

Memo

Date Wednesday, 11 October 2023
Re Constitutional Drafting and Support

Background

As Affiliates begin to turn their mind to 2024, we thought it timely to provide some information and support in relation to good governance, including Constitutions and the process for making any changes.

Importantly, all incorporated associations **must** address matters referred to in Schedule 1 of the [Associations Incorporation Act 2009](#) ('the Act') within their constitution. Organisations must ensure that any changes are registered with [Fair Trading](#), noting that an application for change may be refused where it does not comply with the Act, or is not correctly lodged.

Netball NSW encourages Affiliates to take into account the [Sport Governance Principles](#), as recommended by Sport Australia, when undertaking any governance or constitutional review. These principles are designed to help guide good governance from small local clubs to large national organisations and link education, support and resources to transition the theory into practice.

We also ask Affiliates to consider ways of removing any barriers to participation from their Constitution and what affect any changes may have on volunteering and succession planning. Considerations may include;

- Creating flexibility of competition formats;
- Enabling capacity building through volunteer workforce and paid positions;
- Broadening definitions to create flexibility;
- Considering executive structures and tenure provisions that encourage members to step-into positions;
- Removing specific dates to provide greater opportunity;
- Considering moving operational processes into a policy/by-law which can be changed with greater ease.

Constitutional Templates

Netball NSW have developed a suite of new policy resources and templates for Affiliates through our Beyond the Court resource. As part of this, we are pleased to provide organisations with two constitutional templates to consider.

- 1) [Fair Trading Model Constitution](#) – An association may adopt the Model Constitution in its entirety, or incorporate provisions from the Model Constitution into their own document. This template covers matters required by Schedule 1 of the Act. If an associations constitution fails to address a matter outlined in Schedule 1 of the Act, this Model Constitution applies for that matter and forms part of the association's own constitution.

- 2) [Netball NSW Constitutional Template](#) – To assist Associations develop constitutions for their incorporated associations, Netball NSW has prepared this model constitution, which is intended to cover the matters required by the Act.

The contents of this model constitution must not, however, be relied on as constituting legal advice. Associations should consider each of the provisions contained within this template before adopting the document to ensure that the provisions apply to them and the specific circumstances of their organisation. For advice on an Association’s constitutional requirements, please seek independent legal advice.

Further Resources

NSW Department of Fair Trading

[Associations](#) – information about the constitution, including a model constitution template.

Sport Australia

[Sports Governance Principles](#) – helping organisations to implement and maintain a robust system of governance.

NSW Office of Sport

[Club Governance](#) – information on constitutions and rules, good governance, policy and procedures.

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