



Netball NSW

Member Protection Policy, Attachment B

Complaint Handling Procedures

Adopted by New South Wales Netball Association Ltd at its Board Meeting and effective as at 15 February 2022

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1. Introduction

Netball NSW aims to support people and Affiliates within our sport to make and resolve any complaints they may have in a fair, timely, transparent and effective way.

Individuals may seek to resolve complaints through an informal process, a formal process or through making a complaint to the relevant external body, based on their preferences and the nature of the complaint. Given the different circumstances that can arise, the process of managing an individual complaint may change.

Netball NSW and Affiliates aim to address complaints in a manner that maintains confidentiality as far as possible and will seek to ensure that no one is victimised for making, supporting or providing information about a complaint during the complaint handling process.

2. Definitions

The following definitions apply throughout this Policy and are provided to ensure consistency across the process.

Affiliate means a Premier League Licensee, a Netball Association, or a Netball Club, howsoever described, whether incorporated, unincorporated, a company limited by guarantee, or otherwise, which is a member of Netball NSW.

Appeal Tribunal is the Tribunal convened by the Appeal Officer to deal with and hear matters that have either been dealt with by a Hearing Tribunal convened by an Affiliate or Netball NSW. The Appeal Tribunal can be established at either an Affiliate or Netball NSW level.

Child (Young Person) means a person under 18 years of age.

Conflict of Interest means a situation where an individual has a personal interest in the outcome of a matter, or where they may stand to personally benefit from the outcome of a matter. This includes the situation where a person is in a position to derive personal benefit from actions or decisions made in an official capacity.

Days means calendar days being any day of the week, including weekends and public holidays.

Formal approach is a complaint made in writing whereby the complainant wishes the matter to be dealt with utilising formal inquiry procedures.

Hearing Officer is the person appointed by Netball NSW and/or an Affiliate to undertake the role of managing a complaint in accordance with the MPP and these Procedures.

Hearing Tribunal is a tribunal established by the Hearing Officer to deal with and hear matters that are alleged breaches of the MPP. The Hearing Tribunal can be established either at an Affiliate or Netball NSW level.

Informal approach means a complaint raised whereby the Complainant wishes or where the Hearing Officer considers that the matter is to be dealt with utilising lower level, informal means of resolution.

Individual Member (Member) means a natural person who is a registered financial member of Netball NSW or an Affiliate.

Mediation is a process whereby a Complainant and Respondent(s) voluntarily enter into open discussion and negotiations facilitated by an independent third party with an aim to finding and agreeing on a resolution.

Mediator is a person who has undertaken mediation training who leads and guides the mediation process.

Member Protection Information Officer (MPIO) is to provide input and guidance as to the applicability and relevance of the MPP to alleged issues and incidents raised at the lower informal level. **A MPIO does not act on behalf of a Complainant, handle or investigate complaints.** MPIOs provide information and options available to members under this Procedure and the Netball NSW Member Protection Policy.

Netball means the sport or game played under the World Netball Rules of Netball as adopted or amended from time to time by Netball NSW or an Affiliate.

Netball Activity means Netball competitions, matches, training and/or events organised, controlled or sanctioned by Netball NSW and/or its Affiliates.

Netball NSW means the New South Wales Netball Association Limited.

Participant means a person who participates, including but not only as official, coaches, players or umpires, parents, guardians and spectators in a Netball Activity.

Policy means the Netball NSW Member Protection Policy (**MPP**).

Procedures means this Attachment B to the Netball NSW Member Protection Policy – Complaint Handling Procedures.

Relevant person is a person who has been identified by Netball NSW or an Affiliate as being a person who has the responsibility and ability to undertake duties pertaining to the application of the MPP and the management of complaints.

Vulnerable Person means an adult (over the age of 18) who may be unable to take care of themselves or who may be vulnerable to harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

All other terms in these Procedures are given the same meaning as in the Policy unless otherwise specified.

3. Using these Procedures

3.1 How a matter will be handled under these Procedures

3.1.1 Under these Procedures, Complainants may request that their concerns are dealt with formally or informally. Clause 4 details the procedures to be followed when handling a matter informally. Clause 5 details the procedures to be followed when handling a matter formally. Please refer to the flow charts on pages 8 to 11 for further details on this decision-making matrix.

3.1.2 In accordance with Clause 5.2.3, where a Complainant has requested that a matter be dealt with formally, a Hearing Officer may, at their discretion, determine that a complaint does not warrant a formal resolution process. In these circumstances the Hearing Officer may advise the Complainant of the informal resolution processes available to them (see Clause 4) and otherwise refrain from taking any further formal action or investigation in relation to the matter.

3.2 When these Procedures will not apply

These Procedures have been developed in accordance with Clause 14 of the Netball NSW Member Protection Policy to assist with the management of complaints involving potential breaches of the Member Protection Policy as set out in Clause 15 of the Netball NSW Member Protection Policy.

Complaints that do not involve a breach of this Policy do not fall within in the scope of these Procedures.

Therefore, the following complaints will not be managed by these Procedures:

- a) Complaints in relation to personal grievances and disputes, please refer to the Netball NSW Grievance and Dispute Policy;
- b) Complaints in relation to “on- court offences”, please refer to the Netball NSW Disciplinary Policy;
- c) Complaints in which the last incident occurred more than 6 months ago, unless the complaints involve a criminal offence or relate to a Child/ Vulnerable Person protection matter; or
- d) Frivolous and/or vexatious complaints (as determined by the Hearing Officer or Hearing Tribunal).

3.3 Complaints Involving Children/Young Persons or other Vulnerable Person

Where a complaint involves a person who is under the age of 18 years of age, or who is a Vulnerable Person:

- a) A parent, guardian or other support person may represent the interest of the Child/Young Person/Vulnerable Person; and
- b) The parent, guardian or support person may support the Child/Young Person/ Vulnerable Person to manage the complaint.

Disclosures of serious incidents such as harm to a Child, Young Person or Vulnerable Person should be reported to the police.
Refer to Appendix A

3.4 External Procedures

Nothing in this Policy or these Procedures will prevent an individual or organisation from pursuing a complaint externally. Serious incidents involving allegations of criminal offences such as assault or sexual assault, or harm to a Child or Young Person or Vulnerable Person should be reported to police.

3.5 Untrue, Vexatious Complaints

If at any point in the complaint process it is determined that a Complainant has **knowingly** made an untrue or vexatious complaint, the Hearing Officer or Hearing Tribunal will consider if the investigation should continue.

If a complaint is suspected of being untrue or vexatious, the Hearing Officer may consider conducting an investigation against the Complainant. Any investigation/Hearing Tribunal convened against the Complainant for making an untrue or vexatious complaint should be undertaken as set out in these Procedures.

3.6 Disclosure

Members and participants of the complaints process are to be aware, and should be made aware, that the information and evidence provided by them during the complaint management process will be required to be disclosed to those parties involved.

Netball NSW and/or Affiliate will not accept or investigate anonymous complaints. Complainants should understand that their name and the information they provide will be given to a Respondent in order to provide procedural fairness to all parties.

This disclosure is to ensure that persons are made aware of the evidence and allegations involved in the complaint to afford procedural fairness (natural justice).

3.7 Expectation Management

All persons are to be made aware at the outset of the complaints process that all participants can be kept informed of any progress occurring throughout the process at the discretion of the Hearing Officer. However, at the conclusion of a tribunal or hearing officer process only the Complainant, Respondent, the Respondent's Association (if relevant) and the Respondent's Club (if relevant) are entitled to be informed of the outcome and any applicable sanctions.

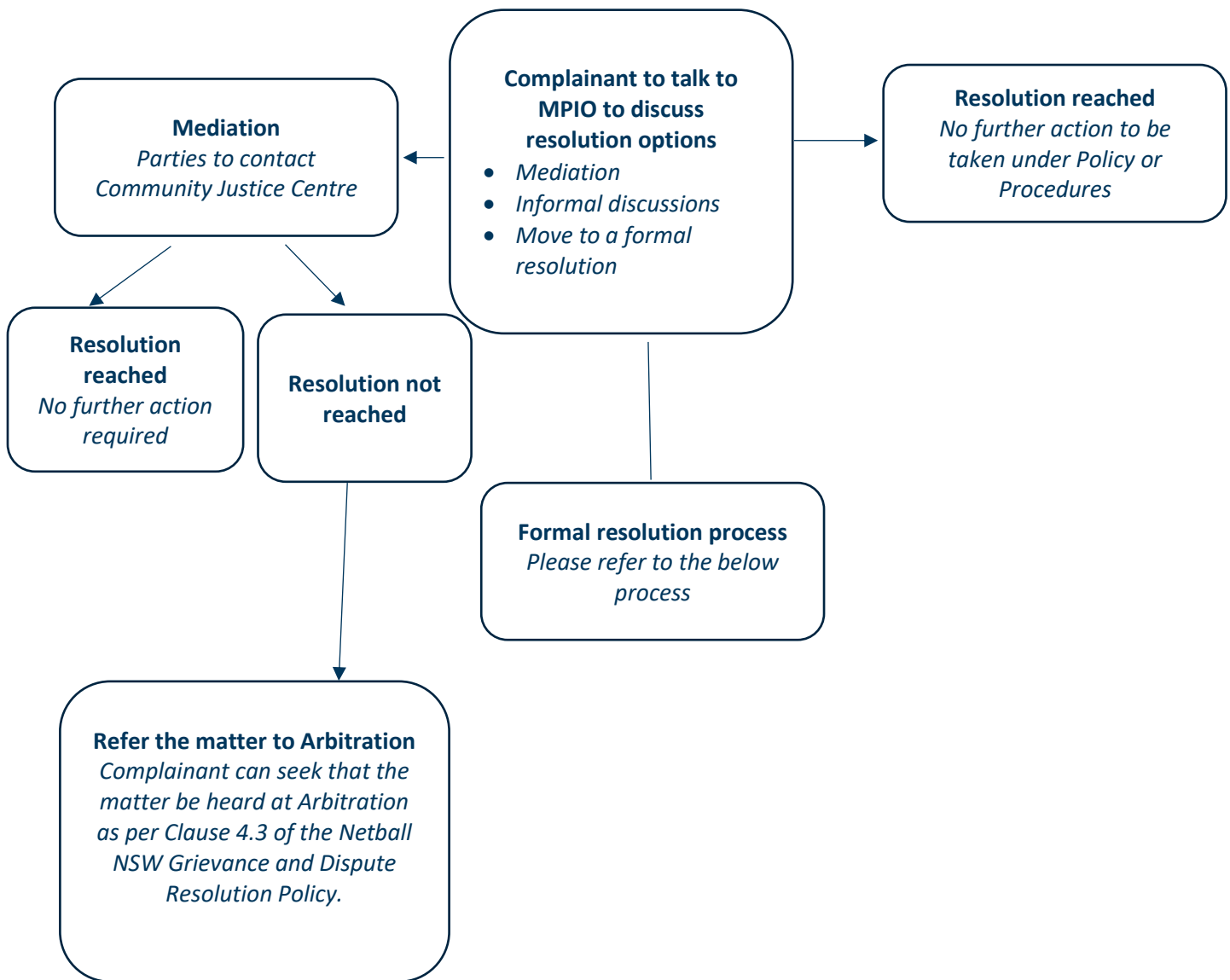
3.8 Applying Natural Justice

Natural justice, also known as procedural fairness, is a requirement of a fair disciplinary process. Failure to provide natural justice may provide the person who is the subject of the disciplinary proceedings with a reason to challenge the findings of a Tribunal or decision of a Hearing Officer.

Natural justice (or procedural fairness), involves three rules or principles:

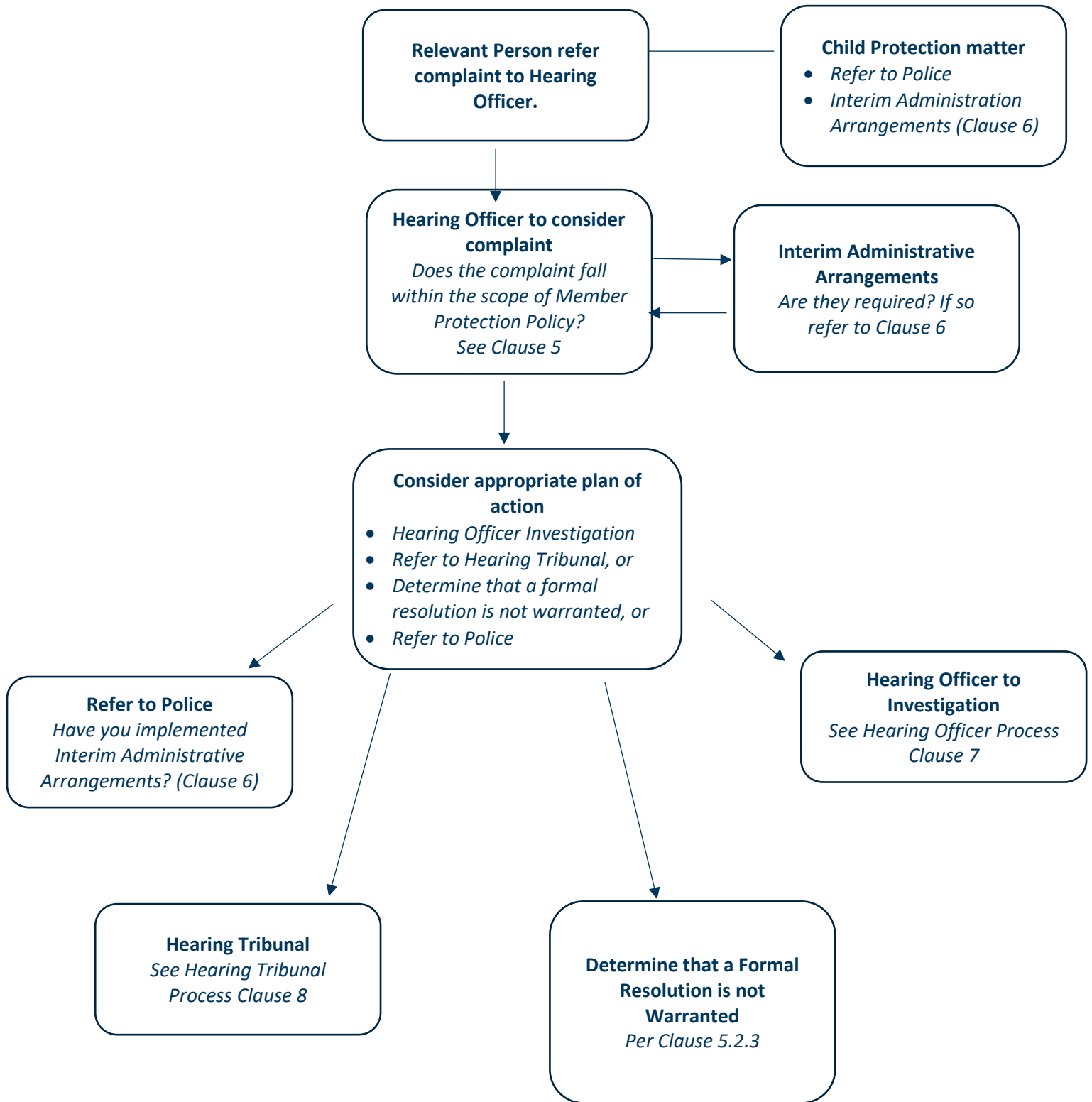
- a) Ensuring that all persons involved in complaint proceedings have the right to be heard and that they are provided with and have the right to respond to, any information presented or considered in reaching a decision;
- b) Ensuring that any decision made is free from bias or the perception of bias, and;
- c) Ensuring that any decision is made after a reasonable investigation into the issue has been conducted and relevant evidence considered.

MEMBER PROTECTION POLICY – Informal Complaint Process

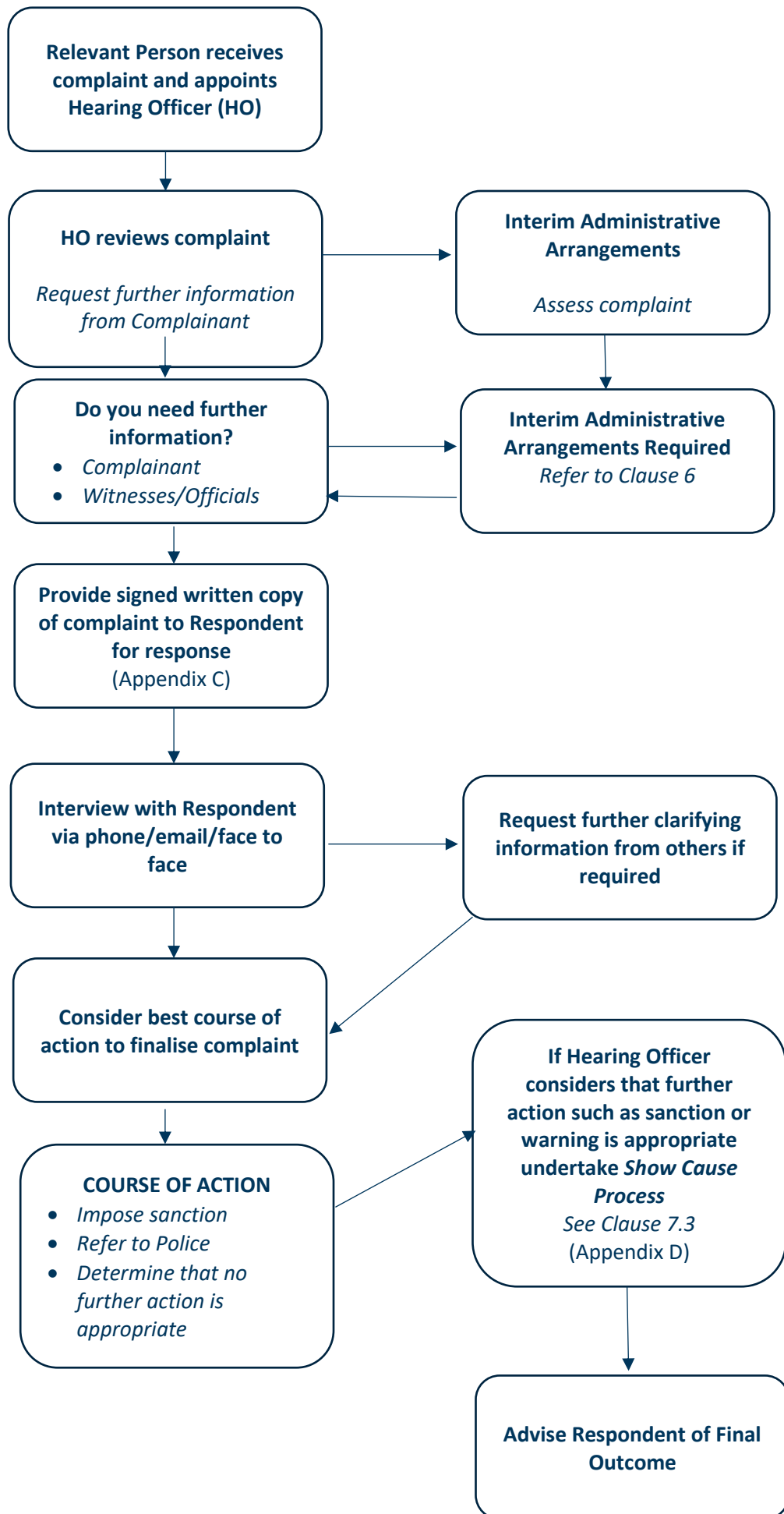


MEMBER PROTECTION POLICY – Formal Resolution Process

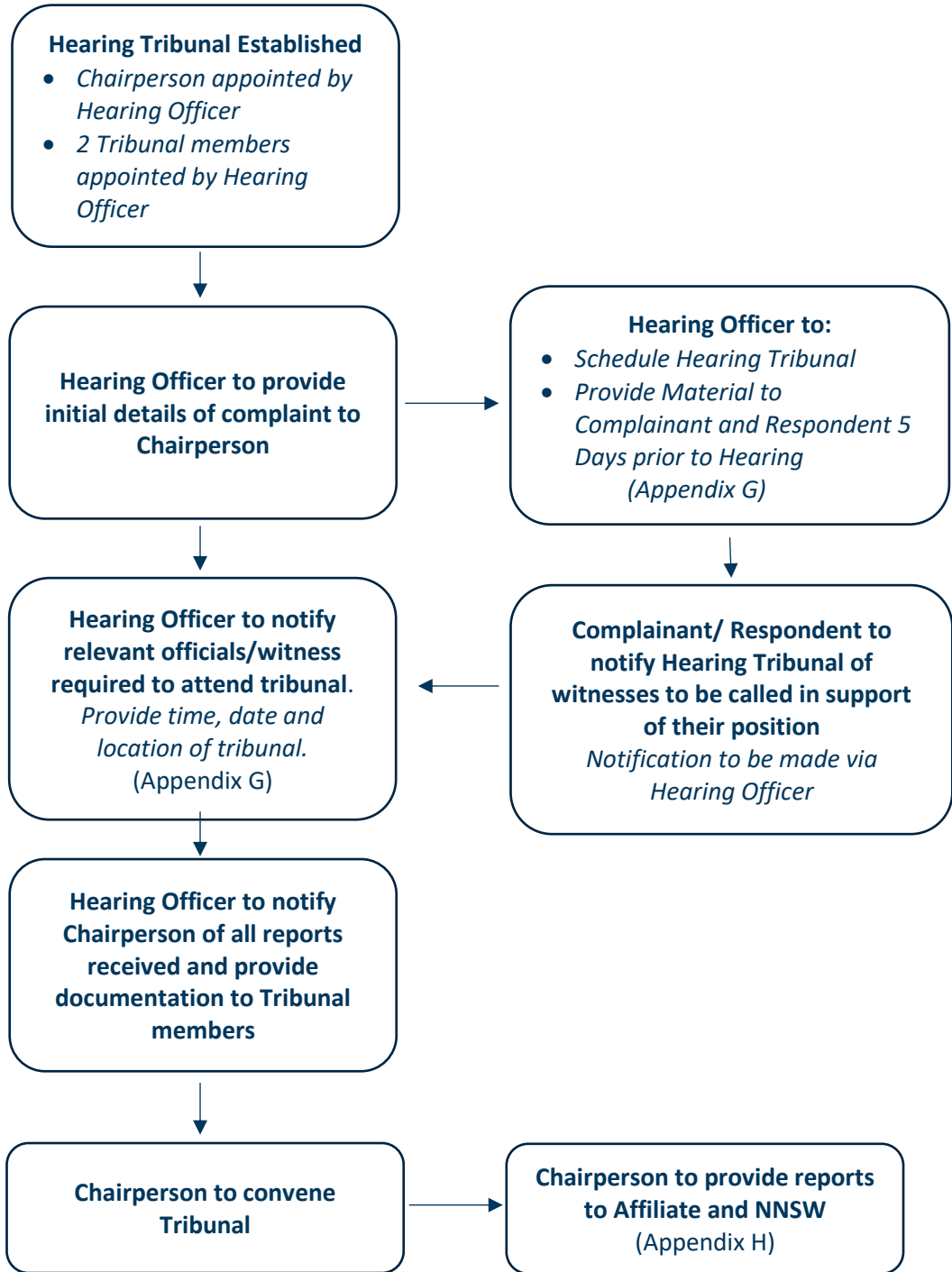
Serious incidents such as harm to a Child, Young Person or Vulnerable Person should be reported to police.



MEMBER PROTECTION POLICY – Hearing Officer Investigation



MEMBER PROTECTION POLICY - Hearing Tribunal Process



4 Informal Resolution Procedure

4.1 Informal Approaches

The following steps may be taken to assist in the resolution of complaints informally under these Procedures:

Talk with the other person (if safe, reasonable and appropriate)

- 4.1.1 The Complainant should try to sort out the problem with the person or people involved if they feel confident to do so.

Contact a Member Protection Information Officer (MPIO)

- 4.1.2 If the Complainant is not sure how to handle the issues by themselves, and if the Complainant wants to talk confidentially with someone and find out what options are available to resolve the problem or the problem continues after the Complainant has approached the other person, the Complainant may contact:

- a) An MPIO; or
- b) A Relevant Person within the organisation (e.g. Affiliate President/Secretary)

- 4.1.3 The Informal resolution processes to consider may include:

- a) Informal discussion between the parties; or
- b) Mediation (see clause 4.2).

- 4.1.4 The MPIO may also provide advice about the formal complaint process, however **at no time is the MPIO to undertake any form of inquiry or investigation. The MPIO and Hearing Officer are two separate roles which should not be held by the same person. This is to ensure the integrity of any future investigation and to allow a safe environment for the complainant to discuss their concerns without fear of repercussions.**

At no stage is the complaint to be the subject of an Executive Meeting or discussion amongst executives of an Affiliate or Netball NSW.

4.2 Mediation

If the complaint is determined to be a grievance or dispute and mediation has been chosen to resolve the matter, the matter will no longer fall under these Procedures and will be considered to fall under the Netball NSW Grievance and Dispute Resolution Policy which can be accessed at the following link: [Policies - Netball NSW](#). Please refer to this policy for the steps to follow in relation to mediation.

Mediation may **not** be appropriate if:

- a) The Complainant or Respondent is unwilling to attempt mediation;
- b) When the issues raised are sensitive in nature;
- c) When there is a real or perceived power imbalance between the people involved;
- d) Matters that involve serious, proven allegations; or
- e) Due to the nature of the complaint, the relationship between the Complainant and the Respondent(s) and any other relevant factors, the complaint is not suitable for mediation.

If a resolution is reached at mediation, no further action may be taken under these Procedures, except by agreement between the parties.

If the dispute is not resolved by mediation, the Complainant may within three months of the referral to CJC, have the matter referred to Arbitration as per Clause 4.3 of the Netball NSW Grievance and Dispute Resolution Policy.

5. Formal Complaint Procedures

5.1 Making a Formal Complaint

5.1.1 If the complaint cannot be resolved informally, and where mediation has **not** been attempted, the Complainant may make a formal complaint in writing to the relevant Affiliate and/or Netball NSW. The Complainant may also make a formal complaint initially/in the first instance. If the Complainant decides to make a formal complaint in writing, the Complainant is to address the complaint to the Relevant Person within the relevant Affiliate or Netball NSW.

5.1.2 To avoid any doubt, any complaint relating to:

- a) A Netball Activity organised and run by Netball NSW shall be referred to the Relevant Person of Netball NSW and must be submitted via the Netball NSW online complaints management system;
- b) A Netball Activity organised and run by an Affiliate program shall be referred to the Relevant Person of the Affiliate. If the Affiliate has not appointed a Relevant Person, it is the responsibility of the Affiliate to appoint a suitable person to manage the complaints procedure.

5.1.3 Upon receipt of a formal complaint, the Relevant Person will appoint a Hearing Officer to review the complaint. The Relevant Person may appoint themselves as the Hearing Officer, as long as they have not also already acted as the MPIO in relation to the complaint.

5.1.4 A Complainant also has the option of approaching a relevant external agency such as NSW Police, the Australian Human Rights Commission and/or the Anti-Discrimination Board of NSW for advice at any time.

5.2 Hearing Officer to assess the complaint

5.2.1 The Hearing Officer will consider the material supporting the complaint and determine whether:

- a) The complaint is properly made and falls within the scope of this Policy and these Procedures;
- b) They are the most appropriate person to receive and handle the complaint; and
- c) A specific resolution process is appropriate based on the nature and seriousness of the complaint.

The possible resolution processes are as follows:

- Undertake a Hearing Officer investigation (see Clause 7);
- Referring the complaint to mediation (see Clause 4.2);
- Referring the complaint to a Hearing Tribunal (see Clause 8);
- Determine that the matter should not be investigated (see Clause 5.2.3); and/or
- Refer the complaint to the police or other appropriate authority (see Clause 5.2.4).

- 5.2.2 In certain circumstances, consideration may also be given to the implementation of interim administrative arrangements that will apply until the complaint process set out in the Procedures is completed. The steps to be taken to put in place such arrangements are identified in Clause 6 of these Procedures.
- 5.2.3 If the Hearing Officer considers that the complaint is of a minor and/or purely personal nature, or has no connection to the activities of Netball NSW or the Affiliate, the Hearing Officer may determine that the complaint does not warrant a formal resolution procedure and may choose not to investigate the complaint.
- 5.2.4 **External Reporting** - If the complaint is referred to the police or other appropriate authority, Netball NSW and/or Affiliates will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority. If the matter is referred to the police, Netball NSW and/or an Affiliate should take no further action in relation to the matter until the conclusion of the police investigation and/or any legal proceedings.
- 5.2.5 Any reasonable costs relating to the complaint process set out in this Procedure (e.g. investigation and/or mediation and/or tribunal processes) are to be met by the relevant jurisdiction undertaking the procedure.

5.3 Documenting the Resolution

- 5.3.1 It is important to ensure that the documentation pertaining to the complaint process is recorded and stored appropriately to ensure compliance with the *Privacy Act 1988*.
- 5.3.2 The Hearing Officer is to document the complaint, the process followed and the outcome immediately upon completion of the process.
- 5.3.3 All documentation related to the complaint is to be confidentially stored by the relevant body (the group that handled the complaint process) in a secure location and depository.
- 5.3.4 If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the Netball NSW level, the original document will be stored at the Netball NSW office with a copy stored at the Affiliate office, where one exists.

6. Interim Administrative Arrangement Orders

What is an interim administrative arrangement order?

An interim administrative arrangement order (**Orders**) is a temporary suspension from some or all roles and responsibilities within Netball NSW and/or an Affiliate whilst a complaint handling procedure is ongoing, which includes but is not limited to the below:

- a) Employment with Netball NSW;
- b) Position on a board, committee or sub-committee of Netball NSW and/or Affiliates;
- c) As a support person participating in Netball NSW and/or Affiliate activities (e.g. managers, physiotherapists, psychologists, masseurs, sports trainers etc.)
- d) As a coach or assistant coach;
- e) As a Netball Participant;
- f) As an umpire, bench official or other official; or
- g) As a Netball NSW and/or Affiliate Administrator (e.g. Club/Association president, secretary, treasurer etc.).

6.1 Procedure for implementing a proposed interim administrative arrangement

Allegations relating to harm of a Child /Young Person or Vulnerable Person will incur an immediate suspension at the discretion of Netball NSW and/or an Affiliate until the completion of police proceedings and/or a Netball NSW/ Affiliate investigation. There is no avenue to appeal an administrative arrangement order in these circumstances.

In determining the details of the arrangement that is proposed, the Hearing Officer is to:

- 6.1.1. Consider whether the implementation of Orders is appropriate, beneficial and reasonable in the circumstances. In reaching this determination, the Hearing Officer should consider:
 - a) The nature and seriousness of the allegation(s);
 - b) The effect or impact that the Respondent has had or may have on the Complainant;
 - c) The effect or impact that the Respondent has had or may have on other persons;
 - d) The relationship/role of the Respondent to the Complainant;
 - e) The effect or impact that the Orders may have on the Respondent;
 - f) Whether the Orders would provide a protective or comforting role for the Complainant; and/or
 - g) Whether there is a likelihood of a repeat of the behaviour.
- 6.1.2. After consideration of the above factors, if the Hearing Officer is of the opinion that an Order is appropriate, the Hearing Officer must then determine the specific conditions of the Order.
- 6.1.3. The specific conditions MUST:
 - a) Be related to the complaint, including alleged behaviour and/or conduct identified in the complaint as well as the circumstances;
 - b) Be balanced against the seriousness of the complaint; and
 - c) Take into account the points identified in Clause 6.1.1. of these Procedures.
- 6.1.4. The Hearing Officer should then notify the Respondent of the proposal to consider implementing the Orders. This notification is to be provided in writing and is to include the following information (see Appendix E for template):
 - a) Name of the Respondent;
 - b) Name of the Complainant;
 - c) The allegations that have been made by the Complainant against the Respondent, including relevant supporting information;
 - d) The proposed conditions;
 - e) Explanation as to why the conditions are being proposed (i.e. the safety of Complainant);
 - f) Provide an opportunity for the Respondent to respond in writing within 48 hours.

Once notification of a proposed Order is provided to the Respondent per Clause 6.1.4, the Respondent is not permitted to take part in any Netball Activity in any capacity until such time as the Orders are formalised (where after they must follow the conditions set out in the Orders) or alternatively where notification is received that no Orders will be implemented.

- 6.1.5. The Respondent is to review the proposed Order along with the supporting information and either:
 - a) Provide written submissions as to why the proposed Order should not be implemented; or
 - b) Formally notify the Hearing Officer of their intention not to contest the Orders.

If no response is received by the Hearing Officer within 48 hours the Respondent will be taken to have waived their right to contest the Orders.

- 6.1.6. The Hearing Officer is to review any response provided by the Respondent and make a determination as to whether the proposed Orders are to be implemented or altered.
- 6.1.7. Once a determination is made the Hearings Officer is to formally advise the Respondent, in writing, the following (see Annexure F for template):
- a) The conditions to be imposed on the Respondent;
 - b) A brief outline as to why the conditions have been imposed; and
 - c) The duration of time that the conditions will be in place; or
 - d) That Orders are not considered appropriate after reviewing the Respondents response
- 6.1.8. **Review of imposed Orders:** A review of the conditions on the Orders should take place as needed and at the discretion of the Hearing Officer. The Respondent should be asked to make submissions for consideration prior to each review.
- 6.1.9. Matters involving a police investigation or legal proceedings will not be reviewed until completion of any investigation or legal proceedings. It is the responsibility of the person who is subject to the interim administrative arrangement to advise Netball NSW and/or Affiliates that the police investigation or legal proceedings have concluded. If this information is not provided to Netball NSW and/or an Affiliate the interim administrative arrangement may remain in place indefinitely.

7 Hearing Officer Investigation

7.1 Investigating the Complaint

When undertaking a Hearing Officer investigation, the Hearing Officer is to take the following steps:

Investigation

- 7.1.1. Review the complaint and determine whether further information is required. In the instance that further information is required to assist with obtaining a better understanding of the complaint, request that the Complainant and any other person from whom information is required provide such information within 7 Days of the request. Upon receipt of the information required to gain a complete understanding of the complaint, identify the following:
- a) The key points of the complaint;
 - b) How the Complainant would like the matter to be resolved;
 - c) The Respondent(s); and
 - d) The section(s) of the Member Protection Policy, including its Appendices, that the alleged conduct may be in breach of.
- 7.1.2 Provide the Respondent with the key allegations and any evidence in support of the complaint made against them (Appendix C). The Respondent should then be given 7 Days to respond to the allegations. This step is important to ensure that natural justice is afforded to the alleged Respondent(s). The signed copy of the complaint does not need to be in the format provided to the Hearing Officer by the complainant (i.e. the Hearing Officer should not simply forward an email received from the complainant). Instead, the Hearing Officer should use the template letter contained in Appendix C. However, the Hearing Officer must provide the Respondent with all information they will be seeking to rely on as part of their investigation. Any information that is not provided to the Respondent cannot be relied on in determining the outcome of the investigation.

Note: Obtaining information from the Respondent/Witnesses is best undertaken in a formal interview process however, email is also acceptable. Where a formal interview occurs, a written record of the interview should be provided to the Respondent/Witness, and the Respondent/Witness should review and confirm the accuracy of the record by signing the document.

If email is utilised, direct the Respondent/Witnesses to provide a written response within the appropriate timeframe. Discretion will be exercised in the event a request for an extension of time is lodged.

All documentation and recorded interviews are to be stored under the relevant privacy classification and placed in a secure location. At all times, the handling and storage of such documentation is to be in accordance with the *Privacy Act 1988* (Commonwealth).

7.1.3 All participants in a Hearing Officer Investigation are bound by obligations of confidentiality. Information relating to any Hearing Officer Investigation should not be shared with anyone external to those directly involved in the investigation. This obligation continues after the conclusion of the Hearing Officer Investigation.

7.2 Findings

7.2.1. Upon completion of the Investigation outlined in clause 7.1, the Hearing Officer will take one or more of the following actions :

- a) Direct that no further action is appropriate; or
- b) Direct that there is insufficient evidence to make a determination regarding the allegations; or
- c) Direct that on the balance of probabilities (that is, that it is more likely than not) some or all of the allegations have been substantiated and that they consider that a warning or sanction is appropriate. The Hearing Officer should then refer to the show cause process in Clause 7.3; and/or
- d) Refer the complaint to the police or other appropriate authority.

Note: There may be instances whereby the allegation(s) are admitted by the Respondent however, the circumstances surrounding the incident may justify the alleged conduct. Regardless of whether justification for the conduct is demonstrated, if the conduct alleged is admitted to and such conduct is inappropriate and/or in breach of the MPP, the conduct has still been carried out. Thus, although the conduct may be justifiable in the circumstances, it is still not appropriate. The circumstances in such a situation merely provide mitigation to reduce a sanction rather than a defence.

7.2.2 The Hearing Officer should provide the Respondent with a written record stating the findings following the investigation, including reasons and justification for those findings. Where a sanction is imposed, the Hearing Officer is also required to inform the Respondent of his/her option to appeal the decision to the Appeal Tribunal, identifying timeframes and other pertinent information required to be complied with to apply for an appeal. Refer to Clause 9 of these Procedures.

7.3 Show Cause Process

If a Hearing Officer, following an investigation under Clauses 7.1 and 7.2, determines that a sanction should be imposed, the Respondent/s must first be afforded the opportunity to respond to the proposed sanctions using a show cause process. The process the Hearing Officer must follow is:

7.3.1 A written document providing the following information is to be provided to the Respondent (see Appendix D for template):

- a) The proposed sanction that is being considered. The sanction must be reasonable, appropriate and relevant to the identified wrongdoing/shortcomings (Please refer Appendix B);
- b) An outline of the allegations and/or shortcomings;
- c) Evidence in support of the allegations and/or shortcomings;

- d) The alleged breaches of this Policy, citing specific paragraphs and clauses relevant to the identified allegations and/or shortcomings;
 - e) Allow an opportunity for the Respondent to provide a response to the proposed sanction, evidence in support and comment on the information provided in the Show Cause document. The time for a response depends upon the seriousness of the proposed sanction. A period of 7-14 Days is generally appropriate;
 - f) Allow the Respondent the opportunity to propose another sanction and provide reasons to justify such action; and
 - g) Allow the Respondent to provide his/her own information and evidence in support.
- 7.3.2 The Hearing Officer is then to review the response to the show cause notice provided by the Respondent. The Hearing Officer is to analyse and consider all information and evidence pertaining to the allegations and alleged breaches of this Policy and determine whether the proposed sanction, another sanction or no sanction is relevant and appropriate.
- 7.3.3. The Hearing Officer should then provide the Respondent with a written record of the outcome of the show cause process above, and provide details to the Respondent regarding their option to appeal the decision to the Appeal Tribunal in accordance with Clause 9.

8 Hearing Tribunal

8.1 Authority of Hearing Tribunal

- 8.1.1 The Hearing Officer of Netball NSW and/or its Affiliates have the right to delegate the power of investigating or determining charges against a Participant for an alleged breach of the Policy as set out in Clause 15 of the Policy (a **Member Protection Breach**) to a Hearing Tribunal which is established in accordance with these Procedures.
- 8.1.2 Where a matter arises for determination by a Hearing Tribunal it will be dealt with in the first instance by the Hearing Tribunal of the relevant Affiliate in which the alleged offence occurred (or Netball NSW in the case of a Netball Activity organised or sanctioned by Netball NSW).
- 8.1.3 Where an Affiliate has not convened a Hearing Tribunal in accordance with these Procedures, the matter may be reviewed by Netball NSW who may choose to convene a Hearing Tribunal or refer the matter back to the Affiliate to have the matter reheard by the Affiliate in accordance with the process outlined in these Procedures. A decision under this Clause is at the sole discretion of Netball NSW and does not constitute an appeal in accordance with Clause 9.
- 8.1.4 A Hearing Tribunal shall have power to suspend, disqualify, reprimand, ban or otherwise deal with any Participant in accordance with these Procedures.
- 8.1.5 A Hearing Tribunal has the authority to consider any other matter falling under any other Netball NSW policy which arises out of allegations of a Member Protection Breach.
- 8.1.6 A Hearing Tribunal must at all times act independently and impartially in carrying out its duties in accordance with these Procedures.

8.2 Duties of the Hearing Officer

The Hearing Officer shall have the following duties:

- a) Schedule the venue, time and date to be set aside for a hearing of a Hearing Tribunal;
- b) Appoint 3 members of a Hearing Tribunal (including the Chairperson) to deal with any matters referred to it;
- c) Notify the Chairperson (or his/her delegate) of a Hearing Tribunal that a complaint has been received, and to deliver to the Chairperson (or his/her delegate) of a Hearing Tribunal the complaint and any other information relevant to the case;
- d) Notify the Respondent of the complaint, as well as any other person involved in the complaint as soon as possible after the complaint has been made;
- e) Determine the charges to be laid against the Respondent, and to communicate these to the Respondent;
- f) Provide the Hearing Tribunal panel with all material relating to the matter. Note that the Hearing Officer will not seek to obtain additional evidence/witnesses statements prior to the tribunal hearing as this evidence should be presented at the time of the hearing unless specifically requested by the Tribunal Chairperson;
- g) Notify the Respondent and any other person required to attend the Hearing Tribunal (as determined by the Tribunal Chairperson), of the time and place of a hearing of the alleged breach as soon as reasonably practicable after receipt of the complaint. However, the date of notification must be at least 5 Days prior to the date of the Hearing Tribunal to allow for sufficient time for the Respondent to prepare for the Tribunal; and
- h) Provide the Respondent with a copy of the "Notification of Hearing Tribunal" (see Appendix G) at least 5 Days prior to the date of the Hearing Tribunal.

8.3 Membership of Hearing Tribunal

8.3.1 The Hearing Officer of Netball NSW or an Affiliate shall appoint the following persons to constitute a Hearing Tribunal Panel:

- a) A Chairperson who shall be a person of experience and skills suitable to the function of chairing a Hearing Tribunal and discharging the responsibilities set out under Clause 8.4 of these Procedures; and
- b) Two additional Hearing Tribunal members.

8.3.2 The Chairperson of the Hearing Tribunal should, if possible, have a form of legal background or be experienced in chairing tribunals.

8.3.3 A Hearing Tribunal member may hold another position within Netball NSW and/or its Affiliates, or a club or team Affiliated with Netball NSW and/or its Affiliates.

NB: Executive Committee members of the Affiliate convening the Tribunal should not sit as members of the Hearing Tribunal panel so as to avoid any bias or the perception of bias.

8.3.4 No Hearing Tribunal decision shall be invalidated by any irregularity in the appointment of a Hearing Tribunal member.

8.4 Responsibilities of Hearing Tribunal Chairperson

Without limiting the duties of a Hearing Tribunal Chairperson as set out under this Member Protection Policy, a person appointed to the position of Hearing Tribunal Chairperson shall have the following responsibilities to:

- (a) Determine which witnesses, if any, are required to attend a tribunal hearing and how they should present their evidence (e.g. in person, by written submissions, by video link etc.);
- (b) Communicate to the Hearing Officer at Netball NSW or the relevant Affiliate the outcome of a tribunal hearing within 24 Hours of the conclusion of the hearing;
- (c) Ensure relevant documents, for example the Record of Tribunal Hearing (Appendix H) are completed and provided to the Hearing Officer as soon as possible after the conclusion of the hearing; and
- (d) Ensure any potential Conflict of Interest with any Hearing Tribunal member is dealt with by removing that proposed panel member or ensuring appropriate safeguards are implemented to mitigate the risk of any such conflict.

8.5 Responsibilities of Tribunal Member

Without limiting the duties of a Hearing Tribunal member as set out under this Member Protection Policy, a person appointed to the position of Hearing Tribunal member shall have the following responsibilities to:

- a) Consider all evidence and information provided to them by the Hearing Officer and/or Tribunal Chairperson prior to the meeting;
- b) Consider any additional evidence presented by involved parties at a hearing tribunal;
- c) Provide an independent assessment of the evidence presented and contribute to an agreed decision of the tribunal (noting that each tribunal panel member is independent and is not bound to follow the direction of the Tribunal Chairperson);
- d) Declare any potential Conflicts of Interest which may impact upon their ability to act impartially as a tribunal member in relation to a particular matter.

8.6 Conduct of Hearing Tribunal

8.6.1 Attendance at Hearing Tribunal

8.6.1.1. The following persons shall be required to attend a Hearing Tribunal:

- i. The Respondent;
- ii. The Complainant(s);
- iii. Witnesses as indicated by the Complainant or Respondent and as authorised by the Chairperson; and
- iv. Any other person required or permitted by the Tribunal Chairperson.

Note: Any witnesses attending the Hearing Tribunal are not permitted to sit in on the Tribunal until after they have given their evidence before the Tribunal.

8.6.1.2. Should a member of Netball NSW and or its Affiliate request to attend a Hearing Tribunal, the decision is to made at the sole discretion of the Tribunal Chairperson.

8.6.1.3. Legal representatives or legal advocates are not permitted to appear before a Hearing Tribunal.

8.6.1.4. The Chairperson may invite any other person to attend they believe will assist a Hearing Tribunal.

8.6.2 Non-Attendance at Hearing Tribunal

8.6.2.1. If a person required to attend a Hearing Tribunal fails to attend that Hearing Tribunal without a reasonable excuse (to be determined at the discretion of the Tribunal Chairperson), the hearing will proceed in the absence of the person. The Hearing Tribunal can also make a determination provided the Tribunal Chairperson is satisfied that all notification requirements under these Procedures have been carried out.

8.6.2.2. Any person required to attend a Hearing Tribunal may apply to the Hearing Officer (or the Hearing Tribunal Chairperson if already convened) to have a Hearing Tribunal adjourned. This decision is at the sole discretion of the Hearing Officer or Tribunal Chairperson if the Tribunal has been convened.

8.6.3 Procedures of a Hearing Tribunal

- a) At the commencement of a hearing, the Chairperson will identify the members of the Hearing Tribunal panel and determine whether the Respondent is present.
- b) The Complainant(s) and Respondent will be notified of their right to remain in the hearing until all evidence is presented but not to be present whilst the Hearing Tribunal panel considers its findings and determines appropriate disciplinary measures (if any).
- c) The charges will be read out in the presence of all persons eligible to be present (as determined by the Tribunal Chairperson).
- d) The Respondent will be asked whether they understand the charges. If the Respondent indicates they do not understand the charges, the Chairperson must explain the charges.
- e) The Respondent will be asked whether or not they intend to contest the charges.
- f) If the Respondent does not contest the charge(s), the Chairperson may read a short summary of the facts, admit the Complainant's evidence (written/verbal) and no witnesses need be called to give evidence unless the Tribunal Chairperson determines that it is required.
- g) If the Respondent contests the charges, the Complainant will then be asked to present their evidence:
 - i. Brief notes may be referred to by the Complainant;
 - ii. The Complainant will be allowed to call their witnesses who have been pre-approved to attend by the Tribunal Chairperson.
 - iii. The Respondent may be allowed to question the Complainant and their witnesses at the discretion of the Tribunal Chairperson.

- h) Each witness is entitled to leave the Hearing Tribunal after giving evidence unless otherwise directed by the Hearing Tribunal. Alternatively, witnesses will be entitled to remain for the duration of the Tribunal after they give evidence should they wish.
- i) The Respondent will then be asked to respond to the Complainant:
 - i. Brief notes may be referred to by the Respondent;
 - ii. The Respondent will be allowed to call witnesses, subject to the approval of the number of witnesses to be called by the Hearing Tribunal in its discretion; and
 - iii. The Complainant may be allowed to question the Respondent and their witnesses at the discretion of the Tribunal Chairperson.
- j) If the Tribunal Chairperson considers that at any time during the Hearing Tribunal there is any unreasonable or intimidatory behaviour from anyone present, the Tribunal Chairperson shall have the power to modify the proceedings as considered appropriate or stop any further involvement of the person in the relevant Tribunal.
- k) Where the Respondent and/or Complainant makes video evidence available to the Hearing Tribunal, it may, at the discretion of the Hearing Tribunal, be presented. The onus of providing suitable viewing equipment such as a DVD player or television set shall lie with the person requesting that the evidence be presented before the hearing.
- l) If the Hearing Tribunal is not satisfied that the particular charge has been established, but is satisfied that a lesser charge has been established, then the Hearing Tribunal may find such lesser charge established and shall apply the penalty applicable to the lesser charge.
- m) Subject to Clause 8.6.3 (n) of these Procedures, where it appears to the Hearing Tribunal that the Hearing Officer has made an error which has resulted in laying the wrong charges or omitted charges that should have been laid, the Hearing Tribunal may amend the charges and proceed to make a finding. Further, the Hearing Tribunal has the right to direct that a person other than the Respondent be charged with an offence under this Policy on the basis of evidence presented before it during the course of conducting a hearing.
- n) Where the allegations have been amended or another person charged under Clause 8.6.3 (m) of these Procedures above, the Hearing Tribunal may (but is not required to) determine that an adjournment of the hearing is appropriate to provide the Respondent sufficient time to review and respond to the amended charges.
- o) Subject to Clause 8.6.3 (l) of these Procedures above, if the Hearing Tribunal is satisfied that a charge has been established on the balance of probabilities (i.e. more probable than not) it shall find the charge established. Otherwise the charge shall be dismissed.
- p) If a charge has been admitted or established by the Hearing Tribunal, the Respondent shall be informed of the finding. Any previous sanctions issued against the Respondent should then be laid before the Hearing Tribunal, if known, via the Hearing Officer of Netball NSW or its Affiliate.
- q) The Hearings Tribunal will deliberate on their findings and provide the decision verbally to the Complainant and Respondent at the conclusion unless other mitigating circumstances prevent this from occurring.
- r) The Tribunal Chairperson must provide the Hearing Officer with the details of the Tribunal Outcome as soon as possible.

- s) The Hearing officer will deliver Record of Hearing Tribunal (Appendix H) within 24 hours of receiving the details of the Tribunal outcome to the Complainant and the Secretary of the Respondent's Club and/or Association as relevant.
- t) The Record of the Hearing Tribunal (Appendix H) is to include:
 - i. An outline of the allegations;
 - ii. The evidence in support of the allegations, including any admissions;
 - iii. The evidence which does not support the allegations, including possible defences and mitigating circumstances;
 - iv. An assessment of conflicting evidence including why one person's version of events was considered more reliable than another person's, if required;
 - v. The determination on each allegation;
 - vi. Mitigating factors taken into account;
 - vii. The sanctions imposed, if any (Please refer to Appendix B);
 - viii. The right to appeal to the Appeal Tribunal outlining the restrictions and requirements on such appeals, including time restrictions.
- u) A copy of the Record of Tribunal Hearing is to be provided by the Hearing Officer of the relevant Affiliate to policy@netballnsw.com.

8.6.4. Giving evidence at a Hearing Tribunal

The Tribunal Chairperson, in their discretion, may determine that any person who is required to attend the tribunal hearing may provide evidence by any means that the Tribunal Chairperson considers appropriate. This could include:

- a) A recording undertaken with an investigating officer or other Relevant Person. A transcript of the recording should be certified by the Hearing Officer;
- b) Orally in the Tribunal hearing room;
- c) Via computer conferencing or other similar technology;
- d) Utilising alternative arrangements such as the use of screens, planned seating arrangements to reduce exposure or in premises other than the Tribunal hearing room (with necessary adjournment implemented); or
- e) Such other means as deemed appropriate by the Hearing Officer or if the Tribunal has already been convened, the Tribunal Chairperson.

9 Appeals

9.1 Right of Appeal

- 9.1.1 There may be two levels of appeal available to a person who has been found to have committed a breach and received a penalty under this Member Protection Policy (i.e. the Respondent). No other person may appeal a decision. The first level of appeal shall be an Appeal Tribunal convened by the same organisation which conducted the Hearing Tribunal, or, in the case of a Hearing Officer investigation, the same organisation that appointed the Hearing Officer to investigate the complaint.

Where the first level of appeal was conducted by an Affiliate, the second level of appeal shall be an Appeal Tribunal convened by Netball NSW. A person must first exercise their rights to a hearing by an Appeal Tribunal (at the first level of appeal) before appealing to the Netball NSW Appeal Tribunal (at the second level of appeal). The decision of the Netball NSW Appeal Tribunal (the second level of appeal) shall be final and not subject to further appeal.

Where the first level of appeal was conducted by Netball NSW, the second level of appeal shall be an External Appeal Tribunal made up of persons not associated with Netball, with an appropriate person appointed by Netball NSW acting as Appeal Officer. A potential appellant must first exercise their rights to a hearing by an Appeal Tribunal (at the first level of appeal) before appealing to the External Appeal Tribunal (at the second level of appeal). The decision of the External Appeal Tribunal (the second level of appeal) shall be final and not subject to further appeal.

9.1.2 Appointment of Appeal Officer

- a) In respect of either a first or second level of appeal, Netball NSW and/or its Affiliate shall appoint an officer to be responsible for the receipt of appeals and to carry out the duties in connection with such appeals ("**Appeal Officer**"). The Appeal Officer may hold another position within Netball NSW and/or its Affiliate and may also be the Hearings Officer (unless the appeal involves a decision of the Hearing Officer). Unless another person is appointed to the role, the Appeal Officer shall be a Relevant Person of Netball NSW and/or its Affiliate.
- b) An Appeal Officer appointed in accordance with Clause 9.1.2(a) will have the same duties as those outlined in Clause 8.2 necessarily amended for the context of an Appeal Tribunal.

9.1.3 First Level of Appeal

- a) There shall be no appeal from a decision of a Hearing Officer or Hearing Tribunal unless the person seeking to appeal ("Appellant") satisfies the Chairperson of the Appeal Tribunal (appointed in accordance with Clauses 9.1.2 and 8.3.1(a) of these Procedures), in the Chairperson's sole discretion, that the Appellant has evidence that proves:
 - i. Significant new or additional evidence has become available; or
 - ii. They are challenging the severity of the penalties in regards to the breaches; or
 - iii. There is a significant failure of natural justice.
- b) An Affiliate may request Netball NSW to conduct, hear and determine the first level of appeal. Where Netball NSW agrees to conduct, hear and determine the first level of appeal, all obligations and powers relating to the first level of appeal as set out in these Procedures will apply and bind Netball NSW as if it was an Affiliate. Netball NSW may choose (but is not obliged) to agree to conduct, hear and determine the first level of appeal. Where this occurs, Netball NSW will also be the organisation responsible for convening the second level of appeal in accordance with Clause 9.1.4 of these Procedures below.

9.1.4 Second Level of Appeal

- a) There will be no appeal from a decision of an Appeal Tribunal (first level of appeal) unless the person seeking to appeal ("Appellant") satisfies the Chairperson of the Netball NSW Appeal Tribunal or External Appeal Tribunal (second level of appeal) (appointed in accordance with Clause 9.1.2 and 8.3.1(a) of these Procedures), in the Chairperson's sole discretion, that:
 - i) significant new or additional evidence has become available; or
 - ii) a significant failure of natural justice has occurred.
- b) All appeals heard by the Netball NSW Appeal Tribunal or External Appeal Tribunal (second level of appeal) must, with any necessary or incidental amendment, follow the procedures for an Appeal

Tribunal held by Netball NSW and/or Affiliates, as outlined in Clause 9.2 to 9.5 of these Procedures below.

- c) The decision of the Netball NSW Appeal Tribunal or External Appeal Tribunal (second level of appeal) is final and binding on the parties.

9.2 Application to Appeal

9.2.1 The Appellant must:

- a) Lodge an Application to Appeal stating full details of charges and results thereof and stating in full the grounds of appeal with the Appeal Officer **within 5 Days** of receipt of the Record of Hearing using the Application to Appeal form (Appendix I); and
- b) In the case of an appeal to the Netball NSW Appeal Tribunal or External Appeal Tribunal (second level of appeal), pay the appeal fee to the Appeal Officer when lodging the Application to Appeal, which shall be \$500. The application to Appeal will not be considered until such time as the appeal fee is paid unless Netball NSW determine that it is appropriate in the circumstances that this appeal fee is waived (at the sole discretion of the Netball NSW Appeal Officer).
- c) The appeal fee may not apply in the case of appeals by a Child/Young Person or Vulnerable Person and may be waived (in any other case) in the discretion of the Netball NSW Appeal Officer.

9.2.2 An Appellant will be notified by the Appeal Officer within 5 Days of receipt of the Notice of Appeal as to whether an appeal hearing is to be granted (under Clause 9.1.3 or 9.1.4 of these Procedures) and the time, date and place of the Appeal Hearing, in the event that it is granted.

9.3 Appeal Tribunal

9.3.1 If an appeal hearing is granted under Clauses 9.1.3 or and 9.1.4 of these Procedures, the Appeal Officer shall convene an Appeal Tribunal to hear and determine the appeal in accordance with this Member Protection Policy. Subject to Clause 9.3.2 of these Procedures, any such appeal hearing should be held within 7 Days of notification of the Appeal being granted.

9.3.2 Where an appeal hearing is not held within 7 Days of notification of the Appeal being granted, any sanction imposed by the Hearing Tribunal or Hearing Officer shall be suspended and the Appellant may participate in any relevant Netball Activity until the appeal hearing is held.

NB: Clause 9.3.2 does not apply in the case of allegations of harm toward Children, Young People or Vulnerable Persons. In this case the Respondent will be required to serve any sanction imposed by a Hearing Tribunal pending the outcome of the appeal.

Further, Clause 9.3.2 will not apply where an Interim Administrative Arrangements is in place pursuant to Clause 6.

9.3.3 An Appeal Tribunal shall consist of three (3) persons appointed by Netball NSW and/or its Affiliate as appropriate to hear appeals (i.e. one (1) Appeal Tribunal Chairperson and two (2) Appeal Tribunal Members).

9.3.4 Members of an Appeal Tribunal panel will have the same duties as those outlined in respect of a hearing tribunal with any necessary amendments as is appropriate in the context of an appeal.

- 9.3.5 Netball NSW and/or its Affiliate may not appoint any of the Hearing Tribunal members who were involved in the original hearing of a matter which is the subject of an appeal to the Appeal Tribunal.

9.4 Serving of Hearing Tribunal Penalties

- 9.4.1 Subject to Clause 9.4.2(b) and 9.3.2 of these Procedures, where a Hearing Tribunal imposes a penalty that prevents the Appellant from participating in a Netball Activity, the Appellant shall serve that penalty pending the determination of the appeal.
- 9.4.2 Subject to Clause 9.4.3 of these Procedures, the Appeal Tribunal Chairperson may of their own motion or upon application of any party to the appeal, order:
- a) That an appeal be adjourned; or
 - b) A suspension of the penalty imposed by the Hearing Tribunal pending the determination of the appeal.
- 9.4.3 The Appeal Tribunal Chairperson shall make an order under Clause 9.4.2(b) of these Procedures at its sole discretion where it is satisfied that there are exceptional and compelling circumstances. In determining that question, the Appeal Tribunal Chairperson shall without limitation have regard to the:
- a) Merits of the appeal and the Appellant's prospects of success;
 - b) Interests of other teams, clubs and players; and
 - c) The effect on the results of the relevant competition.

9.5 Proceedings of Appeal Tribunal

- 9.5.1 The Appeal Officer is responsible for:
- a) ensuring the appeal is lodged within the relevant time frame of the original decision being appealed;
 - b) arranging the Appeal Tribunal Chairperson to determine whether the appeal will be granted;
 - c) in the event the appeal is granted, determining the place, time and date for the appeal hearing and as soon as possible thereafter notify all tribunal members; and
 - d) in consultation with the Appeal Tribunal Chairperson, notifying those witnesses or other persons they deem necessary to attend.
- 9.5.2 The Appeal Officer shall forward records of the original Hearing Tribunal which is subject to appeal to the Chairperson of the Appeal Tribunal.
- 9.5.3 The Appeal Tribunal will have the discretion to conduct the hearing as it considers necessary in the circumstances. This may include either conducting a full rehearing or alternatively limiting the hearing to consideration of the ground(s) of appeal relied upon by the Appellant under Clause 9.1.3(a) or 9.1.4(a) of these Procedures (as applicable) with the below considerations:
- a) During an Appeal Hearing, the Appeal Tribunal may make an order relating to the procedure to be followed in those proceedings.
 - b) The Appeal Tribunal may call upon, where appropriate, the original decision makers to explain the reasons for the decision(s). Written records, where available, used to justify the decision taken by the decision maker(s) are to be provided to the Appeal Tribunal by the decision makers(s) appealed against. Where the decision under appeal is the result of a Tribunal or other decision the Record of Hearing Tribunal or final findings (in the case of a Hearing Officer decision) is to be provided to the Appeal Tribunal.
 - c) The Appeal Tribunal may question the Appellant depending on the type of appeal.
 - d) The Appeal Tribunal has the discretion to question any other person as deemed appropriate.

9.5.4 The Appeal Tribunal and Evidence

- a) An Appeal Tribunal is not to be bound by the rules of evidence but may accept any information in any form it considers appropriate.

9.5.5 Natural justice provisions are to apply to the conduct of appeals. The key principles of natural justice are:

- a) An Affiliate or an individual member must be given a reasonable opportunity to present their case before a decision is made which will affect them.
- b) The individual member or Affiliate lodging the Appeal must do so honestly and in good faith.
- c) Written submissions may be enough; the rules of natural justice do not necessarily require an opportunity be made to make oral submissions.
- d) Parties should be given adequate notice of relevant dates to enable them to make submissions.
- e) Any adverse material which may affect the decision should be disclosed and parties should have the opportunity to respond or rebut any allegations.
- f) There is no provision for any parties to have legal representation at an Appeal Tribunal.
- g) A member of the Appeal Tribunal cannot have direct or indirect interest, pecuniary or otherwise in the subject matter of the decision.

9.5.6 An Appeal Tribunal shall have the power to:

- a) Dismiss the appeal;
- b) Uphold the appeal;
- c) Impose any of the penalties set out in this Member Protection Policy; and/or
- d) Reduce, increase or otherwise vary any penalty imposed by the initial Hearing Tribunal, in such manner as it thinks fit.

9.5.7 At the conclusion of the appeal, the Chairperson of the Appeal Tribunal shall ensure that the Appellant is correctly informed of the determinations of the Appeal Tribunal. The Chairperson shall also notify the Appeal Officer of the decision of the Appeal Tribunal. The Appeal Officer shall also advise Netball NSW and the Affiliate.

9.5.8 The Appeal Tribunal is obliged to provide reasons for its decision in the form of the Record of Appeal Tribunal (Appendix K). This should be provided the Appeal Officer as soon as possible after completion of the hearing. The Appeal Officer should then pass these findings onto the Appellant.

9.6 Refund of Appeal Fee

The Appeal Fee shall be refunded if the appeal is upheld.

9.7 Costs

The Appeal Tribunal has no power to award costs and each party to an appeal shall bear their own costs.

9.8 Relationship with Criminal Matters

If, during a Hearing or Appeal Tribunal hearing or an investigation under this Member Protection Policy, it becomes known that a criminal charge has been brought (as opposed to merely being the subject of police investigation) arising out of the actions the subject of the hearing, appeal or investigation, the Hearing or Appeal Tribunal and/or Netball NSW and/or its Affiliates must rule that further action be deferred until completion of the criminal charge.

10 Appendix

Appendix A Procedure for Investigating Allegations of Child Abuse

If you believe a Child/Young Person is in immediate threat of danger or a life-threatening situation, contact the Police immediately on 000.

If there is no immediate danger to the Child/Young Person contact the Police Assistance Line 131 444.

Netball NSW and Affiliates treat allegations of harm to a Child/Young Person extremely seriously and will endeavour to manage such complaints promptly and with sensitivity.

All people working with Netball NSW or Affiliates in a paid or unpaid capacity have a duty to report any concerns to the appropriate authorities, following the steps outlined below.

Complaint Handling Procedures relating to allegations of Child Abuse

1 Receive the allegation of harm or concern regarding Child/Young Person at risk of harm

- 1.1 Any complaints, concerns or allegations of Child abuse are to be referred should to the Relevant Person of Netball NSW or the Affiliate.
- 1.2 If a Child/Young Person raises with you an allegation of harm or abuse that relates to them or to another Child/Young Person, it is important that you listen, stay calm and be supportive. Refer to the below table for guidance on dealing with this situation.

DO

Believe the child/young person

- Reassure the Child/Young Person that they have done the right thing by reporting what has happened.
- Reassure the Child/Young Person that what has occurred is not his or her fault.
- Explain that other people may need to be told in order to stop what is happening.
- Promptly and accurately record the discussion in writing.

DON'T

Dismiss their concerns or report

- Do not challenge or undermine the Child.
- Do not seek detailed information, ask leading questions or offer an opinion.
- Do not discuss the details with any person other than those detailed within these procedures.
- Do not contact the alleged offender.

2 Report the allegation

- 2.1 **Immediately report any allegation of Child or Young Person harm or abuse, or any situation involving a Child or Young at risk of harm, to the police and/or the relevant Child protection agency.** You may need to make a report to both.
- 2.2 The NSW Police Assistant Line (ph: 131 444) should be contacted for advice if there is **any** doubt about whether the allegation should be reported.
- 2.3 If the allegation involves a person to whom this policy applies, then the Relevant Person of the Affiliate **must** report the allegation to Netball NSW and the relevant Affiliate.
- 2.4 Netball NSW may choose to deal with the matter itself or refer it back to the Affiliate (including any relevant Association of the Affiliate) for action.

3 Protect the Child and manage the situation

3.1 If Netball NSW or an Affiliate receives a report of allegations of Child abuse, the following steps may be taken as appropriate:

3.1.1 The Relevant Person will contact Netball NSW. Netball NSW will assist the Relevant Person in assessing the immediate risks to the Child and take interim steps to ensure the Child and Young Person's safety and the safety of any other Children and Young People.

If, for any reason, there are concerns for the safety of a Child/Young Person seek immediate Police advice.

3.1.2 This will include suspending the alleged offender as per Clause 6 of the Procedures (interim administrative arrangements)

3.1.3 The Relevant Person will consider what services may be most appropriate to support the Child or Young Person and his or her parent/s.

3.1.4 The Relevant Person will consider what support services may be appropriate for the alleged offender.

3.1.5 The Relevant Person will seek to put in place measures to protect the Child or Young Person and the alleged offender from possible victimisation and gossip.

4 Take internal action

4.1 If Netball NSW or an Affiliate receives a report of allegations of harm of a Child or Young Person, the following steps may be taken:

4.1.1 After the completion of any police and/ or Child protection agency investigation, the Hearing Officer may assess the allegations and information and determine whether further internal action can be taken by Netball NSW or the Affiliate.

4.1.2 At no time is the Hearing Officer to undertake any further inquiry nor is the Hearing Officer to interfere with or seek evidence from the police or other party investigating the allegations.

4.1.3 The Hearing Officer may consider all information relevant to the matter – including any findings advised by the police, the Child protection authority and/or court to determine a course of action.

4.1.4 If disciplinary action is recommended, the Hearing Officer should follow the procedures set out in the Member Protection Policy.

4.1.5 The Hearing Officer may provide the relevant government agency with a report of any disciplinary action taken, where that is required.

Application of Sanctions – General Consideration

The purpose of imposing any form of sanction is to identify the wrongdoing and/or shortcoming, to undertake actions that remedy as much as possible the wrongdoing and/or shortcoming and to provide an opportunity to improve ones' conduct, performance and/or actions in an attempt to provide a positive influence on future actions. Sanctions are aimed at providing an opportunity to overcome the identified shortcoming and/or wrongdoing.

- 1 Any sanction imposed by Netball NSW and/or an Affiliate under the Policy and these Procedures must:
 - a) Conform to the principles of natural justice;
 - b) Be fair and reasonable;
 - c) Be based on the evidence and information presented; and
 - d) Be within the powers of the Hearing Officer or relevant Tribunal to impose.

- 2 The form of discipline to be imposed on an individual Member or Affiliate will depend on factors such as:
 - a) Nature and seriousness of the behaviour or incidents;
 - b) Whether the Respondent concerned knew or should have known that the behaviour was a breach of the policy;
 - c) The level of contrition of the Respondent(s);
 - d) The Respondent's actions post the alleged incident;
 - e) The effect of the proposed sanction on the Respondent(s) including any personal, professional or financial consequences;
 - f) If there have been any prior warnings, sanctions or disciplinary action; and/or
 - g) If there are any mitigating circumstances such that the Respondent(s) shouldn't be sanctioned at all or not sanctioned so seriously.

- 3 If the Hearing Officer or Hearing Tribunal considers that an individual member or Affiliate has breached the Policy, it may impose one or more of the following sanctions:
 - a) For breaches committed by an Affiliate: If the Hearing Officer or Hearing Tribunal considers that an Affiliate has breached this Policy, it may impose one or a combination of the following sanctions on such organisations:
 - i. Direct that any funding granted or given to it by Netball NSW or an Affiliate cease from a specified date;
 - ii. Impose a warning;
 - iii. Recommend to Netball NSW and / or the relevant Affiliate that its membership of such organisation be suspended or terminated in accordance with their applicable constitution;
 - iv. Direct that any rights, privileges and benefits provided to that organisation by Netball NSW or an Affiliate be suspended for a specified period and / or terminated;
 - v. Recommend that Netball NSW and/or the Affiliate cease to sanction events held by or under the auspices of that Affiliate; or
 - vi. Any other such sanction as the Hearing Officer or Hearing Tribunal considers appropriate in the circumstances.

 - b) For breaches committed by individual Members: If the Hearing Officer or Hearing Tribunal considers that an individual member has breached the Policy, it may impose any one or a combination of the following sanctions on such person:
 - i. Impose a warning;
 - ii. Direct that the Respondent attend counselling to address their conduct;

- iii. Recommend that Netball NSW or the relevant Affiliate terminate the appointment of the role which the Respondent holds with such Affiliate;
Withdraw any awards, placings, records won in any tournaments, activities or events held or sanctioned by Netball NSW or an Affiliate;
- iv. Direct the Respondent to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by Netball NSW, an Affiliate or any other Affiliate which has provided funding;
- v. De-register the Respondent as a Member of Netball NSW and an Affiliate with consideration given to a period of time in which the Respondent is not to be a registered member of Netball NSW and an Affiliate;
- vi. Any other such sanction considered appropriate in the circumstances.

- 4 If an Affiliate or individual Member commits a second or subsequent breach under this Policy within 10 years of the last breach, then the Hearing Officer or Hearing Tribunal shall have regard to the previous breach, the sanction imposed and any other relevant factors, in imposing a sanction for the second or subsequent breach.
- 5 If the penalty imposed by a Hearing Officer or Hearing Tribunal affects other Affiliates required to comply with this Policy, the Hearing Officer shall as soon as possible notify the relevant Affiliates of the sanction.
- 6 Every Affiliate to which this Policy applies shall recognise and enforce any decision and penalty imposed by a Hearing Officer or Hearing Tribunal under this Policy.
- 7 When imposing any form of sanction, it will be accompanied by a warning that a similar breach of policy by that individual Member or Affiliate in the future may result in the imposition of a more serious form of sanction.

Notification of Allegations

ALLEGATIONS AGAINST [Respondent Name]

Dear [Respondent Name],

As advised via email dated [Date], in accordance with Netball NSW (NNSW) Member Protection Policy (MPP) Attachment B – Complaint Handling Procedures (the Procedures) [change this reference if proceeding under a different policy] I have been appointed as a Hearing Officer to look into allegations raised against you purporting to constitute breaches of the [Identify relevant policy]. As required by common law procedural fairness and NNSW fact finding provisions, pursuant to section 5.1(b) of the Procedures [ensure this reference is correct depending on policy used], I am now providing you with a signed written copy of the allegations made against you, along with evidence in support from [name complainant and witnesses], for your consideration and response.

I invite you to consider the allegations made against you and the evidence supporting these allegations and to provide a response to this information. If you would like to provide a response to the allegations, I request that you provide me with your response, in writing, by no later than [Date and time one week from date of letter]. You may request an extension of time for response if you feel it necessary to do so. Failure to respond by the due date will mean that I will proceed with the process without your input. It is in your best interests to provide any further information for complete fairness of process. Further input may be requested from others relevant to the issues in relation to any information provided by you and I will advise you if this is the case.

At any time, you can contact me to discuss the process and any concerns that you may have. As this process is confidential and is to remain confidential, I direct that you are not to discuss this matter with anyone other than your nominated support person.

Documentation

Enclosed in this letter are various documents which set out your rights and responsibilities as a participant in the NNSW complaints handling process. Please review these documents carefully and then sign and return these to me.

Privacy Statement. NNSW takes their privacy obligations and responsibilities seriously. Attached is a Privacy Notice which you are required to sign and date. Please take the time to read and understand what is contained within the document and contact me if you have any questions. Please sign and email me a signed copy within **three days** of receipt of this document.

Confidentiality Statement. The Hearing Officer process is to be undertaken in private and all information discussed as part of the process is to remain confidential. That means that you are not to discuss the information and the Hearing Officer process outside of the process (other than with your nominated support person). To do so is to breach confidentiality. Attached is a Confidentiality Notice which you are required to sign and date. Please take the time to read and understand what is contained within the document and contact me if you have any questions. Please sign and email me a signed copy within **three days** of receipt of this document.

Rights and Responsibilities Notice. As a member of NNSW, you are obliged to participate to the best of your ability in this process. Attached is a Rights and Obligations Notice which you are required to sign and date. Please take the time to read and understand what is contained within the document and contact me if you have any questions. Please sign and email me a signed copy within **three days** of receipt of this document.

Victimisation

You are hereby directed, that you are not to engage in victimisation of any person whom you believe may be providing information to NNSW in relation to this complaint.

Pursuant to the MPP, Victimisation is defined as follows;

Victimisation

9.7.1 Means subjecting a person, or threatening to subject a person, to any unfair treatment because that person has or intends to pursue their right to make any complaint, including a complaint under government State or Federal legislation (e.g. anti-discrimination) or under this Policy, or for supporting another person to make complaint.

Failure to comply with this direction may result in further action such as an immediate suspension from all roles as a member of NNSW.

Allegation 1: [Include Allegations]

Allegation 2:

The complainant [Complainant] provided the following information;

[Provide details of complaint]

Witness [Witness Name] provided the following information

[Provide comments on information provided by Witness]

Relevant NNSW Policies

The policies that may have been breached by your alleged conduct are as follows;

[Provide details of alleged breach]

As noted above, I now provide you with an opportunity to consider the evidence, as set out above and to provide your comment. I request that your response be provided to me, in writing, by no later than [Date and time]. Should a response from you not be forthcoming by that time, I will take that as your willingness to waive your right to procedural fairness and will continue with finalising the process. If you require an extension of time to respond, please don't hesitate to contact me.

I thank you in advance for your time and cooperation with this process. I look forward to receiving your response by the due date.

XXXXXXXX XXXXXXXX

Hearing Officer

Association/Club

Tel:

Email:

Date

Enclosures:

1. Privacy Statement
2. Confidentiality Statement
3. Rights and Responsibilities
4. XXXXXXXXXXXXXXXX

Via Email

[Include relevant email address of Respondent]

INVESTIGATION FINDINGS AND PROPOSED SANCTIONS

ALLEGATIONS AGAINST [Name of Respondent]

Dear [Respondent Name],

As advised via letter dated xxx, I have been appointed as a Hearing Officer to investigate allegations raised against you purporting to constitute breaches of the Netball NSW (NNSW) Member Protection Policy (including the Netball NSW Code of Behaviour Policy) arising out of [give brief details of complaint]. As required by common law procedural fairness and NNSW fact finding provisions, I am providing you with all responses provided to me during my investigation along with my proposed findings. I now invite you to provide your comments on these findings before I proceed to formalise these findings. If you see fit, I invite you to propose an alternative sanction and provide the reasons to justify such an action. I will take any additional information you provide into account prior to formalising my decision.

As this process is confidential and is to remain confidential, I direct that you are not to discuss this matter with anyone outside of the process. You may discuss this matter with your nominated support person.

At any time, you can contact me to discuss the process and any concerns that you may have. If you consider there is further information that can be provided in relation to my proposed findings, I request that you provide me with your response in writing by no later than [Date]. You may request an extension of time for response if you feel it necessary to do so. Failure to respond by the due date will mean that I will proceed to finalise the process without your input. It is in your best interests to provide any further information for complete fairness of process.

Allegations and Evidence

[Detail allegations and evidence in support]

Relevant NNSW Policies

The policies that may have been breached by your alleged conduct are as follows;

[Provided details of policy provisions that may have been breached by conduct]

All of NNSW's policies can be accessed at the following link: [Policies - Netball NSW](#).

Investigation Findings

Provide details of proposed findings against each allegation

Proposed Sanction

Based on the findings outlined above, I determine that you have breached the following:

Provide details of findings, including references to specific breaches of policy where relevant

Accordingly I propose to issue you with the following sanctions:

[provide details of proposed sanctions]

As I noted above, I now provide you with an opportunity to consider the evidence, findings and proposed sanctions as set out above and to make comment on them. In particular, if you so wish, you may propose an alternative sanction and the reasons justifying such action. I request that your response be provided to me by no later than [Date]. Should a response from you not be forthcoming by that time, I will take that as your willingness to waive your right to procedural fairness and will continue with finalising the process. If you require an extension of time to respond, please don't hesitate to contact me.

XXXX
Hearing Officer
Netball NSW/ Affiliate
Tel: XXX
Email: xxx
Date: xxx

PROPOSED INTERIM ADMINISTRATIVE ARRANGEMENTS SHOW CAUSE LETTER

Dear XXX

A complaint has been submitted to [relevant Affiliate/NNSW] pertaining to your alleged inappropriate conduct [give context of complaints].

In order to progress the complaints, I have been appointed by Netball NSW as Hearing Officer, as required under the Member Protection Policy (MPP) – Attachment B – Complaint Handling Procedures. This and all other Netball NSW policies are available for you to view at: [Policies - Netball NSW](#). I strongly recommend that you make yourself aware of the processes and procedures contained therein so that you can be informed and comfortable with the process to be undertaken;

The allegation that has come to the attention of [relevant Affiliate/NNSW] raise concerns with the following:

[provide details of concerns]

I have reviewed the information in support of the above issues and am concerned that if the above alleged conduct is established and proven, it may constitute a breach of the NNSW Member Protection policy.

I am also concerned about the exposure of persons to the alleged conduct and the impact that has upon them. The information I have relied upon which forms the basis of my concerns are attached as attachments XXX.

As a result of these concerns, and in accordance with NNSW MPP Attachment B – Complaint Handling Regulation, Clause 6 – Interim Administrative Arrangements, I am proposing to impart the following conditions of you as follows: [delete or amend as relevant]

1. Temporary suspension as a member of [relevant Affiliate/NNSW] – You are not eligible to play in or attend any Affiliate Netball Activities, including any Netball Activity run by [relevant Affiliate/NNSW] effective **immediately [provide date]**;
2. A formal direction that you do not contact in any form the complainant in this matter effective **immediately [provide date]**;
3. A formal direction that you do not approach or be in the presence of XXX effective **immediately [provide date]**;

In accordance with the requirements of procedural fairness, I hereby give you until close of business **[48 hours from date of letter]** to provide a response, including any evidence in support, to the proposed interim administrative arrangements identified above. Once you have provided the response I will consider the information you provide and will make a final decision on what, if any, Interim Administrative Arrangements are appropriate. A response by email is sufficient. Please ensure that you provide all evidence in support of your response. If you do not provide a response within this timeframe you will be taken to have agreed to the proposed Interim Administrative Arrangements. Please note that as indicated above the **proposed arrangements are effective immediately and will apply throughout the show cause period.**

I also make you aware that you are not to engage in any form of victimisation against any of the complainants/victims. The MPP defines this as being:

8.7 Victimisation

8.7.1 Means subjecting a person, or threatening to subject a person, to any unfair treatment because that person has or intends to pursue their right to make any complaint, including a complaint under government State or Federal legislation (e.g. anti-discrimination) or under this Policy, or for supporting another person to make complaint.

[Delete if not relevant] I have been informed the NSW Police Force are investigating the above allegation and until such time as the Police Investigation is complete you will continue to be subject to an interim administrative arrangement and [relevant Affiliate] will not take any further action in relation to the complaint against you. It is your responsibility to notify me once the police investigation has concluded so that I can progress the complaint against you as per Netball NSW Complaint Handling Procedures, otherwise the Interim Administrative Arrangements, once finalised, will remain in place indefinitely.

If you have any concerns or questions in relation to this process, please do not hesitate to contact me.

XXX

Hearing Officer

[Association/Netball NSW]

Tel: XXX

Email: XXX

Date XXX

[relevant Affiliate/NNSW] INTERIM ADMINISTRATIVE ARRANGEMENTS NOTICE

Dear XXX,

Proposed Interim Administrative Arrangements were provided to you on [Date] by [relevant Affiliate/NNSW] pertaining to your alleged inappropriate conduct that occurred on [brief context].

The allegations against you are:

[Provide Details]

The proposed [relevant Affiliate/NNSW] interim arrangements were as follows;

Your Response

On [date] [provide details of response]. I can confirm this response was received prior to the deadline of [Date].

I have reviewed and considered your response as to why you believe the proposed interim arrangements should no longer apply.

In considering whether or not to continue or amend the proposed arrangements, I have taken the following into account; [Provide details of information considered]

In considering the affect these interim arrangements will have on both you as the respondent and both complainants, alongside the nature of the allegations, I have determined there is a moderate risk to the complainant's safety/welfare should the respondent be permitted to [outline Netball Activity respondent wishes to be involved in].

Should the allegations be proven on the balance of probabilities, you may be in breach of the following;

[Provide details of possible breaches]

Decision

Having considered the above information I have reached the following determination under Clause 6.1.7 of the Member Protection Policy – Part B Complaint Handling Procedures.

[amend as required] The terms of the proposed interim administrative arrangements provided to you on [date] will continue and will now be considered final interim administrative arrangements until such time NNSW undertakes a full investigation [which will commence at the conclusion of the police investigation/judicial process].

The conditions of the final interim administrative arrangement are as follows;

[provide details of conditions]

I must also make you aware that you are not to engage in any form of victimisation against any of the complainants/victims.

The MPP defines this as being:

8.7 Victimisation

8.7.1 Means subjecting a person, or threatening to subject a person, to any unfair treatment because that person has or intends to pursue their right to make any complaint, including a complaint under government State or Federal legislation (e.g. anti-discrimination) or under this Policy, or for supporting another person to make complaint.

You may formally request a review of the decision. However, any review will be at the absolute discretion of the Hearing Officer.

If you have any concerns or questions in relation to this process, please do not hesitate to contact me.

XXX

Hearing Officer

Association/Netball NSW

Tel: XXX

Email: XXX

[Date]

Notification of hearing tribunal

Insert Date

To: *Insert participant details and membership number.*

By E Mail - Hand Delivered

Of: *Team name.*

Dear *Insert name,*

We refer to the complaint received on *insert date* in regards to *give context of complaint.*

As a member and participant of Netball operated by an organisation Affiliated with Netball NSW, *insert Affiliate name/NNSW*, you are subject to the Netball NSW Member Protection Policy. A copy of all related documentation can be viewed at the Netball NSW website [Policies - Netball NSW](#) and you are encouraged to read this information and the Member Protection Policy.

Attendance at Tribunal Hearing

You are hereby notified that *insert Affiliate name/NNSW* has convened a Hearing Tribunal to review and adjudicate on the alleged breach detailed above.

Your attendance at this hearing is required to hear the allegation of breaches and respond. If you are under 18, or are otherwise unable to represent yourself, you should bring an adult representative (not acting as a legal practitioner) who may advise you or ask questions. Otherwise you are entitled to bring a support person.

Details of Hearing

Time: *Insert Time*

Date: *Insert Day and Date*

Location: *Insert Location*

Alleged Charge:

It is alleged that you have:

Include details of alleged

Confirmation of Attendance

Please confirm your attendance with Hearings Officer, *insert name and contact details* along with the details of any support person you wish to bring.

Non-attendance at Hearing Tribunal

If a person who is required to attend a Tribunal fails to attend a Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Hearing Tribunal provided that the Hearing Tribunal is satisfied that all notification procedures under Attachment B to the Netball NSW Member Protection Policy – Complaint Handling Procedures have been carried out.

A charged person, club or reporting person may apply to the Tribunal Chairperson (if convened) or Hearing Officer to have a Tribunal hearing adjourned or convened in another way if there are compelling circumstances which the applicant

considers warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, reporting person or club. This decision will be solely at the discretion of the Tribunal Chairperson (if convened) or Hearing Officer.

If prior to your attendance at the hearing you have any questions, you are encouraged to contact the Hearings Officer, **insert name** who will assist you as far as practicable. Again, the Netball NSW Member Protection Policy can be accessed in full at the following link: [Policies - Netball NSW](#)

Attachment B (Complaints Handling Procedures) to this Policy outlines the procedures to be followed during the hearing.

We look forward to receiving your confirmed attendance at the above hearing.

Yours sincerely,

insert name

Hearings Officer/ Appeal Officer

Netball NSW Authority *(adjust to be the Affiliate name)*

P: **insert phone number**

E: **insert email**

Record of Tribunal Hearing

Held on the 00/00/0000

Present:

Provide details of all those present and how they are represented, include initials of each person.

Persons Charged:

Particular details of the individual(s) Member, team or club

Committing an offence of:

Provide details of offences as per Clause 15 of the Netball NSW Member Protection Policy [Or refer to other relevant doc e.g. Codes of Behaviour].

Statement of the incident:

Set out a statement of the incident.

Summary Record of Proceedings:

It is recommended that a written record of the proceedings is kept – this record can be a summary and is not required to be a detailed record of each statement during hearing.

Tribunal Decision:

Set out clear and concise decision of the Tribunal.

Sanction Imposed:

Remember each proceeding needs to be judged on its own merits. Set out sanction imposed by Tribunal

Right to Appeal

Please be advised that if you wish to appeal your Notice of Appeal must be lodged within 5 Days of Receipt of this record of appeal.

Please find attached an Application of Appeal, which is the form that must be used to request an appeal hearing.

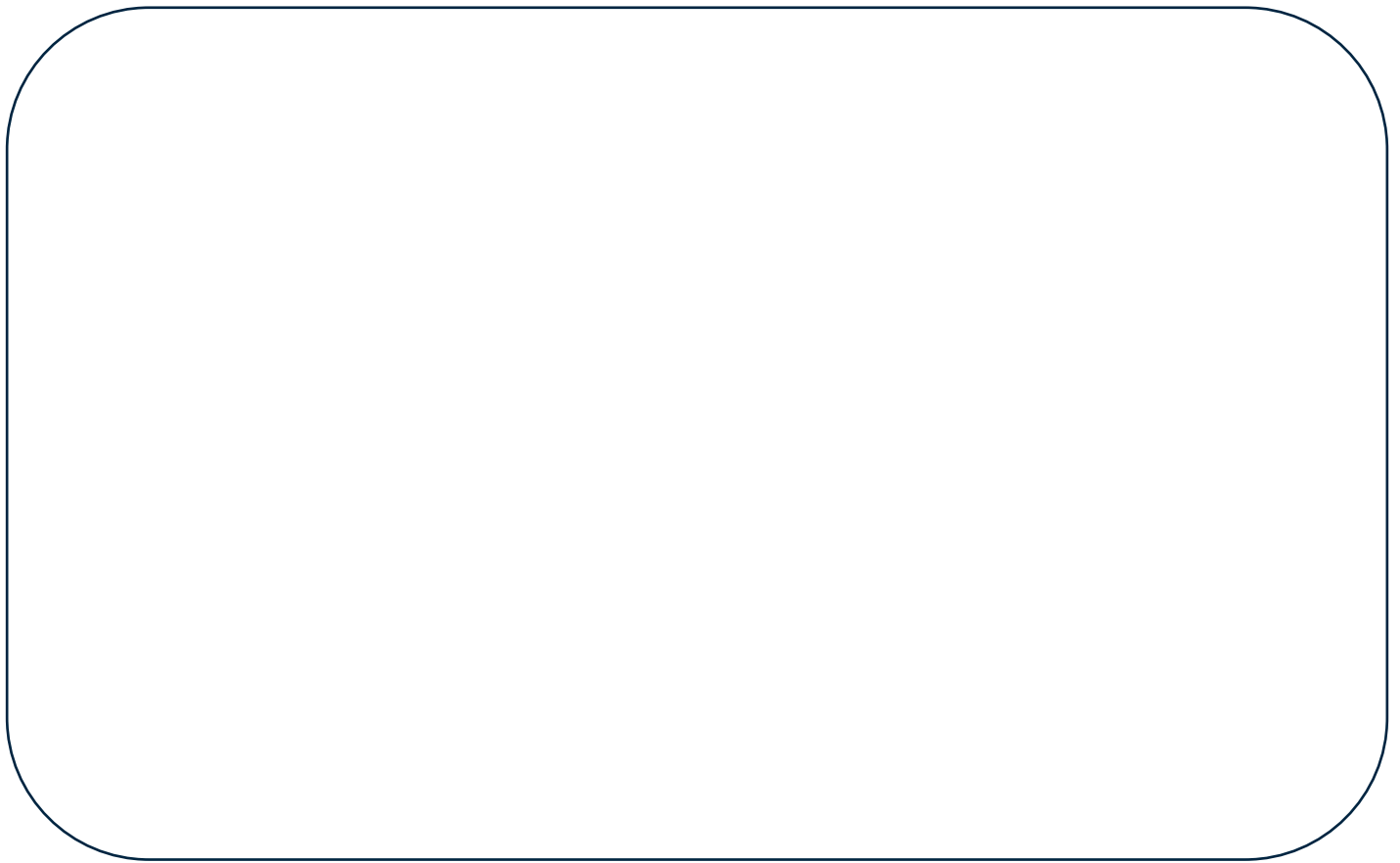
Chairperson's Signature:

Date: 00/00/0000

Notification Requirements

The Tribunal Chairperson must provide this Record of Hearing to the relevant Hearing Officer AND Netball NSW at policy@netballnsw.com as soon as possible after the conclusion of the Tribunal.

Evidence Called/ Submitted



Appendix J - Notification of Appeal Tribunal

Notification of Appeal Tribunal

Insert Date as [Day, Date Month Year]

To: *Insert Name and Address*

By E Mail – Hand delivered

Of: *Insert Team Name*

Dear *Insert Name,*

Attendance at an Appeal Tribunal Hearing

As a Member within a competition operated by an organisation Affiliated with Netball NSW, *insert Affiliate name*, you are subject to the Netball NSW Member Protection Policy. A copy of all related documentation can be viewed at the Netball NSW website [Policies - Netball NSW](#) and you are encouraged to read this information and the Member Protection Policy.

You have been granted the right to be heard by an Appel Tribunal/ You are required to attend a Appeal Tribunal hearing in relation to the findings of the Hearing Tribunal/ Appeal Tribunal (*held on insert date*) and your notice of appeal dated *insert date-delete if not relevant*. Attendance at this Appeal Tribunal hearing is required. If you are under 18, or otherwise unable to represent yourself, you should bring an adult representative (not being a legal practitioner) who may advise you or ask questions.

Details of Appeal Tribunal

Time: *Insert Time*

Date: *Insert Day and Date*

Location: *Insert Location*

Statement of Appeal

The Appeal Tribunal shall either conduct a complete re-hearing or the appeal may be limited to the consideration of the grounds of the appeal – this will be determined by the Appeal Tribunal Chairperson.

Confirmation of Attendance

Please confirm your attendance with the Appeal Officer, *insert name and contact details*.

If a person who is required to attend an Appeal Tribunal fails to attend an Appeal Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Appeal Tribunal provided that the Appeal Tribunal is satisfied that all notification procedures under Attachment B to the Netball NSW Member Protection Policy have been carried out.

We look forward to receiving your confirmed attendance at the above hearing.

Yours sincerely,

Insert name

Netball NSW

Member Protection Policy (V6)
Attachment B: Complaint Handling Procedures
22 October 2021

Appeal Officer

Netball NSW Authority (*adjust to be the Affiliate name*)

P: *insert phone number*

E: *insert email*

Appendix K – Record of Appeal Tribunal

Notification of Findings by Appeal Tribunal

Insert date as [Day, Date Month Year]

To: *insert name, and address and Membership number*

By Hand Delivered /Emailed

Of: *insert team name*

Dear *name,*

Tribunal Findings and/or Decision

As a Member in a competition operated by an organisation Affiliated with Netball NSW *insert Affiliate name*, you are subject to the Netball NSW Member Protection Policy. A copy of all related documentation can be viewed at the Netball NSW website [Policies - Netball NSW](#).

We refer to the Appeal Tribunal Hearing on *insert date, time and venue*. The Tribunal found *detail decision of Tribunal*

Right to Appeal

Please be advised that if you wish to appeal your Notice of Appeal must be lodged within 5 Days of Receipt of this record of appeal.

Please find attached an Application to Appeal, which is the form that must be used to request an appeal hearing.

Names of Individuals who sat on this Tribunal

Insert name – Chairperson

Insert name – Panel Member

Insert name – Panel Member

Yours sincerely,

Insert name

Hearing Officer

Netball NSW Authority (*adjust to be the Affiliate name*)

P: *insert phone number*

E: *insert email*

Appendix L Rights and Obligations of Complainants, Respondents and Witnesses

1. This document sets out the rights and obligations of persons directly involved in the complaint handling process as a complainant, respondent and/or witness. The rights and obligations are based upon the basic standards and codes of behaviour established under the Netball NSW Constitution alongside Netball NSW's policy framework including the Netball NSW Member Protection Policy, the Netball NSW Grievance and Dispute Resolution Policy, the NSW Disciplinary Policy, and the Netball NSW Code of Conduct (the Governing Framework).
2. The standards of behaviour and traits required to be complied with by the Netball NSW Governing Framework establishes a commitment to develop and maintain high standards of conduct and professionalism by showing:
 - a) Respect
 - b) Fair and equitable treatment
 - c) Courtesy
 - d) Ethical treatment and conduct
 - e) Honesty and Integrity
 - f) Safety
 - g) Consideration of others
 - h) Professional conduct
 - i) Acceptance of Responsibility
3. Each person involved in the complaint process must act in a manner that is consistent with the traits established by the Netball NSW Governing Framework, as identified in point 2 above. With this in mind, each participant is to co-operate fully with the complaint management process. This includes the obligation to provide full and frank disclosure of information and evidence, including relevant photos and documentation, and to be honest, truthful and fair when interviewed and/or responding to an Investigation Officer or other person appointed to deal with a complaint.
4. Each person must be afforded certain rights during the complaint handling process. In particular:
 - a) To be advised of the allegations against them (if any and where applicable);
 - b) To be provided with relevant evidence and information pertaining to a complaint that is relevant to them;
 - c) To have a support person made available if requested;
 - d) To be given a reasonable opportunity to consider the information provided to them at (a) and (b) above, if applicable;
 - e) To be given the opportunity to provide a response to any information provided at (a) and (b) above alongside any supporting information or evidence
 - f) Where deemed necessary, an opportunity to respond to any inconsistency that may have arisen that is pivotal to the complaint.

The rights and obligations are provided to ensure that procedural fairness is entrenched in the process and afforded to each affected person appropriately.

5. **Release of reports.** All persons involved in the complaints handling process are to be aware that any report drafted by the MPIO or Hearings Officer following the conclusion of an investigation, including supporting evidence, may be made available to the complainant and/or respondent at the end of the process. It is Netball NSW's policy to support a request for release of such information directly to the complainant and respondent in order to ensure that the process is both transparent and fair, with relevant privacy redactions undertaken in accordance with the Privacy Notice. In providing information to a complaint handling process, all persons are to be made aware of the potential for the information they have provided to be made available to others, either for comment and appraisal or as part of the report established to assist with the complaint handling process. All persons are to acknowledge, in writing, that any information they provide may be used in such a manner.

Name

Signature

Date

Appendix M Confidentiality Notice

This document outlines the responsibility associated with maintaining the confidentiality of information provided or received by a participant of an investigation during the course of an investigation.

As a participant of an investigation, you are not to discuss with any other person (outside of a nominated support person) any information given, received or which you are otherwise made aware of during the course of the investigation. This includes discussion with other participants of the investigation including the complainant or the respondent which is prohibited.

Any information obtained by the Hearing Officer, during the investigation process will only be utilised as part of the investigation process to ensure that all steps have been taken to enable procedural fairness to take place. This means that information provided by you may be provided to another person to whom the information relates, where it is deemed necessary to do so. This has been outlined in the Privacy Notice document.

By signing this document, you agree that you will not discuss or divulge any information received or given at any stage throughout the investigation process and nor will you discuss any aspect of the investigation with any other party.

Name

Signature

Date

Appendix N Privacy Notice

This document is provided to outline the application of the Netball NSW Privacy Policy to matters that are investigated under one or more of the Netball NSW Member Protection Policy; the Netball NSW Grievance and Dispute Resolution Policy, the NSW Disciplinary Policy, and the Netball NSW Code of Conduct (Netball NSW Policies). Complaint handling is a key activity of Netball NSW to maintain standards and codes of conduct across Netball in NSW and its Affiliates.

Any information that is provided as a complainant, witness and/or respondent in respect of an investigation under Netball NSW Policies that is 'Personal Information' is protected by law. Personal Information is defined under the *Privacy Act 1998* (Cth) (**Privacy Act**) as follows:

Personal Information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) Whether the information or opinion is true or not; and
- (b) Whether the information or opinion is recorded in a material form or not.

Under Netball NSW Policies, Netball NSW will not and cannot assist a complainant to resolve a dispute if the complainant wishes to remain anonymous. This is because allowing a complainant to remain anonymous would preclude the respondent from being afforded procedural fairness. Generally, a person has the right to have access to the complete circumstances surrounding allegations made against them in order to ensure that they are able to properly respond to these allegations. This approach is in line with Principle 2.2 of the Australian Primary Principles (APP), which states that when dealing with an APP entity such as Netball NSW, an individual must have the option of dealing anonymously or by pseudonym unless it is impracticable for the APP entity to deal with individuals who have not identified themselves or who have used a pseudonym.

The investigation process requires information to be collected to and shared as is necessary in order to enable persons to have the ability to provide input into the investigation as required, including by responding fully to any allegations made against them. This means that any information that you provide may be shared with those persons who are directly affected and/or implicated by the information that you provide, including your name. However, any other Personal Information you provide such as your address, contact details and date of birth will not be disclosed to any other person. All such Personal Information provided will remain confidential and treated as such and will only be utilised as part of the investigation process.

At the completion of the investigation process, a report will be drafted and delivered to the Hearing Officer who directed that the investigation take place. Any information you provide may be utilised to enable the Hearing Officer to determine how to proceed with the matter. If deemed necessary, the final report may also be shared with the relevant Affiliate/s that you are involved in to ensure consistency of action. Nonetheless, Personal Information will remain confidential at all times and will be kept securely within Netball NSW premises

Any person who is part of the investigation has the right to seek a copy of the report however, in such an instance, privacy deletions will be undertaken to ensure that only that information that is relevant to the requester is provided.

By signing this document, you acknowledge the purpose of the investigation process and grant permission for the information you provide to be utilised during the investigation process in a manner deemed appropriate. You further acknowledge that confidentiality will be afforded you and your information at all stages, as required and appropriate.

Name

Signature

Date

Appendix O Parent/Guardian Authority to Allow Child/Young Person/Vulnerable Person to Participate in Investigation

I, _____, parent/guardian of _____, after having discussed the investigation request with my daughter/son and my daughter/son having agreed to undertake such, hereby give permission for my daughter/son, _____ to participate in an investigation or record of interview with **insert name**, Hearing Officer appointed on **insert date** by **insert name**, [relevant Affiliate] , to look into the allegations raised in the Appointment documentation.

I have also discussed with my daughter/son that she is to be accompanied by an adult or guardian during any interview and she/he is happy for _____ to be present.

Name

Signature

Date