 The relevant Complaints Manager will notify the parties of the outcome of the Complaint.

6.6 Sanctions

6.6.1 The organisation responsible for managing the Complaint may impose one or more sanctions on a Respondent where this is considered appropriate.

6.6.2 In deciding a suitable sanction, the organisation responsible for managing the Complaint may consider:

6.6.2.1 the seriousness of the behaviour;

6.6.2.2 whether it was a one-off incident or part of an overall pattern of behaviour;

6.6.2.3 whether it was an honest and reasonable mistake;

6.6.2.4 the potential impact on public confidence in the integrity of the sport;

6.6.2.5 the potential impact of the proposed sanction on the Respondent;

6.6.2.6 the views and opinion of the complainant; and

6.6.2.7 any other relevant aggravating or mitigating factors.

6.7 Alternative Dispute Resolution

6.7.1 The Complainant and the Respondent may agree to an Alternative Dispute Resolution. The Complaints Process may be suspended while Alternative Dispute Resolution is pursued. The Complaints Process may be discontinued if both parties are satisfied that the matter has been resolved.

6.7.2 Should Alternative Dispute Resolution fail, the matter is then to be referred back for investigation.

6.7.3 This process will be coordinated by QC or the relevant Cricket Organisations Complaint Manager, if required.

6.8 Breach Notice

6.8.1 If the allegations are found to be substantiated, the organisation responsible for managing the Complaint will issue a Breach Notice. Any Breach Notice issued by the organisation responsible for managing the Complaint, to a Respondent must:

6.8.1.1 notify the Respondent and their Club of the allegations found to be substantiated, including the alleged conduct;

6.8.1.2 state the proposed sanction, if any, for the substantiated allegations;

6.8.1.3 inform the Respondent they have a right to a hearing in relation to the allegations found to be substantiated and/or the proposed sanction;

6.8.1.4 inform the Respondent they may accept the findings, waive their right to a hearing and accept the proposed sanction;

6.8.1.5 inform the Respondent, if they do not respond in writing within 14 days of the date of the Breach Notice, they will be

deemed to have accepted the findings, waived their right to a hearing and accepted the proposed sanction, unless otherwise agreed by the organisation responsible for managing the Complaint;

6.8.1.6 inform that any response to the Breach Notice must be made to QC or the relevant organisation responsible for managing the Complaint and provide contact details of the Complaint Manager.

6.8.2 In response to a Breach Notice, a Respondent may:

6.8.2.1 accept the findings, waive their right to a hearing and accept the proposed sanction; or

6.8.2.2 dispute the findings and/or the proposed sanction, in which case the matter will be referred to a Hearing Tribunal under this Policy.

6.8.3 Unless otherwise agreed by QC or the Cricket Organisation responsible for managing the Complaint, a Respondent has 14 days from the date of the Breach Notice to notify the relevant Complaints Manager of their decision.

6.8.4 Notice given under clause 6.8.1 must be:

6.8.4.1 given in writing (whether by email or other means);

6.8.4.2 sent to the Complaints Manager at the address given on the Breach Notice; and

6.8.4.3 received within 14 days from the date of the Breach Notice.

6.8.5 If QC or the Cricket Organisation responsible for managing the Complaint does not receive notice under clause 6.8.1.5 within 14 days from the date of the Breach Notice, the Respondent will be deemed to have waived their right to appeal.

6.9 Referral to a Hearing Tribunal

6.9.1 If the Respondent disputes the substantiated allegations and/or the proposed sanction in the Breach Notice, the relevant Complaints Manager must refer the matter to a Hearing Tribunal.

6.10 Hearing Tribunals

- 6.10.1** Arrangements must be established to manage internal hearings and appeals.
- 6.10.2** The Hearing Tribunal will, as applicable:
 - 6.10.2.1** determine whether any Provisional Action imposed in accordance with clause 6.4 is disproportionate.
 - 6.10.2.2** if referred directly to the Hearing Tribunal under clause 6.9.1, the tribunal must determine whether a sanction should be imposed and if so, the nature of that sanction; or
 - 6.10.2.3** if referred to a hearing under clause 6.8 following an investigation, arbitrate the substantiated allegations and proposed sanction set out in the Breach Notice.
- 6.10.3** A Respondent may have a support person present during any Hearing Tribunal arising from the investigation. For the avoidance of doubt, any legal representative can only participate in the process on the same terms as a support person.

6.11 Appeals

- 6.11.1** A decision of a Hearing Tribunal in respect of:
 - 6.11.1.1** Provisional Action, is not subject to appeal;
 - 6.11.1.2** allegations referred directly to a Hearing Tribunal for a finding, is subject to appeal; and
 - 6.11.1.3** a substantiated allegations finding and/or sanction, is subject to appeal.
- 6.11.2** Appeals from internal Hearing Tribunal may be referred to an Appeals Tribunal. Grounds of appeal:
 - 6.11.2.1** the decision of a Hearing Tribunal can only be appealed by the Respondent and/or QC on the basis that:
 - 6.11.2.2** the Hearing Tribunal failed to abide by this policy or to properly apply the relevant policy and such failure resulted in a denial of natural justice; and/or
 - 6.11.2.3** no reasonable decision maker in the position of the Hearing Tribunal, based on the material before them, could reasonably make such a decision.

6.12 Implementation

- 6.12.1** It is the responsibility of QC or the Cricket Organisation responsible for managing the Complaint to ensure that appropriate sanctions are undertaken, and that the Relevant Policies are applied. QC is responsible for ensuring that Cricket Participants and Cricket Organisations are aware of the Relevant Policies and facilitate an understanding for how they apply to them. This may include relevant educational material that QC provides from time to time.
- 6.12.2** QC or the Cricket Organisation responsible for managing the Complaint will determine if a sanction should be publicly disclosed in order to give it full effect. This may be necessary for suspension or cancellation of membership or accreditation.
- 6.12.3** Ignorance of the Relevant Policies is not a defence, excuse or justification for Prohibited Conduct and will not be considered a mitigating circumstance.

6.13 Case closure

- 6.13.1** Complaints may be closed under this Policy at any of the following times:
 - 6.13.1.1** the Complaint is evaluated as being out of scope of this policy;
 - 6.13.1.2** no further action is taken and the Complaint is closed;
 - 6.13.1.3** during investigation of the Complaint, it becomes apparent that the Complaint no longer meets the eligibility requirements set out in the definition of what is a Complaint, in this Policy.
 - 6.13.1.4** the Complaint is resolved through Alternative Dispute Resolution in accordance with clause 6.7, or the Complaint was sought to be resolved through Alternative Dispute Resolution, but it was not resolved and the participants agree that the Complaint may be closed;
 - 6.13.1.5** following investigation, all allegations are found to be either unsubstantiated or unable to be substantiated and this outcome is supported by the relevant Complaints Manager;
 - 6.13.1.6** following investigation, the Respondent accepts or is deemed to have accepted the findings and any sanction imposed upon them; or

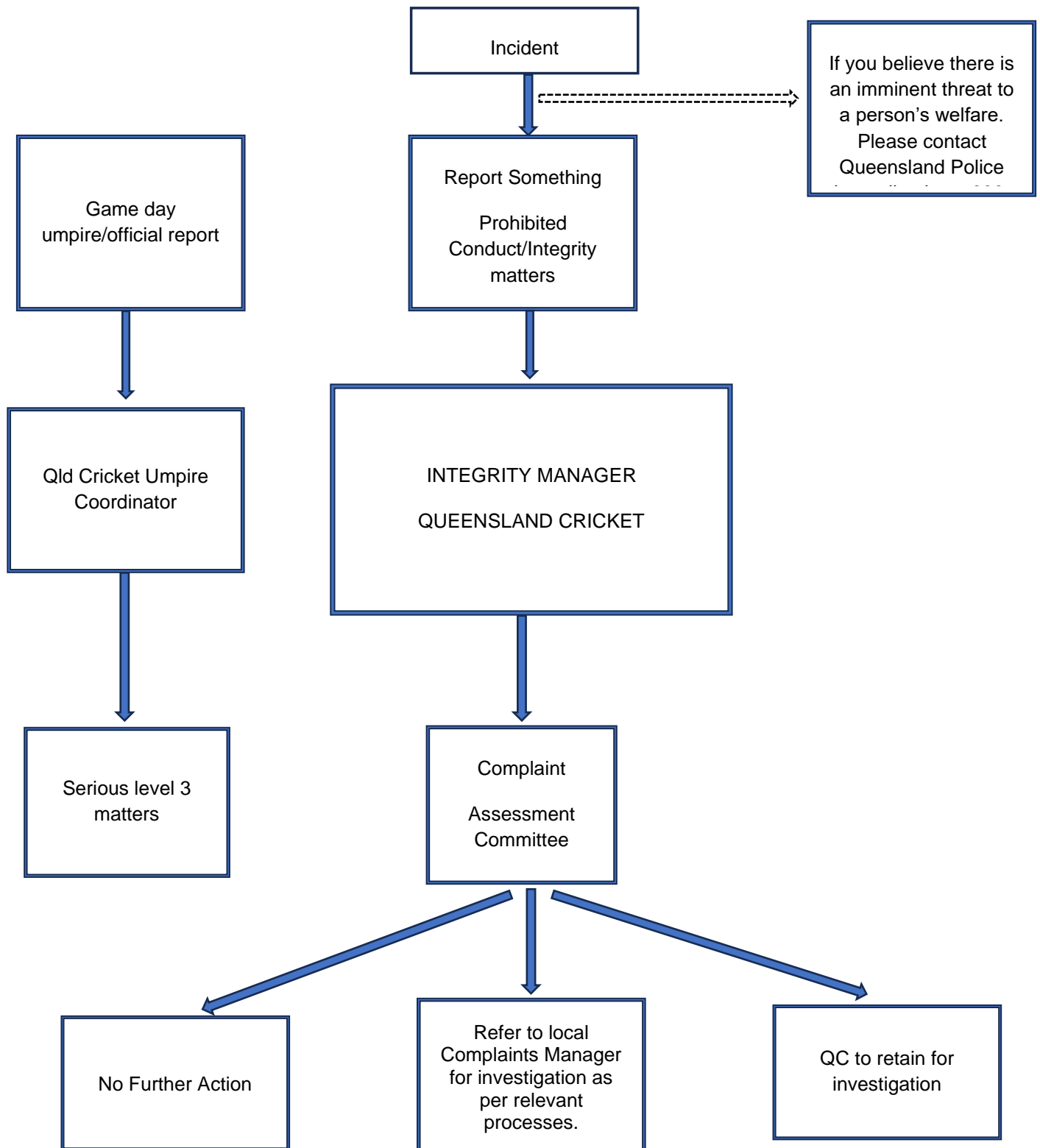
6.13.1.7 the matter is finalised before a Hearing Tribunal or Appeals Tribunal.

6.13.2 Once a matter has been closed in accordance with this clause, it has been finalised and no further action will be taken in relation to the matter under this Policy unless there is a compelling reason to do so.

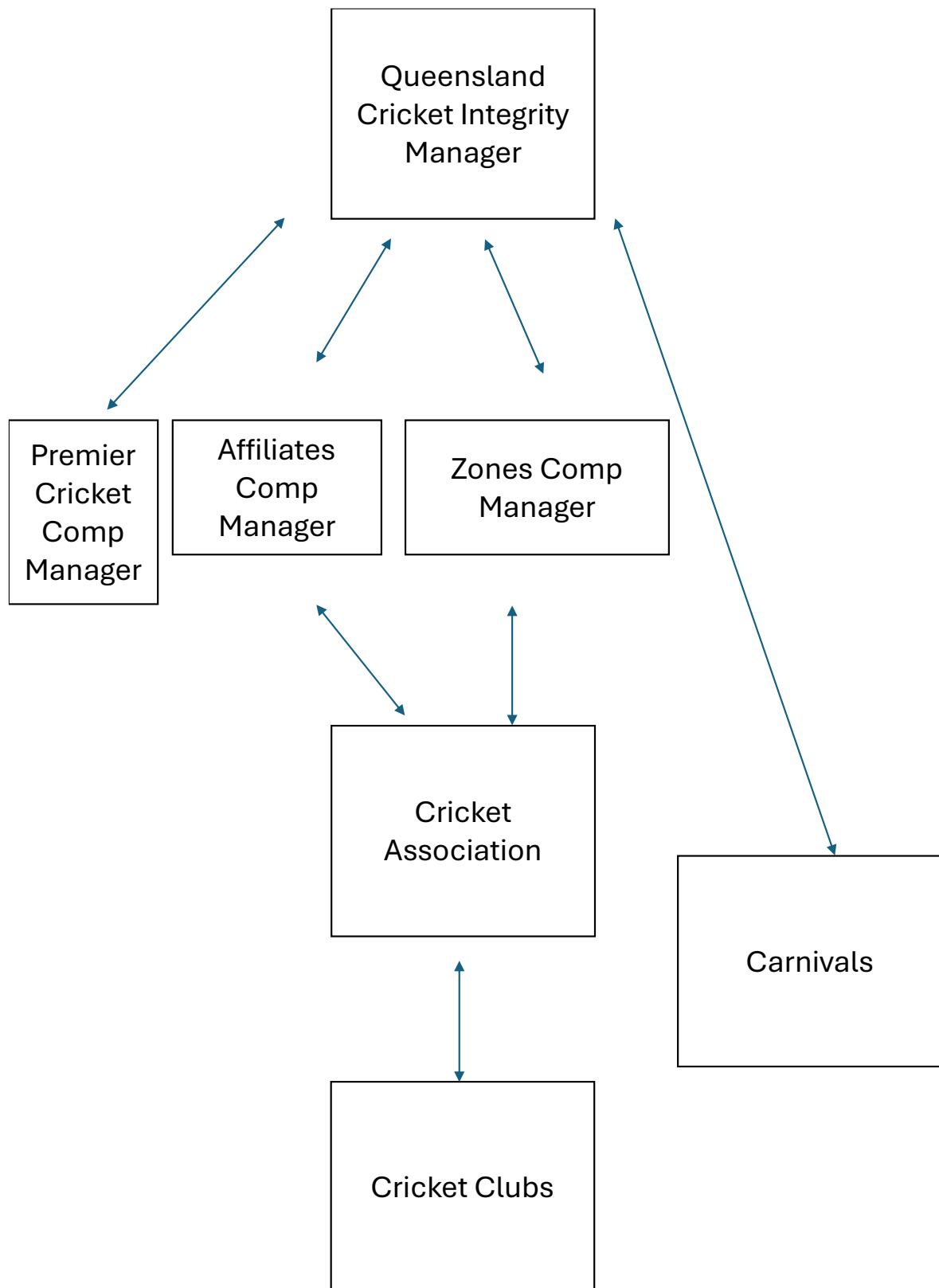
The organisation responsible for managing the Complaint will retain appropriate records of the Complaint and any outcomes in accordance with any Relevant Policies or procedures relating to record-keeping.

APPENDIX 1: 'FLOWCHART OF COMPLAINTS AND REPORTS'

Disciplinary Process Flow Chart – Queensland Cricket:



APPENDIX 2: 'FLOWCHART OF COMPLAINTS MANAGER'



APPENDIX 3: SAMPLE INVESTIGATION REPORT

Investigation Report into allegations made by John Smith relating to an assault that occurred at Albert Park on 2/4/2019.

1. **BACKGROUND:**

This section provides a summary of the Complaint/Report and any other background information that is relevant to the investigation.

2. **ALLEGATIONS**

List the allegations made – convert to individual offences e.g.

1. *Player X unlawfully assaulted player Y with a cricket bat.*

3. **PERSONS INTERVIEWED**

List persons interviewed and how interviewed (phone/person etc)

- 3.1 *John Smith, complainant in this matter phone interview.*

- 3.2 *Gary Jones, witness to assault interviewed in person*

4. **OVERVIEW OF INTERVIEWS**

- 4.1 *Interview with John Smith, player in the Mount Isa Sharks team and one of the complainants in this matter. Interviewed via phone on 16 May 2019.*

- 4.1 *.....*

5. **FINDINGS:**

Investigators findings into the allegations

Allegation One: *Not substantiated/substantiated etc*

Outline reasons/ lack of evidence or evidence that did exist to substantiate findings.

Allegation Two: *Not substantiated.*

Outline reasons/ lack of evidence or evidence that did exist to substantiate findings.

6. PROCEDURAL RECOMMENDATIONS

Investigator can list any procedural recommendations that they have discovered during their investigation that can prevent further incidents. E.g. Education by affiliate associations regarding consumption of alcohol at games.

Fred Fastbowler

Author

12 June 2019