



MELBOURNE CRICKET CLUB

## **PROPOSED RULE AMENDMENTS DESIGNED TO IMPROVE THE CLUB'S DISCIPLINARY PROCESS**

### **Overview:**

An amendment to the Club's Rules, designed to clarify and streamline the existing member disciplinary process, will be put to a vote at the upcoming Annual General Meeting on August 17.

In late 2019 the MCC Committee undertook a review of the Club's disciplinary processes, with the aim of ensuring that the Club is able to provide a safe, respectful and pleasant environment for all members and their guests, as well as staff and contractors.

In addition to revealing areas of particular behavioural concern and the importance of ongoing, proactive engagement with membership regarding the standards of the Club, the review also highlighted opportunities to improve the efficiency, quality and consistency of the existing disciplinary process.

The Club is therefore proposing a revised approach to the disciplinary process.

Under the proposal, a new role of 'Member Disciplinary Officer' would be established to lead the investigation into alleged misconduct – from initial enquiries and notification of the member to facilitating the process of appeal.

Currently these responsibilities are split across a number of roles, resulting in a prolonged process for members. The new role would allow incidents to be progressed in a timely and focussed manner.

The Member Disciplinary Officer would not be involved in the decision making process – ensuring the separation of the investigation of the alleged misconduct from the outcome.

In addition, to further support the efficiency and timeliness of the process, the existing Discipline Sub-Committee will be replaced by a 'Member Disciplinary Committee'.

Comprising the CEO or CEO's delegate and two other individuals who must either be a Full member of the Club or a member of the Club's management team (or MCC Committee member(s) when the CEO considers it appropriate), the Committee will review cases of alleged member misconduct and determine member penalties in the first instance.

In the three years from 2016 to 2019 there were 198 cases of alleged misconduct and card misuse, 176 of which were deemed to warrant suspension or expulsion from the Club.

It is intended that the Member Disciplinary Committee will be better able to manage such a volume, whilst also providing improved quality and consistency in proceedings.

Members will only be able to provide a written representation to be considered by the Member Disciplinary Committee as part of the initial decision making process, and also request an appeal following the determination.

All appeals will be heard by the Appeal Sub-Committee, which will be constituted by three Full members, including at least two MCC Committee members. Members who lodge an appeal will have the right to appear in person.

This process affords members two separate opportunities to respond to the allegations, consistent with the current system.

The review of disciplinary process also found that approximately 80 per cent of members facing allegations made their initial representation in writing, further supporting the logic in the proposed approach.

The Committee hopes that by drawing attention to disciplinary issues and improving the process for their management, we may see fewer incidents arising, resulting in improved event day experience and amenity for MCC members and their guests.

The Club will continue to educate and inform members about the disciplinary process, including reminding members of the expected standards and providing insight into the penalties members may face as a result of card misuse or misbehaviour by themselves or their guests, and will also publish a summary of the outcomes of cases dealt with.

As required, the MCG Trust has been provided the proposed changes to the MCC Rules and has provided its consent for the matter to be put to a vote at the Annual General Meeting.

For further enquiries about the proposal members are encouraged to email [membership@mcc.org.au](mailto:membership@mcc.org.au)

### **Summary:**

- Introduction of the role of 'Member Disciplinary Officer' to investigate alleged misconduct and card misuse. This role will be supported by a dedicated match day resource to assist with investigations, including assisting match day staff with quality of reporting, reviewing CCTV footage and obtaining witness statements
- Establishment of 'Member Disciplinary Committee' to replace the existing Disciplinary Sub-Committee

- Members given the opportunity to provide a written representation to be considered by the Member Disciplinary Committee as part of their initial decision
- Members able to appeal the decision and present in person to a revised Appeal Sub-Committee
- Penalty Guide used as reference point for Members Disciplinary Committee in setting out expected range of sanctions for various offences to be shared with members
- Overall changes designed to improve the consistency, timeliness and efficiency in the handling of disciplinary matters
- Full members to vote on proposal at Annual General Meeting on Monday August 17, 2020.

An electronic copy of the Rules marked-up showing the proposed changes to the Rules is available [here](#).

Printed copies of the proposed amendments to the Rules can be provided to a Member on request by that Member to:

Address: PO Box 175, East Melbourne 8002

Email address: [membership@mcc.org.au](mailto:membership@mcc.org.au)

Attention: Chief Executive Officer

## **MOTIONS**

### **I. MISCONDUCT OF MEMBERS – DISCIPLINARY PROCEDURES**

**ITEM 1:** The Committee proposes that the Rules be amended as described in the following paragraphs 1.1 to 1.7:

#### **1.1 Member Disciplinary Officer**

That existing Rule 13.2(a) be amended and new Rule 13.2(e) be inserted in accordance with the mark-up to the Rules made available to Members.

##### Explanatory Note

The amendment introduces the term "Member Disciplinary Officer" being, a person appointed from time to time by the CEO to act as the member disciplinary officer. The Member Disciplinary Officer would also be involved in implementing an improved process for reporting of incidents and training of staff who manage incidents at events.

The Committee proposes that the Member Disciplinary Officer would be exercising a similar role and powers to the CEO or the CEO's delegate under the existing Rules, being the person responsible for managing and facilitating the disciplinary review procedure under Rule 13.2.

This includes:

- (a) conducting an initial investigation to determine whether an allegation of misconduct should be referred to the Member Disciplinary Committee (see paragraph 1.2 below);
- (b) notifying the Member that an allegation has been made against that Member;
- (c) receiving written representations from the Member against whom an allegation has been made;
- (d) notifying the Member of any decision made by the Member Disciplinary Committee in respect of that allegation;
- (e) receiving any request for an appeal against a decision of the Member Disciplinary Committee from the Member;
- (f) notifying the Member of the time, date and place of the hearing of the appeal before the Appeal Sub-Committee;
- (g) receiving further written representations from the Member to be provided to the Appeal Sub-Committee; and
- (h) advising the Member of the decision of the Appeal Sub-Committee (if the Appeal Sub-Committee did not inform the Member of its decision at the end of the hearing).

In addition, the Committee proposes that the Member Disciplinary Officer is able to assist in, and co-operate with, investigations undertaken by the Member Disciplinary Committee and may attend and assist in meetings conducted by the Member Disciplinary Committee. However, it is not proposed, that the Member Disciplinary Officer be a decision maker of the Member Disciplinary Committee.

The Committee considers that the appointment of a Member Disciplinary Officer together with an improved process for reporting of incidents and training of staff dealing with incidents at events will facilitate the investigation of incidents and allegations of misconduct, and promote efficiency in the disciplinary review procedure.

## **1.2 Establishment of Member Disciplinary Committee**

That existing Rule 13.2(b) be renumbered Rule 13.2(d) and amended in accordance with the mark-up to the Rules made available to Members.

### Explanatory Note

The Committee proposes to replace the role and functions of the Disciplinary Sub-Committee with a new "Member Disciplinary Committee".

The main purpose for introducing the Member Disciplinary Committee is to improve the efficiency and consistency of the disciplinary process.

The Member Disciplinary Committee would consist of:

- (a) the CEO or the CEO's delegate; and
- (b) two other individuals nominated by the CEO whom must either be:
  - (i) a member of the Club's management team; or
  - (ii) a Full Member of the Club.

The Member Disciplinary Officer or any other employee of the Club involved in the investigation and referral of a particular allegation to the Member Disciplinary Committee or any person who has any relationship with the relevant Member in a personal capacity or has an actual or potential conflict of interest with the relevant Member will be not permitted to be a member of the Member Disciplinary Committee for the purpose of considering the alleged misconduct.

After its investigations, the Member Disciplinary Committee would, by majority, determine whether it is satisfied that the allegation is established and may by motion impose a sanction on that Member in the same manner as the Discipline Sub-Committee under the existing Rules.

## **1.3 Investigations by the Member Disciplinary Committee**

That existing Rules 13.2(d) and 13.2(e) be renumbered to Rules 13.2(c) and 13.2(d) respectively and amended in accordance with the mark-up to the Rules made available to Members.

### Explanatory Note

The proposed Rules have been moved into an order to reflect the chronology of the disciplinary procedure from investigation of the allegation, to notification to the Member that an allegation has been made, to the Member making written representations in response to the allegation, to finally being investigated by the Member Disciplinary Committee.

The proposed amendments to Rule 13.2(c) and Rule 13.2(d) clarifies that the Member may provide written representations to the Member Disciplinary Committee, provided that the written representations are delivered by the date and time specified by the Member Disciplinary Officer.

The Committee proposes that there would no longer be an option available for the relevant Member to appear in person before the Discipline Sub-Committee. The Member Disciplinary Committee's decision would be based on its own investigations and any written representations provided by the Member. The Committee considers that this proposed change will not materially impact on the right of the relevant Member to respond to the allegations (particularly given the continued availability of the appeal process), but will promote consistency of decisions, timeliness and efficiency of the overall disciplinary process.

## **1.4 Composition of the Appeal Sub-Committee**

That existing Rule 13.2(j) be renumbered Rule 13.2(k) and amended in accordance with the mark-up to the Rules made available to Members.

### Explanatory Note

The Committee proposes that, as part of the revised disciplinary review procedure, the Appeal Sub-Committee would comprise of three Full Members of the Club, at least two of whom are Committee Members, rather than five Full Members of the Club at least three of whom must be Committee Members. This change is proposed to promote the timeliness and efficiency of the appeals process, by avoiding the need to find time for three Committee Members being available to hear an appeal on a disciplinary matter.

## 1.5 **Decision of the Appeal Sub-Committee**

That proposed new Rule 13.2(l) be inserted in accordance with the mark-up to the Rules made available to Members.

### Explanatory Note

The Committee proposes to clarify that the decision of the Appeal Sub-Committee may either:

- (a) be communicated to the relevant Member at the end of the hearing; or
- (b) be posted to the Member by the Member Disciplinary Officer within 10 Business Days of the Appeal Sub-Committee making a decision.

The proposed amendments more accurately reflect the manner that the Appeal Sub-Committee currently communicates its decisions to Members and gives Members clarity around the timing of notification of the Appeal Sub-Committee's decision.

## 1.6 **Application and transition to new disciplinary procedure**

That new definition of "Transition Date" and new Rule 13.2(g) be inserted in accordance with the mark-up to the Rules made available to Members.

### Explanatory Note

The Committee proposes that if an allegation of misconduct against a Member occurred on or before the "Transition Date" (which is proposed, if this Motion is passed, to be the date of the 2020 Annual General Meeting), the disciplinary procedure as it exists under the existing Rules would continue to apply in respect of the investigation of the allegations, determinations and sanctions against that Member.

## 1.7 **Consequential amendments**

That existing Rule 1.3 be amended to:

- (a) insert new definitions to reflect the introduction of the "Member Disciplinary Committee" and the "Member Disciplinary Officer"; and
- (b) remove the definition of "Discipline Sub-Committee",

in accordance with the mark-up to the Rules made available to Members.

That the following existing Rules be amended in accordance with the mark-up to the Rules made available to Members to replace references to "Discipline Sub-Committee" with the "Member Disciplinary Committee":

- (a) amended Rule 4.2(e)(iii);
- (b) amended Rule 4.3(e)(iv);
- (c) amended Rule 4.4(e)(ii);
- (d) amended Rule 8.2(d); and
- (e) amended Rule 13.2 (where appearing in that Rule).

## 2. **OTHER AMENDMENTS**

**ITEM 2:** The Committee proposes that the Rules be amended as described in the following paragraph 2.1:

### 2.1 **Obligation to provide notice of an indictable offence**

That proposed new Rule 11.6 and new Rule 13.2(a)(iii) be inserted in accordance with the mark-up to the Rules made available to Members.

#### Explanatory Note

While the current Rule 13.2(a)(iii) includes a conviction of an indictable offence as a ground of misconduct which could be subject to the disciplinary process under Rule 13.2, it is the Committee's view that the better procedure was to require members who have been convicted of an indictable offence to notify the Club.

The proposed new Rule 11.6 seeks to impose an obligation on Members to notify the CEO in writing as soon as reasonably practicable (and in any event within 14 days) if a Member is convicted of an indictable offence.

The effect of the proposed new Rule 13.2(a)(iii) clarifies that any failure by a Member to notify the CEO within the relevant timeframe of that Member being convicted of an indictable offence would constitute misconduct for the purposes of Rule 13.2(a). Accordingly, failure of a Member to comply with the self-reporting requirement of the new clause 11.6 would also be subject to the disciplinary process set out in Rule 13.2.