



## **POLICY STATEMENT BY THE APLU BOARD OF DIRECTORS**

### **Discrimination, Harassment & Abuse**

**August 2019**

*“The APLU will not tolerate discrimination, harassment or abuse.”*

### **Application**

This policy applies to all personnel associated with APLU events and all members of the lacrosse community affiliated to the APLU.

The APLU has jurisdiction over matters at APLU events. The start of the timeline of an event is from when a team or individual arrives in country for the event and finishes when they leave the country.

### **Scope**

This policy applies to discrimination, harassment and abuse of anyone associated with the APLU.

### **Purpose**

The purpose of this policy is to outline the principles and processes associated with the identification and prevention of discrimination, harassment and abuse, and the resolution of complaints of discrimination, harassment and abuse.

### **Definitions**

In this policy: “discrimination, harassment and abuse”

are defined as: -

- Behaviour including comments, conduct or gestures which are insulting, intimidating, humiliating, hurtful, malicious, degrading, embarrassing, or otherwise offensive to an individual or group of individuals which creates an uncomfortable environment causing discomfort.

This includes, but is not limited to: -

- Written or verbal abuse or threats
- Physical assault
- Unwelcome remarks, jokes, innuendoes
- Taunting about a person's body, sexual orientation, attire, age, sex, disability, ethnic or racial origin, religion
- Displaying of sexually explicit, racist or other offensive or derogatory material, sexual, racial, ethnic or religious graffiti
- Practical jokes which cause awkwardness or embarrassment, endangering a person's safety or negatively affecting performance
- Leering or other suggestive or obscene gestures
- Intimidation
- Conduct, comments, gestures or contact of a sexual nature that is likely to cause offence or humiliation
- False accusations of harassment motivated by malice or mischief, and meant to cause other harm

Examples include, but are not limited to: -

- Sexual pranks, or repeated sexual teasing, jokes, or innuendo, in person or via electronic devices;
- Verbal abuse of a sexual nature;
- Touching or grabbing of a sexual nature;
- Repeatedly standing too close to or brushing up against a person;
- Repeatedly making sexually suggestive gestures;

## **Malicious or mischievous complaints**

Malicious or mischievous complaints are complaints that are made without basis, with the intention of damaging another's reputation.

If a complaint is found to be malicious, the APLU board will consider the respondent's wishes about how to manage the situation.

## **Resolving concerns or complaints**

There are three options for resolving concerns.

These are:

- Self-Help, where the concerned person resolves their concerns by taking appropriate action on their own.
- Informal Intervention, where the concerned person requests third party intervention to help resolve their concerns.
- Formal Complaint, where the concerned person makes a written complaint that is investigated.

## Informal Options

Informal options are called “No-Blame” approaches. They do not involve an investigation into a complaint but involve a process of resolution (usually by a third party) designed at stopping behaviours of concern and improving the relationship between the parties.

Informal interventions or third-party interventions must be conducted fairly and safely.

No-one should be disadvantaged unfairly or victimized for having raised genuine concerns.

Informal interventions are aimed at creating changes in behaviour and incorporate specific behavioural agreements between the persons concerned that will be monitored.

If agreements are not upheld, then either party may make a formal complaint.

It is not necessary to follow the strict processes of a formal investigation when dealing with matters informally (e.g. Notice of complaint, support person at meetings, possible outcomes including discipline or dismissal), however things said or admitted in an informal process are non-prejudicial and cannot be later used against someone if they make a formal complaint.

## Investigation and resolution

Any formal complaints under this policy must be in writing within 30 days of the violation; the APLU will not investigate complaints that are anonymous.

The person making a formal complaint under this policy will be expected to provide written documentation of incidences of the behaviour, including evidence wherever possible.

The APLU Board of Directors is responsible for the implementation of this Policy. These responsibilities include, but are not limited to:

- To treat all concerns or complaints about unacceptable behaviour seriously
- Acting quickly, and in a responsible manner on any complaint of discrimination harassment or abuse with the goal of resolving the situation fairly
- Hearing the complaint in an unbiased manner
- Investigating and fact-finding
- To seek to resolve complaints promptly, confidentially and impartially
- Preventing further occurrences, including determining and enforcing appropriate discipline, if required.

The Board can give no absolute guarantees of confidentiality. Circumstances in which information may be shared include, but are not limited to:

- Where required by law
- Where it is felt necessary to protect others from harassment or discrimination
- To protect the interests of the sport and the governing body.

## Rights and obligations of complainant and respondent

If a **formal complaint** is made, the matter will be investigated, and any resolution will involve:

- respecting the sensitivities of the person alleging unacceptable behaviour (complainant)
- giving the person alleged to have behaved unacceptably (the respondent) the opportunity to respond.

The complainant and the respondent both have the right to seek advice, support or representation from a person of their choice at any stage of the process.

The complainant and respondent may also have the support of an APLU or other national governing body Person. It is preferable that this is someone who is trained and designated to hear concerns about unacceptable behaviour and provide advice and assistance to enquirers. They will assist the parties to determine the appropriate action.

Neither the complainant nor the respondent should be victimised or disadvantaged during an investigation into a formal complaint.

Once an investigation has been completed, repeated reference to the complaint is unacceptable.

The APLU Board, will inform any person who is the subject of a formal complaint about the nature of the complaint and the identity of the complainant, and will give them the opportunity to respond.

The APLU board will setup a specific committee to investigate the complaint and provide a recommended outcome to the board.

The respondent will be provided with:

- a) a covering letter explaining the investigation process, and the rights and responsibilities of the parties involved
- b) a copy of the complaint
- c) any other relevant information.

The investigation process will proceed with the investigation committee initially interviewing the complainant. Any further details will be provided to the respondent before the investigator arranges an interview with the respondent.

This hearing will be conducted as soon as feasible, but due to the dispersed nature of the region it may take some time to organise. If during a tournament the committee will meet within 24 hours of receipt of the complaint.

During the investigation process, the complainant or respondent can request the matter is resolved by an informal process. If this occurs, and both parties agree a separate informal process may begin and the investigation will cease.

## The investigation process

The investigation committee may appoint a specific person to be the investigator of the complaint. Consideration will be given to the location of the parties and the cultural requirements of the individuals.

The investigation process must be fair and all evidence, including witness statements and other documentation, will be provided to the complainant and respondent. The parties will be given a fair chance to be heard in relation to all allegations and counter-allegations. The process will involve:

1. The investigation committee or individual investigator will interview the complainant and write an Interview Note containing any further facts or information not already included in the original complaint. This Interview Note will be provided to the respondent prior to any investigation interview so the respondent has sufficient time to consider their response.
2. The investigation committee or individual investigator will interview the respondent and write an Interview Note recording the responses to the complaint and Interview Note from the complainant.
3. The evidence will be reviewed by the whole investigation committee and consideration given as to whether to continue with the investigation or to recommend changing the process to an informal resolution process. A decision to change to an informal resolution process requires permission of the complainant, respondent and APLU Board. If this permission is not granted by all parties the investigation will continue.
4. If the investigation process continues, the investigation committee or individual investigator will gather further evidence, including interviewing witnesses or gathering other forms of documentary evidence.
5. The investigation committee or individual investigator will write a Draft Report documenting the evidence gathered. This will be provided to the complainant and the respondent for further responses. The Draft Report allows the parties to respond to all the evidence and make final submissions and responses.
6. The investigation committee or individual investigator will weigh the evidence and decide whether there is enough substance to uphold the allegations. Their Final Report will be provided to the APLU Board and to the complainant and the respondent. Final comments or objections can be made and will be considered.
7. The APLU Board will decide on outcomes from the investigation.

The APLU Board, having taken account of the committee's report, will determine whether discrimination, harassment or abuse has occurred. Where the board determines that discrimination, harassment or abuse has occurred, disciplinary action may result.

If the committee recommends, as part of their report to the board, that mediation is appropriate then any proposed mediation must be agreed to by all parties concerned. In this context, mediation is a meeting of the individuals concerned, facilitated by the committee. It is private, confidential and without prejudice; it aims to reach agreement, resolve the problem and ensure the behaviour does not continue or recur.

## What happens when a formal complaint is unsubstantiated?

- Complaints or allegations are unsubstantiated when there is insufficient evidence to support them on the basis of the standard of proof known as “the balance of probabilities”.
- Unsubstantiated complaints are not the same as false or malicious complaints. False or malicious complaints are inappropriate and will result in disciplinary action under the APLU code of conduct.
- Both parties will be informed that a complaint is unsubstantiated and the reasons why by the APLU Board.
- Informal intervention may be offered where appropriate (e.g. counselling, coaching, mediation) to facilitate the parties working together following the complaint

A member, whether a complainant or respondent, who is dissatisfied with the decision of the board with respect to a formal complaint has the right to make a complaint to the Human Rights Commissioner.

## Record keeping requirements

The APLU board will hold records of formal complaints on a confidential file.

The confidential record held may include:

- The names of complainant and respondent.
- A detailed description of the unacceptable behaviour, as reported by the complainant, including the dates of any incidents and the names of any witnesses.
- The respondent’s reply to the complaint.
- The outcome
- Any follow-up actions.
- Any recommendations regarding disciplinary action

At all times the rights and dignity of all those involved shall be protected as far as is possible.

The APLU Board of Directors