



Netball NSW

Grievance and Dispute Resolution Policy

Adopted by New South Wales Netball Association Ltd at its Board Meeting and effective as at 5 December 2022

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1 Introduction

- 1.1 Netball NSW (as the controlling authority for Netball in NSW) has in place a range of policies and procedures for Member protection, child safeguarding, complaint handling, reporting of concerns, disciplinary action and dispute resolution to ensure any concerns are addressed in a timely and fair manner.
- 1.2 This Grievance and Dispute Resolution Policy (**Policy**) deals primarily with grievances and/or disputes between Members of an Affiliate or between Members and an Affiliate (internal disputes) that do not involve Member protection issues or disciplinary (On-court) Offences which are dealt with under the other relevant Netball NSW policies.
- 1.3 Everyone involved in Netball in NSW is encouraged to raise concerns that they may have at any point regarding the safety, welfare, wellbeing, health, behaviours or conduct of Members, Affiliates or other Participants in Netball in NSW.
- 1.4 When identifying which Policy to follow for different complaints, grievances and/or disputes, refer to Attachment A - Netball NSW Complaints, Grievances and Disputes Decision Tree.

2 Definitions

Act means the *Associations Incorporation Act 2009* (NSW).

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

Constitution means the constitution of an Affiliate and is a contract between the Affiliate and its Members, who agree to adhere to the provisions outlined in the Constitution.

Executive Committee means the governing body of an Affiliate.

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

Model Constitution (Model rules) means the NSW Department of Fair Trading Model Constitution, which covers the matters required to be addressed in an Association's Constitution by Schedule 1 of the Act and which appears as Schedule 1 of the Associations Incorporation Regulation 2016 (NSW).

Natural justice also known as procedural fairness, is a requirement of a fair dispute resolution process.

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

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

Netball NSW is the New South Wales Netball Association Limited.

Netball NSW Member Protection Policy means the Policy adopted by Netball NSW on 15 February 2022 as amended from time to time, which deals with Member protection issues. Examples of Member protection issues dealt with by the Policy include issues relating to:

- Child protection
- Child abuse
- Child neglect
- Using images of children inappropriately or illegally
- Discrimination
- Bullying
- Sexual harassment
- Victimisation
- Inappropriate sexual relationships
- Cyber bullying and inappropriate conduct

On-Court Conduct means conduct by a Member occurring during any Netball Activity including but not limited to games, training and carnivals.

On-Court Offence means any On-Court Conduct that constitutes an offence by a Member as defined in Appendix A to this Policy. This includes any offences which may have occurred

before, during or after the Netball Activity, in the confines of the court or venue on which the Netball Activity is conducted or its immediate surrounds or elsewhere if directly related to the relevant Netball Activity.

Policy means this Netball NSW Grievance and Dispute Resolution Policy.

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

Rules of Netball means the World Netball Official Rules of Netball as published by the World Netball from time to time, unless where modified by Netball NSW and/or its Affiliates.

3 Scope of this Policy

3.1 Who Does this Policy Apply To?

3.1.1 This Policy applies to the following people/organisations, whether they are operating in a paid or unpaid/voluntary capacity in Netball NSW or with an Affiliate:

- a) Netball NSW and its Members;
- b) Affiliates and their Members;
- c) Individuals sitting on Boards, committees and sub-committees of Netball NSW and/or its Affiliates;
- d) All employees, volunteers, independent contractors and other Participants in Netball in NSW, including:
 - (i) Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sports trainers etc.);
 - (ii) Coaches and assistant coaches;
 - (iii) Athletes and players;
 - (iv) Umpires, bench officials and other officials; and
 - (v) Administrators.
- e) Any other person or organisation that is an individual Member of or affiliated with Netball NSW; and
- f) Any other person who has agreed to be bound by this Policy.

3.1.2 This Policy will continue to apply to a person even after they have stopped their association or employment with Netball NSW and/or an Affiliate if action against that person has commenced.

3.2 When Does This Policy Apply?

3.2.1 This Policy provides a process for dealing with grievances and/or disputes that:

- a) are outside the scope of the Netball NSW Member Protection Policy, and/or
- b) are outside the scope the Netball NSW Disciplinary Policy which covers the circumstances when an Individual Member or any other person or organisation is charged with an On-Court Offence whilst their team/club is participating in a Netball Activity.

3.2.2 This Policy is intended to deal with grievances and/or disputes between Members of an Affiliate or between Members and an Affiliate (internal disputes).

3.2.3 Examples of grievances and disputes that might be dealt with by this Policy include but are not limited to:

- Issues between Members and Affiliates regarding coaches and other officials which didn't follow procedures as set out in their policies;
- Issues between Members and Affiliates regarding the conduct of Members of the Executive Committee of the Affiliate;
- Issues between Members and Affiliates concerning how AGM and/or Council meetings are run;
- Issues between Members and Affiliates regarding the application of the rules of the netball competitions and activities conducted by an Affiliate; and
- Issues between Members and Affiliates regarding player selection and/or representative programs.

3.2.4 This Policy applies:

- a) at any Netball NSW or Affiliate competition or event;
- b) during paid or voluntary activities, including dealing with Members, media, sponsors, other support employees, volunteers, independent contractors and other participants in Netball in NSW;
- c) during all netball related activities including competitions, training events and camps;
- d) at all times when providing services on behalf of Netball NSW or an Affiliate; and
- e) at all times when acting in any capacity, whether voluntary or paid on behalf of Netball NSW or an Affiliate.

4 Grievance and Dispute Resolution Process

Serious incidents such as harm to a child or young person should be reported to the police in accordance with the Netball NSW Child Safeguarding Policy.

4.1 Who handles grievances and disputes?

4.1.1 The Executive Committee of an Affiliate is responsible for the administration of grievances and disputes that fall within the scope this policy arising out of a Netball Activity organised and run by the Affiliate.

4.1.2 Grievances arising out of a Netball Activity organised and run by Netball NSW will be handled by Netball NSW in accordance with this Policy.

4.2 What should I do if I have a grievance or dispute?

The first step is to try to resolve the grievance or dispute informally with the parties involved.

Step 1: Talk with the other person (if safe, reasonable and appropriate)

If you feel confident and comfortable to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

All communication between parties involved should be respectful.

Step 2: Contact a Member Protection Information Officer

Talk with an Affiliate Member Protection Information Officer (MPIO) if:

- Step 1 (above) is not appropriate;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially with someone and find out what options are available to address your concern; or
- the concern continues after you approached the other person.

The MPIO will:

- ask how you would like your concern to be resolved and if you need support;
- seek to provide different options for you to address your concern;
- act as a support person, if you wish;
- refer you to an appropriate person (e.g. a mediator) to help you address your concern, if appropriate;
- inform the relevant government authorities and/or police, if required by law to do so; and
- where possible and appropriate, maintain confidentiality.

Any information discussed with an MPIO is subject to the requirements of confidentiality as set out in Clause 5 below. The MPIO must not discuss any details you provide with any other member of the Affiliate community.

Step 3: Decide how to address your concern

After talking with the MPIO, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and resolve the problem yourself, with or without a support person; or
- to resolve the problem with the help of someone impartial, such as a mediator i.e. refer the matter to a Community Justice Centre (see Clause 4.3).

4.3 What if the matter cannot be resolved through informal discussions?

The vast majority of Affiliates that conduct netball competitions and activities in NSW are registered as 'incorporated associations' under the *Associations Incorporation Act 2009* (NSW) (ACT).

- a) Under this Act, any incorporated Affiliates are required to have in place a procedure for managing and handling grievances and disputes. If the Constitution of the relevant

Affiliate does not include a dispute resolution procedure, then the procedure outlined in the Model Constitution is taken to be part of the Affiliate's Constitution.

- b) The Model Constitution can be found via <https://www.fairtrading.nsw.gov.au/associations-and-co-operatives/associations/starting-an-association/model-constitution>.

Accordingly, under either the Model Constitution, or the Affiliate Constitution there will be dispute resolution procedures which should be followed to resolve a dispute. Where an Affiliate Constitution refers members to the 'Netball NSW Complaint Handling Procedures' or words to this effect, the processes outlined in the Model Constitution should be followed.

The process for resolving disputes under the Model Constitution is as follows:

Step 1 – Refer the Matter to Mediation

Under Section 9(1) of the Model Constitution - Resolution of Internal Disputes, a dispute between two or more Members of the Association, or a dispute between a Member or Members and the Association, are to be referred to a Community Justice Centre (**CJC**) for mediation under the *Community Justice Centres Act 1983*.

See clause 4.4 for further details in relation to CJC and the mediation referral process.

Step 2 – Refer matter to Arbitration if Mediation Fails

Under Clause 9(2) of the Model Constitution, if a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute may be referred to arbitration. The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

4.4 What are Community Justice Centres? What is mediation? And who is involved?

Community Justice Centres (CJCs) provide free mediation services throughout NSW.

- a) Mediation is an informal, problem-solving process in which an impartial person (a mediator) helps people with a dispute come together to reach an agreement everyone can live with. Thousands of people use mediation services every year to talk about their disputes and reach a solution.
- b) CJC mediation is run by impartial, trained mediators. The mediators don't take sides, or make a decision about a dispute. Their role is to make sure each person has a chance to have their say, keep the discussion on track, and help you come to an agreement wherever possible.
- c) Community Justice Centre mediation:
 - Is free
 - Has no waiting lists
 - Is held in a venue near you
 - Let's everyone have their say
 - Is confidential
 - Is more likely to preserve the relationships of the people involved in the conflict

d) Community Justice Centres can be found and/or contacted on the below details:

w: www.cjc.justice.nsw.gov.au

e: cjc@justice.nsw.gov.au

p: 1800 990 777

5 Confidentiality

5.1 All grievance and dispute actions undertaken are to remain confidential. Thus, all persons participating in the process, whether directly or indirectly, are to maintain confidentiality at all times. Persons are also to ensure that privacy is maintained throughout and beyond the process at all times. Any breach of confidentiality or privacy may form the basis of formal action against the person who breaches these requirements.

5.2 Please note that Netball NSW and/or Affiliates are not able to handle complaints anonymously in accordance with principals of natural justice.

6 Frequently Asked Questions

Can we remove (or discipline) a Member or committee Member who is causing trouble?

Affiliates can discipline Members so long as they follow disciplinary procedures in their Constitution, and in addition, apply principles of natural justice.

The Model Constitution contains provisions regarding the disciplining of Members and the removal of Executive Committee Members.

The grievance and dispute resolution Process did not resolve the issue. Are there other options?

Sometimes even when you follow your Affiliate's grievance and dispute resolution procedures, the situation doesn't resolve. There are some other options, depending on the circumstances, which may be able to break a 'deadlock' situation. Some are set out briefly below:

Hold a special general meeting

It can be helpful to call a special general meeting of all the Members of the Affiliate, to try and sort out what should be done about the Affiliate's problems.

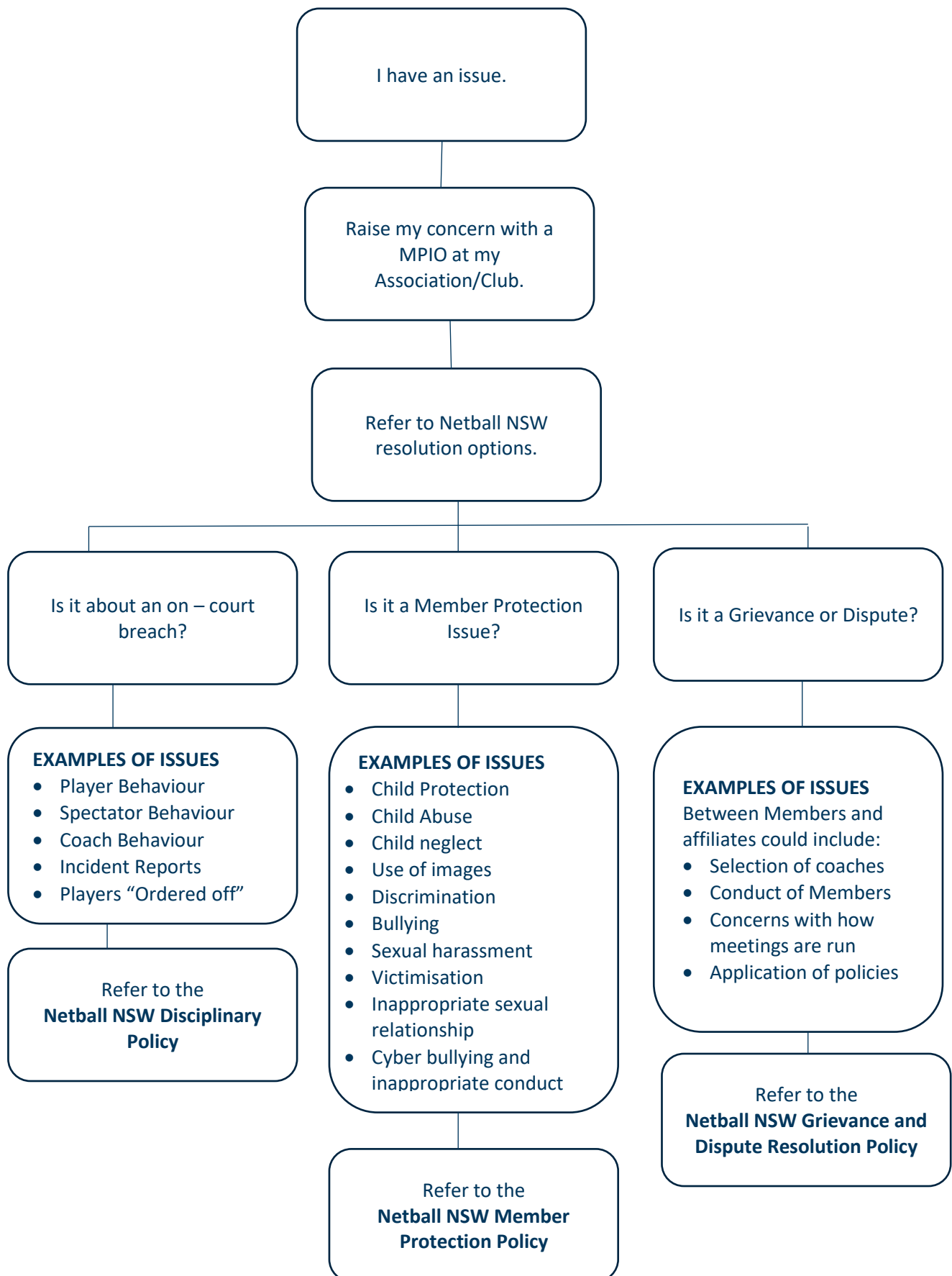
Check your Constitution to find out how to call a special general meeting.

If you think the meeting may be difficult to control, consider getting an independent person to sit in or oversee the running of the meeting to help it run as smoothly as possible.

Remove yourself from the situation

If you are personally involved in a dispute, that you feel may cannot be adequately resolved, it may be in your best interests to remove yourself from the situation and look to join another Affiliated Club or Association. Whilst this is an option of last resort, given your involvement with an Affiliate is voluntary, you should not feel that you are compelled or required to remain in a situation which is negatively impacting you.

Attachment A: Netball NSW Complaints, Grievance and Disputes Decision Tree



Attachment B: Grievance and Dispute Resolution Process

