



# Netball NSW

## Disciplinary Policy

Adopted by New South Wales Netball Association Ltd at its Board Meeting and effective as at 29 November 2023 .

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## 1 Introduction

The Netball NSW Disciplinary Policy (**Policy**) outlines, for Netball in NSW, the foundation of how unacceptable On-Court Conduct is managed within the sport. It illustrates our member's responsibilities, emphasises the significance of our dedicated staff and volunteers, and helps Members to deal with unacceptable behaviour.

While all care has been taken in the preparation of this publication, no responsibility is accepted by Netball NSW for any errors, omissions or inaccuracies. This publication is of a general nature only and is not intended to be relied upon, nor as a substitute for, professional advice. No responsibility can or will be accepted by Netball NSW for loss occasioned to any person doing anything as a result of any material in this publication or any person relying on any material in this publication.

### ***Important***

The following points should be borne in mind at all times:

1. Netball NSW is the controlling authority for Netball in NSW and all Affiliated clubs/associations are insured under Netball Australia's Insurance Program.
2. It is essential that you comply with all relevant policies. You and your Affiliate must take all due and reasonable precautions to prevent or mitigate losses. Failure to do so may prejudice your rights and entitlements under Netball Australia's Insurance Program. Please do not hesitate to contact Netball NSW should any assistance be required.
3. The preparation of this document is in no way a commitment from Netball NSW to provide funds or make any other contribution now or in the future.
4. Netball NSW policies are living documents which reflect progress in administrative requirements and industry standards. As such, to maintain currency, policies are periodically reviewed and updated. It is important readers ensure they are reading and using the most up to date version. The most up to date versions of Netball NSW Policies can be found at [Policies - Netball NSW](#).
5. Netball NSW also welcomes suggestions or improvements to our policies and procedures.

## 2 Definitions and Interpretation

### 2.1 Interpretation

Unless otherwise specified, words and phrases in the Constitution have the same meaning in this Policy and this Policy is to be read in conjunction with (and subject to) the Constitution.

### 2.2 Definitions

**Affiliate Member** means a body corporate that is affiliated with the Company through Netball and becomes a Voting Member in accordance with this Constitution and the relevant Company policy.

**Constitution** means the Constitution of Netball NSW as amended from time to time.

**Days** any reference to Days in this Policy is to calendar days, being any day of the week including weekends and public holidays.

**Incident Report** means the following as applicable:

- a) In the case of alleged incidents to be managed at the association/club level, the Incident Report Form contained at Appendix C to this Policy; or
- b) In the case of alleged incidents relating to Netball NSW run competitions (e.g. Metro League, Premier League, State Titles), a submission via the relevant online complaints management portal.

**Level of Offence** means the categories of offence from 1-5 based on seriousness and impact as outlined in Appendix A.

**Match** means a Netball NSW or Affiliate sanctioned Netball game.

**Match Suspension** means, in the context of State Titles, suspension from any involvement in the specified number of Matches (i.e. as a player, coach or official).

**Individual Member** means an individual member of an Affiliate Member that becomes a Non-Voting Member in accordance with the Netball NSW Constitution.

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

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

**Netball NSW** is New South Wales Netball Association Limited.

**Netball Australia Integrity Policy Framework** means the policy framework as adopted by Netball NSW that relates to Member Protection, Child Safeguarding, Competition Manipulation and Sports Wagering, and Sports Medicine in Community Sport.

**Objects** mean the Objects of Netball NSW in Clause 3 of the Constitution.

**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.

**Ordered Off** means when a player or Member has been ordered off the court by an umpire and has been excluded from taking any further part in the Match.

**Receipt (Receive/Receiving)** for the purpose of this Policy, a document is taken to have been Received by the recipient when:

- a) in the case of a document sent via email, the time stamp shown on the email;
- b) in the case of a report submitted via the Netball NSW online portal, the time stamp shown on the notification that the report has been submitted; or
- c) in the case of a physical, hard copy, Incident Report Form, the time and date recorded on the Incident Report Form.

**Relevant Person** is a person or persons who have been identified by Netball NSW or the President of an Affiliate as being a person who has the responsibility and abilities to undertake duties pertaining to the application of the Policy and the Receipt of reports of alleged breaches under that Policy.

**Rules of Netball** means that the competition or Match will be conducted with reference to the International Netball Federation Official Rules of Netball and International Netball Federation Regulations (INF Rules) as published by the INF from time to time, unless where modified in Netball NSW or its Affiliate's Competition Rules.

**State Titles** means the Senior State Titles, Junior State Titles and Masters State Titles competitions organised by Netball NSW.

**Week(s) Suspension** means suspension from all Netball Activities (i.e. including but not limited to playing, coaching and/or officiating) for 7 Days (per week suspended) from the date the sanction is Received. Refer to Clause 5.2.4 for further clarification on the intended application of Week(s) Suspension.

### 3 Scope of Policy

This Disciplinary Policy applies to and binds all Affiliates and Members. This Disciplinary Policy deals with On-Court Offences which may arise as a result of a Member's On-Court Conduct during a Netball Activity.

The Disciplinary Policy is the formal framework that is provided to Members to assist them to deal with unacceptable On-Court Conduct. As Member entities of Netball NSW, we require Affiliates to implement and regularly update policies that assist Netball in NSW to comply with the law and improve the sporting environment. Users of this Policy should refer

to Figure 1 the 'Decision Tree' to guide them through the procedures to be followed under this Policy.

Netball NSW's position is that On-Court incidents occurring at the association/club level should be dealt with by the association/club in accordance with the procedures outlined in this Policy. Netball NSW will continue to manage incidents arising out of Netball NSW organised competitions.

There may be some overlap between this Policy and the Netball Australia Integrity Policy Framework, for example a member protection issue may be identified in the On-Court Conduct which is the subject of the complaint, or in any defence raised to a complaint. In the event this occurs, the Netball Australia Integrity Framework Conduct and Disciplinary Policy should be utilised to manage both incidents.

For incidents that are serious in nature, such as fights, melees and serious intimidation, the first response should be to contact the police for immediate assistance. If the incident leads to a criminal investigation or to criminal charges being brought against any person involved, Netball NSW and/or the Affiliate will defer any further disciplinary action until the completion of the criminal investigation/proceedings. While the sport has the ability to deal with Disciplinary incidents, where laws are broken, the safety of officials, administrators and other competitors is paramount. The police should be allowed to deal with these incidents as they deem appropriate.

### 3.1 Affiliates and the Disciplinary Policy

In supporting all of the Affiliates and Members within NSW, Netball NSW manages, and controls the Disciplinary Policy (and all other policies). **Any and all policies previously made by Netball NSW and /or its Affiliates concerning disciplinary or judiciary tribunals are expressly withdrawn.**

Our primary aim is to provide Affiliates with the tools to guide them towards a position of self-sustainability.

Through this process, Affiliates have the security and understanding that Netball NSW will ensure they have guidance in managing inappropriate behaviour. This helps to provide a safe environment for individuals who participate, the officials that control the game, the administrators and committee members who conduct competitions and all the volunteers who work at varying levels within the structure of the sport.

In managing these situations proactively here are some hints and tips:

- Clearly communicate expectations around behaviour before a Netball Activity occurs
- Ensure conditions of entry are in place for a competition, which provides links to the relevant Netball NSW policies
- Outline how issues will be managed and create positive relationships with team contacts or managers
- Use team contacts or managers to influence and manage their people
- Regularly communicate the Netball NSW Codes of Behaviour policies
- Address minor issues immediately so they do not escalate

Each Affiliate shall comply with the Constitution and all relevant policies of Netball NSW including this Policy.

### **3.2 Applying Procedural Fairness**

Procedural Fairness, is a requirement of a fair disciplinary process. Failure to provide procedural fairness may provide the person who is the subject of the disciplinary proceedings with a reason to challenge the findings of a Tribunal.

Procedural Fairness), involves three rules or principles:

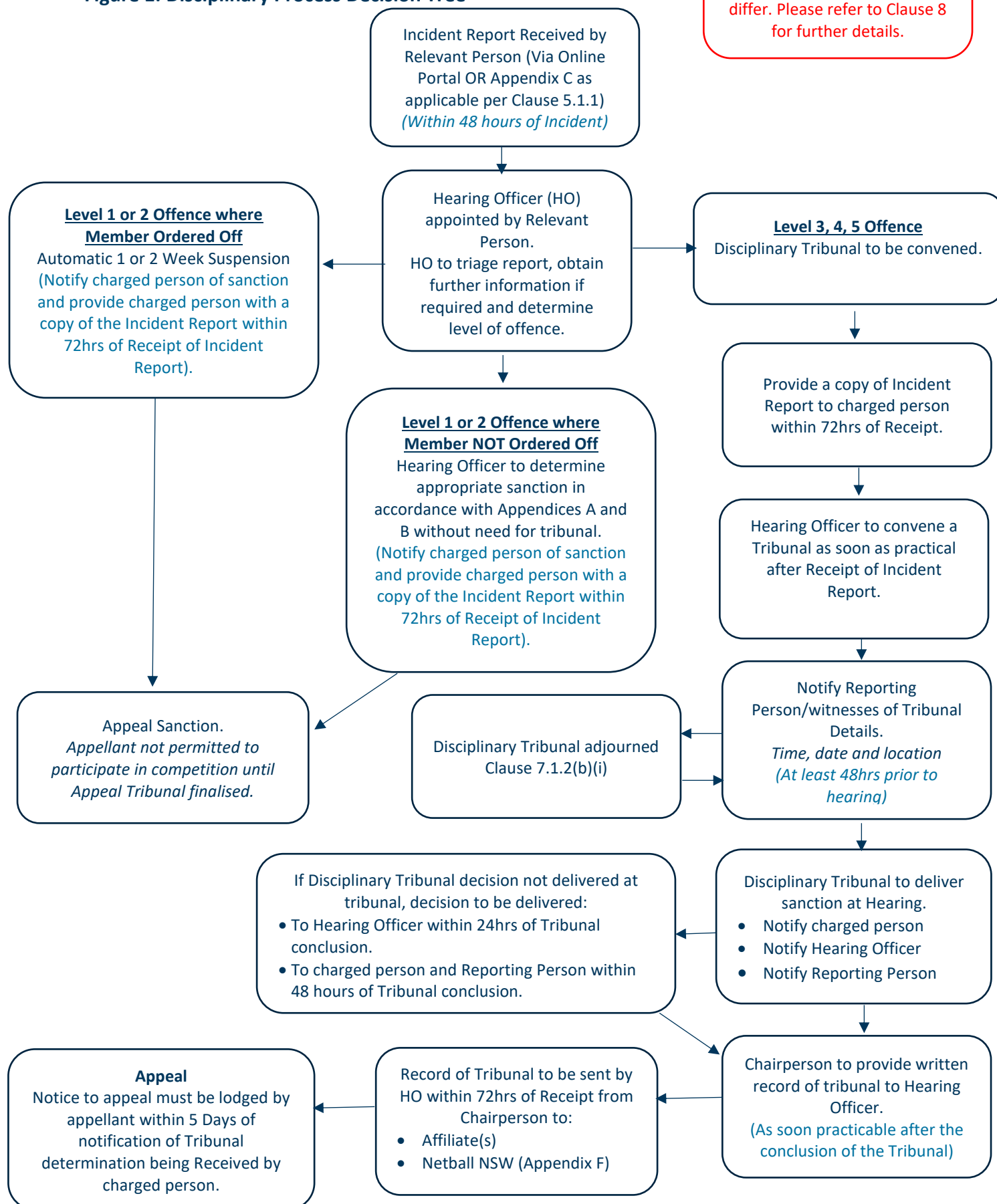
- ensuring that the person has the right to be heard and that they are provided with and have the right to respond to, any information presented or considered in reaching a decision
- ensuring that any decision made is free from bias, and
- ensuring that any decision is made after a reasonable investigation into the issue has been conducted and relevant evidence considered

By following this Policy, the requirement to apply procedural fairness should be satisfied.



**Figure 1: Disciplinary Process Decision Tree**

Please note that whilst the general procedure remains the same for State Titles, the applicable timeframes may differ. Please refer to Clause 8 for further details.



## **4 Breach of Netball NSW Disciplinary Policy**

### **4.1 What is an Offence under this Policy?**

It is an offence under this Policy for any Member to commit any of the offences as set out in Appendix A which arises as a result of their On-Court Conduct during a Netball Activity. A Breach of this Policy in this way is referred to as an On-Court Offence. The commission of an offence under this Policy amounts to a breach of this Policy.

### **4.2 State Titles**

Where an alleged offence occurs during a State Titles competition, the procedures set out in Clauses 5, 6, 7 and 9 will continue to apply subject to any amendment outlined in Clause 8.

## **5 Commencing a Disciplinary action**

### **5.1 Incident Reports**

#### **5.1.1 How to Submit an Incident Report**

- a) Any person (whether a Member or not) (the Reporting Person) shall be entitled to submit an Incident Report relating to any other person or team which, in the opinion of the Reporting Person has committed an On-Court Offence as defined in Clause 4.1.
- b) Where the alleged On-Court Offence occurred during an association/club Netball Activity the Incident Report must be submitted on the Incident Report Form which is Appendix C to this Policy and must be submitted directly to the relevant association/club as soon as possible and no more than 48 hours after the alleged incident.
- c) Where the alleged On-Court Offence occurred at a Netball NSW organised Netball Activity the Incident Report must be submitted via the Netball NSW online complaints management portal. The Incident Report must be submitted via the online portal as soon as possible and no more than 48 hours after the alleged incident.

#### **5.1.2 Duties of Relevant Person upon Receiving Incident Report**

Once an Incident Report is Received by a Relevant Person, the Relevant Person shall appoint a Hearing Officer to carry out the duties in connection with such reports as outlined below. The Relevant Person may also appoint themselves as Hearing Officer. The Relevant Person may hold another position within Netball NSW and/or its Affiliate.

### **5.2 Initial steps to be taken by Hearing Officer upon Receiving an Incident Report**

Hearing Officers should refer to the 'Decision Tree' at page 9 for a high-level overview of this process.

#### **5.2.1 Triaging of Incident Reports**

- a) Once an Incident Report is Received the Hearing Officer shall review the Incident Report, obtain further information from involved persons if necessary and then determine:

- i. if the incident falls within the scope of this Policy; and
  - ii. if so, determine the Level of alleged offence as set out in Appendix A.
- b) If the Hearing Officer determines the alleged offence to be a Level 1 or 2 offence the Hearing Officer shall either apply an Automatic Suspension in accordance with Clause 5.2.2 (Member Ordered Off), or otherwise deal with the matter in accordance with Clause 5.2.3 (Member not Ordered Off).
- c) If the Hearing Officer determines the alleged offence to be a Level 3, 4 or 5 offence, or a subsequent Level 2 offence, the Hearing Officer is to convene a hearing of a Disciplinary Tribunal in accordance with Clause 6 to deal with the alleged offence as soon as practicable and before the next round of Matches where possible.

#### **5.2.2 Automatic Suspension (where a Member is Ordered Off for a Level 1 or 2 offence)**

- a) As per Clause 13 of the INF Rules of Netball, umpires may, in addition to the normal sanctions, use the following:
  - i. Caution a player or team official: whereby the individual is advised that the behaviours specified must change;
  - ii. Issue a warning: a player or team official is warned that suspension will follow if the behaviour specified continues;
  - iii. Suspend a player: a player who is suspended takes no part in play for 2 minutes;
  - iv. Order a player off: a player who is Ordered Off takes no further part in the match; or
  - v. Order the removal of a team official or other person from the match.
- b) Where a player has been Ordered Off for the remainder of the game by an umpire, or an umpire has ordered the removal of a team official or other person from the Match for the remainder of the game, the umpire must report this to the relevant Affiliate or Netball NSW by completing an Incident Report in the appropriate way per Clause 5.1.1.
- c) A player who has been Ordered Off for the remainder of the game, or a team official or other person who has been removed from the Match for the remainder of the game, for an alleged Level 1 offence will receive an automatic 1 Week Suspension and no Disciplinary Tribunal will occur.
- d) A player who has been Ordered Off for the remainder of the game, or a team official or other person who has been removed from the Match for the remainder of the game, for an alleged Level 2 offence will receive an automatic 2 Week Suspension and no Disciplinary Tribunal will occur.
- e) Where the player has been Ordered Off, or a team official or other person has been removed from the Match for the remainder of the game, for an alleged Level 3, 4 or 5 offence, or for a subsequent Level 2 offence, the matter will proceed directly to a Disciplinary Tribunal. Clause 5.2.5(a) will not apply and the Member will be suspended until such time as a decision has been made by the Disciplinary Tribunal.

- f) Where an Incident Report is Received by Netball NSW and/or its Affiliate under this Clause and an automatic 1 or 2 Week Suspension applies the Hearing Officer should inform the Member of this sanction within 72 hours of Receiving the Incident Report. Please refer to Clause 5.2.4 for how suspensions are intended to apply.
- g) A Member who has Received a 1 or 2 Week Suspension under this Clause has the right to appeal against this sanction.

### **5.2.3 Hearing Officer to determine sanction (where Member not Ordered Off for a level 1 or 2 offence)**

- a) In the event that the Hearing Officer determines the alleged offence to be a Level 1 or 2 offence (under Clause 5.2.1), but the Member was not Ordered Off for the remainder of the Match, the Hearing Officer has the authority to issue a warning or sanction in accordance with the guidelines in Appendices A and B without the need to convene a Disciplinary Tribunal.
- b) Where a Hearing Officer determines that a sanction is appropriate under this Clause, the Hearing Officer should inform the Member of this sanction within 72 hours of Receiving the Incident Report. The Hearing Officer should also inform the sanctioned Member of their right to appeal.
- c) The rules of procedural fairness still apply to the process outlined in this Clause. The Hearing Officer must be satisfied on the balance of probabilities (i.e. more likely that not) that an offence has occurred prior to considering a sanction under this Clause. The sanction handed down (if any) must also be proportionate to the offence and should be determined in accordance with the guidelines in Appendices A and B.
- d) A Member who has Received a sanction under this Clause has the right to appeal against this sanction.

### **5.2.4 How a suspension is to apply**

- a) A Disciplinary Tribunal or Hearing Officer (in accordance with the above Clauses) may determine that a Member's conduct warrants suspension from involvement in Netball Activities. Where this is the case, the term of suspension should be expressed as either suspension for the relevant number of weeks ('Week(s) Suspension') or suspension for a specified date range.
- b) Subject to Clause 5.2.4(c) the term 'Week(s) Suspension' means suspension from all Netball Activities at all levels (i.e. including but not limited to playing, coaching and/or officiating) for 7 Days (per week suspended) from the date the sanction is Received. **For the avoidance of doubt, a week (i.e. a period of 7 Days) where a sanctioned Member does not miss a Match through suspension (e.g. due to a scheduled bye week, where the players own team forfeits, or where the player is ruled out due to injury or illness) does not count as a week served for the purpose of a Week(s) Suspension and will need to be served in the next week where the sanctioned Member has a Match.** The

below examples provide some guidance on the intended application of the term Week(s) Suspension.

- i. Player A receives a 2 Week Suspension on 24 May 2023. However, Player A's club team has a scheduled bye on 29 May 2023. As a result, the 7 calendar days between 24 May 2023 and 31 May 2023 do not count as a week served for the purpose of Player A's sanction because Player A has not missed a Match during this time. Player A cannot take part in any Netball Activity until 14 June 2023.
- ii. Player B receives a 2 Week Suspension on 24 May 2023 following an incident in a club game. Player B is also a representative player. Player B's club team has a scheduled bye on 29 May 2023 however due to her suspension Player B also misses her representative team Match on 30 May 2023. As a result the 7 calendar Days between 24 May 2023 and 31 May 2023 do count as a week served for the purpose of Player B's sanction because Player B has missed a Match during this period.

Player C receives a 1 Week Suspension on 25 September 2022 which happens to be the last week of the winter season for Player C's club. Player C's suspension carries over to the 2023 winter Netball season and applies for the first week where Player C will miss a Match in the 2023 winter season.

- c) The sanction handed down to a Member who is found to have committed an offence under this Policy may, at the discretion of the Hearing Officer or Disciplinary Tribunal, alternatively be expressed to apply for a specified date range (e.g. "Player D is suspended from all Netball Activities until 1 January 2023"). In this case the qualifications contained in Clause 5.2.4(b) do not apply and the Member will be suspended from all Netball Activities during the specified date range only (irrespective of the number of Matches missed).
- d) Where an outstanding sanction, handed down in the weeks preceding State Titles, would deem a person otherwise ineligible to participate in a State Titles competition, a Hearing Officer or Disciplinary Tribunal may in their absolute discretion determine that the remainder of the suspension should be served as a number of matches, consistent with Clause 8.4.2, rather than a number of weeks for the purposes of State Titles. For example;
  - i. Player D receives a 2 Week Suspension on 8 June 2023 with State Titles being held from 11 June 2023 until 13 June 2023. Player C is suspended from all Netball Activities for 14 days, however may, at the discretion of the Hearing Officer/Tribunal, partake in State Titles after having served their sanction in the equivalent number of matches (as set out under Clause 8.4.2). This would mean that Player C misses the first 2 matches of State Titles that they are fixtured to play, but can continue to participate in the remainder of State Titles. This will amount to Player C serving their sanction and they will not be required to miss any further matches.

**N.B. applicable sanctions differ in relation to Senior State Titles, Junior State Titles and Masters State Titles. Please refer to Clause 8.**

### **5.2.5 Period between Incident Report and Disciplinary Tribunal Hearing**

- a) A charged person or team shall be entitled to participate in any Netball Activity conducted by Netball NSW and its Affiliates until such time as a Disciplinary Tribunal has heard and determined the matter subject to Clauses 5.2.5(b) and (c).
- b) For the avoidance of doubt, a person who has been Ordered Off for an alleged Level 3, 4 or 5 offence or who has incurred an automatic 1 or 2 Week Suspension under Clause 5.2.2 is not entitled to participate in any Netball Activity, even where that person is awaiting a Disciplinary Tribunal Hearing or Appeal Hearing as the case may be.
- c) Notwithstanding Clause 5.2.5(a), where the Hearing Officer deems it appropriate they may implement an Interim Administration Order to prevent a Member from participating in any Netball Activity in accordance with the procedures set out in Part 7 of the Netball NSW Member Protection Policy – Attachment B – Complaints Handling Procedures ( <https://nsw.netball.com.au/sites/nsw/files/2022-03/FINAL%20CLEAN%20-%20Netball%20NSW%20Member%20Protection%20Policy%201112021.pdf>) for the period between an alleged offence and the hearing of a Disciplinary Tribunal/Appeals Tribunal.

## **6 Convening a Disciplinary Tribunal**

### **6.1 Authority of a Disciplinary Tribunal**

#### **6.1.1. Authority of Tribunal to hear and determine matters**

Netball NSW and/or its Affiliates have the right to delegate the power of investigating or determining charges against a Member for On-Court Offences to a Disciplinary Tribunal which is established under this Policy.

Where a Member is alleged to have committed an offence as set out in Clause 4.1, an Affiliate and/or Netball NSW may commence or cause to be commenced investigatory and/or Disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, sanction and appeal mechanisms set out in this Policy.

A Disciplinary Tribunal is also empowered to deal with any other matter arising out of the On-Court Offence which is the subject of the Disciplinary Tribunal including any member protection issue under the Netball NSW Member Protection Policy.

A Disciplinary Tribunal must at all times act independently and impartially in carrying out its duties in accordance with this Disciplinary Policy and the principles of procedural fairness.

#### **6.1.2 Authority of Netball NSW to direct an Affiliate to reconvene a Disciplinary Tribunal**

Where a matter arises for determination by a Disciplinary Tribunal it shall be dealt with at first instance by the Disciplinary Tribunal of the relevant Affiliate in which the alleged

offence occurred, or in the case of a Netball Activity organised by Netball NSW, a Disciplinary Tribunal convened by Netball NSW.

Where an Affiliate has not convened a Disciplinary Tribunal in accordance with this Policy, Netball NSW may choose to review the matter and determine if the Affiliate should be directed to reconvene the hearing in accordance with this Policy. **NB: that this procedure is not an appeal per Clause 9 and is at the sole discretion of Netball NSW.**

### **6.1.3 Authority of Tribunal to Sanction Members**

A Disciplinary Tribunal shall have power to sanction any Member, including but not limited to suspending, reprimanding, deducting competition points (in the case of a charged team) or otherwise dealing with any Member as it sees fit (including, but not limited to, teams, players, coaches, parents, guardians, spectators, team/club officials and association officials) in accordance with this Policy, regarding any On-Court Offence.

## **6.2 Make-up of a Disciplinary Tribunal**

### **6.2.1 Engaging Suitably Qualified or Experienced People**

To assist the process of using the Disciplinary Policy, it helps to engage suitably qualified or experienced adults as the Hearing Officer, the Appeals Officer, the Disciplinary Tribunal Chairperson, and the Appeal Tribunal Chairperson as well as Tribunal members when convening a Tribunal.

It is Netball NSW's intention that the Disciplinary process be conducted without involving lawyers (and legal costs). Therefore, the Disciplinary Policy states that legal representation is not permitted as a right and is only permitted in exceptional circumstances, as determined by the Tribunal Chairperson.

However, the Chairperson of a Tribunal should, if possible, have a form of legal background or be a lawyer or have experience in chairing Tribunals.

It is preferable, but not essential, that Tribunal Members, have a knowledge of the sport of Netball (or other sports), have a basic understanding of the rules of the game, and can bring insight into how the sport is played.

**Netball NSW strongly recommend that Tribunal Members are not Members of your association or club's Executive Committee, as that may give rise to a perception of bias.**

In regard to recruitment of people for Tribunals, we suggest that you advertise within your Affiliate, and ask the NSW Law Society and/or Bar Council whether they are aware of any lawyers who may be willing to provide their time free of charge to chair the Tribunal.



In your local area there may be a number of sports, or nearby Affiliates that could pool their panel Members for Tribunals. It is essential that the people sitting on the Tribunal are independent and do not bring any conflict of interest.

### **6.2.2 Membership of Disciplinary Tribunal**

- a) A Disciplinary Tribunal shall be appointed by Netball NSW and/or its Affiliates from time to time and shall comprise the following persons:
  - i. A Chairperson who shall be a person of experience and skills suitable to the function of chairing a Disciplinary Tribunal and discharging the responsibilities set out under Clause 6.2.3; and
  - ii. Two additional Disciplinary Tribunal members.
- b) A Disciplinary Tribunal member may hold another position within an Affiliate. However, it is strongly recommended that Tribunal members are not members of the association or club's Executive Committee.

### **6.2.3 Responsibilities of Disciplinary Tribunal Chairperson**

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

- a) consider and provide an initial assessment of progress within the disciplinary process;
- b) ensure accurate records are kept of all of the Disciplinary Tribunal's proceedings and decisions. A Disciplinary Tribunal Chairperson must use the form set out in Appendix F to keep a record of the Disciplinary Tribunal proceedings and decisions;
- c) communicate to the Hearing Officer and the Relevant Person at Netball NSW, or the Executive Committee of the relevant Affiliate, the results of hearings of the Disciplinary Tribunal and provide a copy of the record to Netball NSW and the Affiliate as soon as possible after the hearing (Appendix F);
- d) chair hearings of the Disciplinary Tribunal; and
- e) raise with any proposed Disciplinary Tribunal member any potential or possible conflict of interest which may arise.

## **6.3 Duties of a Hearing Officer in convening a Disciplinary Tribunal**

- a) Where a Hearing Officer determines that the alleged offence is a Level 3, 4 or 5 offence (or a subsequent Level 2 offence) the Hearing Officer shall convene a Disciplinary



Tribunal to deal with the alleged offence as soon as practicable and before the next round of matches where possible.

- b) The Hearing Officer shall have the following duties in convening a Disciplinary Tribunal:
- i. schedule the venue, time and date to be set aside for a hearing of a Disciplinary Tribunal as soon as possible after Receipt of an Incident Report;
  - ii. ensure that the 3 members of the Disciplinary Tribunal panel are present to deal with any matters referred to it for determination;
  - iii. receive and refer to the Disciplinary Tribunal all material relating to any Incident Reports made under this Policy;
  - iv. ensure the availability of all forms required to be used in any proceedings of a Disciplinary Tribunal;
  - v. provide the charged person or team with a copy of the Incident Report, as well as any other person named in the Incident Report (including officials) as soon as possible after the Incident Report is Received and at least 2 Days before the hearing;
  - vi. notify all persons required to attend of the date, time and place of the Disciplinary Tribunal hearing. If the notification under this Clause is made by telephone, the Hearing Officer shall immediately make a written record of the date, time and details of the telephone conversation;
  - vii. notify each of the persons required to be in attendance of the consequences of non-attendance at the Disciplinary Tribunal Hearing, and the procedures to be followed in each case;
  - viii. if the charged person, or any other person required to attend, is under the age of 18 years, or is otherwise unable to represent themselves, they are to be advised that they have the right to have an adult (not acting as a legal practitioner) with them at a Disciplinary Tribunal Hearing as an advisor, and that the advisor shall be allowed to ask questions;
  - ix. notify a charged person, or any other person required to attend, that they are entitled to bring a support person; and
  - x. notify the Tribunal Chairperson (or his/her delegate) of a Disciplinary Tribunal that an Incident Report has been Received, and to deliver to the Chairperson (or his/her delegate) the report and any other information relevant to the case.

## **7 Conduct of a Tribunal Hearing**

### **7.1 Attendance at a Tribunal Hearing**

#### **7.1.1 Attendance at Disciplinary Tribunal Hearing**

- a) The following persons shall be required to attend a Disciplinary Tribunal hearing conducted under this Disciplinary Policy:
- i. the charged person or the president, secretary, manager or other delegate representing a charged team;
  - ii. the Reporting Person(s);
  - iii. any other person involved in the Incident Report;
  - iv. witnesses as indicated by the Reporting Person or charged person and as notified by the Hearing Officer; and
  - v. any other witness required by a Disciplinary Tribunal.
- b) The following persons shall be entitled to attend a Disciplinary Tribunal hearing as conducted under this Disciplinary Policy:
- i. where a team has been charged with an offence, any player of that charged team;
  - ii. witnesses called to give evidence by a charged person or team provided prior notification is provided to Tribunal Chairperson via the Hearing Officer;
  - iii. witnesses called to give evidence by the Reporting Person(s) prior notification is provided to Tribunal Chairperson via the Hearing Officer; and
  - iv. where the charged person or Reporting Person is under the age of 18 years, or otherwise unable to represent themselves, an adult adviser.
  - v. the support person for any person/s required to attend the tribunal.

Any witnesses attending the hearing shall not be permitted to enter the hearing room until they are called to give evidence before the Tribunal.

- c) The following persons shall be entitled to attend a Disciplinary Tribunal hearing with the permission of the Chairperson of the Tribunal:
- i. representatives of Netball NSW and/or its Affiliates; and
  - ii. any other person.
- d) Legal representatives or legal advocates are not permitted to appear before a Disciplinary Tribunal unless in exceptional circumstances and where leave to appear has been granted by a Disciplinary Tribunal Chairperson.
- e) The Chairperson may invite any other person he/she believes will assist a Disciplinary Tribunal.

### **7.1.2 Non- Attendance at Disciplinary Tribunal Hearing**

- a) If any charged person (or representative of a charged team) fails to attend a Disciplinary Tribunal hearing without reasonable cause acceptable to the Tribunal Chairperson, the hearing may proceed and a determination may be made by the Disciplinary Tribunal in the absence of the charged person or team, provided that the Disciplinary Tribunal is satisfied that all notification procedures under this Disciplinary Policy have been carried out.
- b) A charged person or representative of a charged team, or Reporting Person may apply to the Chairperson via the Hearing Officer to have a Disciplinary Tribunal hearing:
  - i. adjourned; or
  - ii. convened in another way (e.g. teleconference)

This decision will be solely at the discretion of the Disciplinary Tribunal Chairperson.

- c) A charged person who is unable to attend a Disciplinary Tribunal hearing shall be entitled to appoint a representative (who is not acting as a legal practitioner) to appear in his/her place if that charged person does not intend to contest the charge(s), subject to a Disciplinary Tribunal Receiving a letter of consent from the charged person containing the person's intention not to contest the charges contained in the report and any statement that person would have given to a Disciplinary Tribunal had he or she attended the hearing.
- d) If any witness fails to attend a Disciplinary Tribunal hearing, the hearing may continue in his/her absence at the discretion of the Disciplinary Tribunal. However, if such witness has been notified by the Hearing Officer they are required to attend, and fail to do so, , such witness may be liable to sanction by a Disciplinary Tribunal for obstructing the Disciplinary Tribunal process.
- e) If a Reporting Person fails to attend a Disciplinary Tribunal hearing without reasonable cause acceptable to the Tribunal Chairperson, the hearing may proceed and a determination made by the Disciplinary Tribunal in the absence of the Reporting Person, provided that the Disciplinary Tribunal is satisfied that all notification procedures under this Disciplinary Policy have been carried out.
- f) If a Reporting Person or any other official of Netball NSW and/or its Affiliate inadvertently fails to carry out any duties listed above, the charges shall not be dismissed for this reason, but may be adjourned to allow the omission to be rectified. Where appropriate, a Disciplinary Tribunal shall take the failure into account and make suitable allowance.

## **7.2 Procedures of a Tribunal Hearing**

For the purpose of this Clause, a reference to a charged person includes a reference to the representative(s) of a charged team.

- a) At the commencement of a hearing, the Chairperson shall identify the members of the Disciplinary Tribunal and determine whether the charged person is present to answer the charge(s) set out in the Incident Report.
- b) The charged person and the Reporting Persons(s) shall be notified of their right to remain in the hearing until all evidence is presented, but are not to be present whilst the Disciplinary Tribunal considers its findings and determines an appropriate sanction (if any).
- c) The charge(s) as contained in the Incident Report shall be read out in the presence of all persons eligible to be present.
- d) The charged person shall be asked whether the charge(s) are understood.
- e) The charged person shall be asked whether or not they intend to contest the charge(s).
- f) If the charged person does not contest the charge(s), the Chairperson may read a short summary of the facts, admit the Reporting Person(s)' evidence (written/verbal) and no witnesses need be called to give evidence unless the Disciplinary Tribunal requires it.
- g) If the charged person does contest the charge, the Reporting Person (or the adviser to a Reporting Person) shall proceed to give evidence and the witnesses of the Reporting Person(s) shall be called upon to give his/her evidence in turn, subject to the approval of the number of witnesses to be called by the Disciplinary Tribunal in its discretion. The charged person or his/her adviser, may ask questions of the Reporting Person or any witnesses called.
- h) Each witness shall be entitled to leave the Disciplinary Tribunal hearing after giving evidence unless otherwise directed by the Disciplinary Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence in accordance with Clause 7.1.1(b).
- i) The charged person shall then be entitled to present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the Disciplinary Tribunal in its discretion. Reporting Persons or the adviser to a Reporting Person may ask questions of the charged person or any witness called.
- j) The Chairperson has an absolute discretion to accept evidence from any person or allow any person to otherwise attend a hearing of a Tribunal in any format other than attending in person as the Chairperson deems appropriate (i.e. providing a written statement, attending via zoom or telephone call etc).
- k) The Disciplinary Tribunal is empowered to question any person giving evidence. If the Disciplinary Tribunal determines that any witness is giving deliberately false or misleading evidence, the Disciplinary Tribunal may:
  - i. make such finding at the original hearing; or

- ii. require such person to attend a further Disciplinary Tribunal hearing to respond to the allegations, and such person is liable to sanction by the Disciplinary Tribunal for obstructing the Disciplinary Tribunal process. Such sanction is at the discretion of the Tribunal.
- l) Where any person exercises his/her right to have an adviser present in accordance with this Disciplinary Policy, a reasonable opportunity for consultation between that person and the adviser shall be provided by the Disciplinary Tribunal.
- m) Where any person makes video evidence available to the Disciplinary Tribunal, it may, at the discretion of the Disciplinary Tribunal, be presented. The onus of providing suitable viewing equipment shall lie with the person requesting that the evidence be presented before the hearing.
- n) At the conclusion of all evidentiary submissions the Chairperson shall ask the charged person, the Reporting Person and all other persons present to leave the hearing room while the Disciplinary Tribunal considers its findings.
- o) If the Disciplinary Tribunal is not satisfied that the burden of proof for the particular charge(s) has been reached, but is satisfied that a lesser charge has been established on the balance of probabilities (i.e. more likely than not), then the Disciplinary Tribunal may find such lesser charge established and shall apply the sanction applicable to the lesser charge (if any).
- p) Where it appears to the Disciplinary Tribunal that the Hearing Officer has made an error which has resulted in laying the wrong charge(s) or omitted charge(s) that should have been laid, the Disciplinary Tribunal may amend the charge(s) (including upgrading to a more serious charge) and proceed to make a finding on those charges. Further, the Disciplinary Tribunal has the right to direct that a person other than the charged person be charged with an offence under this Policy on the basis of evidence presented before it during the course of conducting a hearing.
- q) Where charges have been amended or another person is charged under Clause 7.2(p), the Disciplinary Tribunal will continue to determine the outcome of the matter(s) without the need to adjourn the Disciplinary Tribunal. The charged person should be called before the Tribunal and advised that this process has occurred.
- r) Subject to Clause 7.2(o), if the Disciplinary 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 proved. Otherwise, the charge shall be dismissed.
- s) If a charge has been admitted or found proven by the Disciplinary Tribunal the charged person shall be informed of the finding. Any previous offences against the charged person should then be presented to the Disciplinary Tribunal if this information is available.

- t) The charged person should then be given the right to make a final statement in relation to previous offences or other mitigating circumstances before being asked to leave the room.
- u) The Disciplinary Tribunal shall then determine the sanction to be imposed (if any) and shall recall the charged person and Reporting Person to advise him/her of the sanction. The Chairperson shall also notify the Hearing Officer of the decision of the Disciplinary Tribunal.
- v) The decision of the Disciplinary Tribunal shall be communicated to all persons called to appear or give evidence before the Tribunal by the Hearing Officer as soon as practicable after the conclusion of the Tribunal.
- w) A record of the hearing will be provided by the Chairperson to the Hearing Officer who will provide it to Netball NSW and the relevant Affiliate in accordance with Clause 6.2.3(c) in the form set out in Appendix F and it will be retained accordingly.

### 7.3 Offences and Penalties

- a) Appendix B sets out sanctions which represent the minimum sanction to impose where a charge has been admitted to or proven by a Disciplinary Tribunal. **There is no provision under this Policy to issue a sanction which is less than the minimum sanction set out in Appendix B for a relevant offence which has been admitted or proven.**
- b) A sanction handed down under this Policy shall commence from the date of a Disciplinary Tribunal decision unless otherwise expressly directed by a Disciplinary Tribunal. Subject to Clause 5.2.4, penalties will be expressed either in number of weeks OR for a defined date range.
- c) A Disciplinary Tribunal has the discretion to rule that a sanction will be suspended for the number of weeks which fall between seasons or during any season break.
- d) Where a Disciplinary Tribunal imposes more than one period of suspension, it may impose them to be served concurrently or cumulatively at the discretion of the Tribunal.
- e) A Disciplinary Tribunal may take into account a charged person's prior offences or any other matter it considers relevant in determining sanctions to be handed down.
- f) A charged person who has been proved to have committed an offence and received a sanction under this Disciplinary Policy shall not play, coach, umpire, officiate or otherwise take part in any Netball Activity as directed by the Disciplinary Tribunal until the sanction has been served to the satisfaction of Netball NSW and/or its Affiliates.

## 8 Procedures for Senior State Titles, Junior State Titles and Masters State Titles

### 8.1 Commencing a Disciplinary Procedure

- a) Any person wishing to report an alleged breach of this Policy (pursuant to Clause 4.1) occurring at a State Titles competition must report to the competition control room immediately after the completion of the Match in which the offence is alleged to have occurred.
- b) Netball NSW staff will direct the Reporting Person to make their report in the appropriate form (either via Appendix C or the Netball NSW online portal depending on the nature of the alleged offence and any other relevant considerations at the discretion of Netball NSW staff). Netball NSW will appoint a Relevant Person to Receive Incident Reports and to act as a Hearing Officer.
- c) Where a Member is Ordered Off for the remainder of a Match by an umpire, that umpire must report this to the competition control room immediately after the completion of the Match.

## **8.2 Duties of Hearing Officer and Procedures of a State Title Disciplinary Tribunal**

- a) As soon as possible after Receiving an Incident Report the Hearing Officer should follow the procedures in Clause 5 to triage the report and determine the Level of offence.
- b) For a Level 1 or 2 offence where a Member is Ordered Off, Automatic Suspension will apply as in Clause 5.2.2 save for the differences in appropriate sanction as set out in Clause 8.4. The charged Member should be notified of this sanction as soon as practicable.
- c) For a Level 1 or 2 offence where a Member is not Ordered Off, the Hearing Officer shall follow the procedures in Clause 5.2.3 having regard to the appropriate sanctions set out in Clause 8.4. The charged Member should be notified of this sanction (if any) as soon as practicable.
- d) For a Level 3, 4 or 5 offence, or a subsequent Level 2 offence, the Hearing Officer should follow the procedures set out in Clauses 6 and 7 to convene a Disciplinary Tribunal having regard to the following timeframes:
  - i. If an alleged incident occurs before 2.00pm on any day except the final day of the State Titles competition the Disciplinary Tribunal shall be conducted no earlier than 5.00pm on the same day at the venue where the alleged incident occurred.
  - ii. If an alleged incident occurs after 2.00pm on any day except the final day of the State Titles Competition the Disciplinary Tribunal shall be conducted no earlier than 7.00am on the following day at the venue where the alleged incident occurred.
  - iii. If an alleged incident occurs on the final day of the State Titles competition the Disciplinary Tribunal will occur as soon as practicable after the alleged incident.

## **8.3 Appeals**

- a) Any appeals against a decision of a Netball NSW Disciplinary Tribunal decision relating to a State Titles competition should be heard within 4 hours of the Disciplinary Tribunal

handing down its decision and should otherwise follow the procedures set out in Clause 9.

- b) A Member who has appealed a sanction from a Disciplinary Tribunal at a State Title competition shall be required to serve that sanction pending the hearing of the appeal unless the Appeal Chairperson orders otherwise in their absolute discretion.

## **8.4 Sanctions**

### **8.4.1 How a sanction will apply**

- a) Unless otherwise specified by a Disciplinary Tribunal or Hearing Officer, a sanction handed down under Clause 8 will apply only to State Titles competitions. For clarity, a sanction handed down under Clause 8 will not apply to Netball Activities occurring outside of State Titles competitions unless this is expressly specified by the Disciplinary Tribunal or Hearing Officer at the time of sanctioning.
- b) Where a charged Member receives a sanction under Clause 8 that is not fully served in the relevant State Titles competition, this sanction will carry over to the following year's State Titles competition.
  - i. For example, Player A Receives a 4 Match Suspension on the final day of the 2021 Senior State Titles but only misses 3 Matches due to their team's playing schedule. Player A will be required to miss their first scheduled Match of the 2022 Senior State Titles.
- c) Notwithstanding Clauses 8.4.1(a) and 8.4.1(b) a Hearing Officer or Disciplinary Tribunal may, in their absolute discretion, specify that the nature and/or seriousness of the offence warrants that a sanction handed down under Clause 8 extends to a Member's other Netball Activities outside of State Titles competitions.
  - i. For example, a Disciplinary Tribunal may consider that it is appropriate to suspend a Member from all Netball Activities for a specified date range, rather than limiting the sanction to State Titles Matches only.

### **8.4.2 Minimum sanctions**

Please note that the below sanctions represent the minimum sanction only. There is no scope for a Disciplinary Tribunal or Hearing Officer to issue a sanction which is less than the minimum sanction set out in the table below once a relevant offence has been proven or admitted. However, the Tribunal or Hearing Officer may issue a more lengthy/ serious sanction where they deem this to be appropriate.



Level of Offence	Minimum Penalties for all State Title events	
Level 1	1 <sup>st</sup> Offence	1 Match Suspension
	Subsequent Offence	2 Match Suspension
Level 2	1 <sup>st</sup> Offence	2 Match Suspension
	Subsequent Offence	3 Match suspension
Level 3	1 <sup>st</sup> Offence	4 Match Suspension
	Subsequent Offence	5 Match Suspension
Level 4	1 <sup>st</sup> Offence	7 Match Suspension
	Subsequent Offence	8 Match Suspension
Level 5	1 <sup>st</sup> Offence	Suspension for the remainder of the State Titles competition
	Subsequent Offence	

## 9. Appeal Procedures

### 9.1 Right of Appeal

- a) Netball NSW and/or its Affiliate shall appoint an officer to be responsible for the Receipt of an appeal arising from a decision of a Disciplinary Tribunal and to carry out the duties in connection with such appeals ("Appeals Officer"). The Appeals Officer may hold another position within Netball NSW and/or its Affiliate. Unless another person is appointed to the role, the Appeals Officer shall be a Relevant Person of Netball NSW and/or its Affiliate.
- b) The Appeals Officer will assume the role of Hearing Officer for the purpose of the Appeal Hearing and will have the same duties to those of a Hearing Officer already set out in these procedures as are applicable to an Appeal Tribunal.

#### 9.1.1 Levels of Appeal

- a) There are two levels of appeal which may be available to a person who has been proven to have committed an offence and received a sanction under this Policy. No other person may appeal a decision.
- b) The first level of appeal is an Appeal Tribunal convened by the same organisation which conducted the initial Disciplinary Tribunal.
- c) The second level of appeal is a Netball NSW Appeal Tribunal convened by Netball NSW, or where Netball NSW conducted the Disciplinary Tribunal in the first instance, an External Appeal Tribunal.
- d) A person must first exercise his/her rights to a hearing by an Appeal Tribunal (at the first level of appeal) before appealing to the Netball NSW Appeal Tribunal or External Appeal Tribunal (at the second level of appeal). The decision of the Netball NSW Appeal Tribunal or External Appeal Tribunal (the second level of appeal) is final and will not be subject to any further appeal.

## 9.2 First Level of Appeal

- a) There is no right to appeal from a decision of a Disciplinary Tribunal unless the person seeking to appeal ("Appellant") satisfies the Chairperson of the Appeal Tribunal (appointed in accordance with the same procedures as set out in Clause 6.2), in the Chairperson's sole discretion, that:
  - i. significant new or additional evidence has become available; or
  - ii. He/she is challenging the severity of the sanction; or
  - iii. There has been a significant failure of procedural fairness.
- b) An Affiliate may request Netball NSW to conduct, hear and determine the first level of appeal on behalf of the Affiliate. 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 this Disciplinary Policy will apply to Netball NSW. Netball NSW may choose (but is not obliged) to agree to conduct, hear and determine the first level of appeal.

## 9.3 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 the same procedures as set out in Clause 6.2), in the Chairperson's sole discretion, that:
  - i. significant new or additional evidence has become available; or
  - ii. there has been a significant failure of procedural fairness.
- b) Where the first level of appeal was heard by a club/association, the second level of appeal will be heard by a Netball NSW Appeal Tribunal.
- c) Where the first level of appeal was heard by Netball NSW, the second level of appeal will be heard by an External Appeals Tribunal.
- d) Netball NSW shall appoint an officer to be responsible for the Receipt of appeals arising from a decision of an Appeal Tribunal and to carry out the duties in connection with such appeals ("Appeals Officer"). The Appeals Officer may hold another position within Netball NSW.
- e) All appeals heard by the Netball NSW Appeal Tribunal or External Appeal Tribunal (second level of appeal) shall, with any necessary or incidental amendment follow the procedures for an Appeal Tribunal held by Netball NSW and/or Affiliates, as outlined in Clause 9.4.

## **9.4 Conduct of an Appeal**

### **9.4.1 Notice of Appeal**

- a) The Appellant must:
  - i. lodge a notice stating full details of charges and results thereof and stating in full the grounds of appeal with the Appeals Officer within 5 Days of the notification of a determination of a Disciplinary Tribunal hearing using the Notice of Appeal form at Appendix G ("Notice of Appeal"); and
  - ii. 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 Appeals Officer when lodging the Notice of Appeal, which shall be \$500. Contact the Netball NSW Appeals Officer for instructions on how to complete payment.
  - iii. The appeal fee may not apply in the case of appeals by minors and may be waived in any other case at the sole discretion of the Netball NSW Appeals Officer.
- b) An Appellant shall be notified by the Appeals Officer within 3 Days of Receipt of the Notice of Appeal as to whether an appeal hearing is to be granted or denied (under Clauses 9.2 or 9.3) and the time, date and place of the appeal hearing, in the event that it is granted (Appendix H).

### **9.4.2 Make-up of Appeal Tribunal**

- a) If an appeal hearing is granted under Clauses 9.2 or 9.3, the Appeals Officer shall convene an Appeal Tribunal to hear and determine the appeal in accordance with this Disciplinary Policy. Subject to Clause 9.4.2(b), any such appeal hearing must be held within 7 Days of granting the Appeal.
- b) Where an appeal hearing is not held within 7 Days of granting the Appeal, any sanction imposed by the Disciplinary Tribunal shall be suspended and the Appellant may participate in any relevant Netball Activity until the appeal hearing is held unless an Interim Administrative Order is in place at the sole discretion of the Appeals Officer (refer to Clause 5.2.5(c)).
- c) An Appeal Tribunal shall consist of three (3) persons appointed by an Affiliate and/or Netball NSW from time to time to hear appeals as required by an Affiliate and/or Netball NSW.
- d) An Affiliate and/or Netball NSW may not appoint any of the Disciplinary Tribunal Members who were involved in the original hearing of a matter which is the subject of an appeal.
- e) The Appeal Tribunal Chairperson shall be nominated by the Appeals Officer.

### **9.4.3 Serving of Disciplinary Tribunal Penalties**

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

### **9.4.4 Proceedings of Appeals Tribunal**

- a) The Appeal Tribunal and persons appearing before it are bound by the same procedures under this Disciplinary Policy as if the Appeal Tribunal was a Disciplinary Tribunal hearing a matter at first instance.
- b) The Appeals Officer shall forward records of the Disciplinary Tribunal hearing in which the matter the subject of the appeal was heard at first instance to the Chairperson of the Appeal Tribunal.
- c) The Appeal Tribunal shall have the discretion to conduct the hearing as a complete re-hearing or to limit the hearing to consideration of the ground(s) of appeal relied upon by the Appellant under Clause 9.2 or 9.3 (as applicable).
- d) An Appeal Tribunal shall have the power to:
  - i. Dismiss the appeal;
  - ii. Uphold the appeal;

- iii. Impose any of the sanctions set out in this Disciplinary Policy; or
  - iv. Reduce, increase or otherwise vary any sanction imposed by the initial Disciplinary Tribunal, in such a manner as deems appropriate.
- e) At the conclusion of the appeal, the Chairperson of the Appeal Tribunal shall ensure that the Appellant and the Reporting Person are correctly informed of the determinations of the Appeal Tribunal (Appendix I). The Chairperson shall also notify the Appeals Officer of the decision of the Appeal Tribunal. The Appeals Officer shall also advise Netball NSW and the relevant Affiliate.

#### **9.4.5 Costs**

Each party to an appeal shall bear their own costs.

#### **9.4.6 Exhaust Internal Appeal**

Subject to Clause 9.4.7, a person shall exercise his/her right of appeal under this Disciplinary Policy and have any appeal heard and determined by the Appeal Tribunal (first level of appeal) and Netball NSW Appeal Tribunal or External Appeals Tribunal (second level of appeal) before commencing any proceedings or becoming a party to any proceedings in a court of law or the Court of Arbitration for Sport.

#### **9.4.7 Relationship with Criminal Matters**

If, during a Disciplinary or Appeal Tribunal hearing or an investigation under this Disciplinary Policy, it becomes known that a criminal charge has been brought or a police investigation has commenced arising out of the actions the subject of the hearing, appeal or investigation, the Disciplinary or Appeals Tribunal and/or Netball NSW and/or its Affiliates must rule that further action be deferred until completion of the criminal investigations/proceedings.

## Appendix A - Offences

When determining the seriousness of an alleged offence involving deliberate physical contact regard should be had to the following considerations:

- Impact – Whether the Member was injured as a result of the physical contact and if so, the seriousness of the injury (i.e. superficial cuts or bruises would be considered less serious than broken bones or wounds requiring stitches).
- Contact – where on the body the physical contact occurred (i.e. a strike to the head/face should be treated more seriously than a strike to the body).

### 1 Level 1 Offences

The offences set out at 1.1 to 1.4 below are Level 1 offences. The range of penalties which shall be imposed for a Level 1 Offence is set out under Appendix B - Schedule of Disciplinary Penalties. Members must not:

No	Rule	Standard
1.1	Abuse netball equipment, ground equipment or fixtures and fittings.	Includes actions which intentionally or negligently result in damage to the advertising boards, boundary fences, dressing room doors, mirrors, windows and other fixtures and fittings.
1.2	Show dissent at an umpire's decision by action or verbal abuse.	<p>Includes excessive, obvious disappointment with an umpire's decision or with an umpire making the decision and/or obvious delay in resuming play.</p> <p>This rule does not prohibit the team captain or coach from asking an umpire to provide an explanation for a decision, or a Team official from making a formal complaint to the Affiliated association official, against the performance of an umpire.</p> <p>This offence is also not intended to penalise trivial behaviour. The extent to which such behaviour is likely to give offence shall be taken into account when assessing the seriousness of the breach</p>
1.3	Use language that is obscene, offensive or insulting and/or the making of an obscene gesture.	<p>This includes swearing and offensive gestures which are not directed at another person such as swearing in frustration at one's own poor play or fortune.</p> <p>This offence is not intended to penalise trivial behaviour. The extent to which such behaviour is likely to give offence shall be taken into account when assessing the seriousness of the breach.</p>

1.4	Ordered Off in accordance with this Policy for multiple infringements of the rules	Where a Member is sent off for minor repeated infringements of the rules (e.g. repeated contact offences) this should be treated as a Level 1 offence.
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## 2 Level 2 Offences

The offences set out at 2.1 to 2.4 below are Level 2 offences. The range of penalties which shall be imposed for a Level 2 Offence is set out in Appendix B - Schedule of Disciplinary Penalties. Members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
2.1	Show serious dissent at an umpire's decision by action or verbal abuse.	<p>Dissent is classified as serious when the dissent is expressed by a specific action such as displays of anger or abusive language directed at the umpire and/or excessive delay in resuming play or leaving the court.</p> <p>This rule does not prohibit the team captain or coach from asking an umpire to provide an explanation for a decision, or a Team official from making a formal complaint to the Affiliated association official, against the performance of an umpire.</p>
2.2	Engage in minor deliberate physical contact with other players, umpires, officials or spectators.	<p>This offence is intended to capture minor physical contact which does not result in any injury or harm to another person.</p> <p>Without limitation, players will breach this rule if they deliberately walk or run into or shoulder another player, umpire, spectator or match official.</p> <p>Please note that this offence is not intended to capture physical contact occurring naturally in gameplay. For example aggressive defending which may be delt with at the time by the umpires is not intended to be a sanctionable offence.</p>
2.3	Charge or advance towards a player, umpire, official or spectator in an aggressive manner.	
2.4	Throw the ball at or near a player, umpire, spectator or official in an inappropriate and/or dangerous manner.	This rule will not prohibit a Member from returning the ball in the normal fashion.

### 3 Level 3 Offences

The offences set out at 3.1 to 3.3 below are Level 3 offences. The range of penalties which shall be imposed for a Level 3 Offence is set out in Appendix B - Schedule of Disciplinary Penalties. Members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
3.1	Intimidate a player, umpire, spectator or official whether by language or conduct.	Acting in a threatening or aggressive manner in an attempt to influence play or an umpire or official's decision.
3.2	Threaten to assault another player, official, umpire or spectator.	Team officials are recognised as, but not limited to; coach, assistant coach, manager, support personnel.
3.3	Engage in deliberate physical contact with other players, umpires, officials or spectators.	<p>This includes striking with a clenched/open fist and striking using a ball or another object which results in a minor injury to another person.</p> <p>Please note that this offence is not intended to capture physical contact occurring naturally in gameplay. For example aggressive defending which may be delt with at the time by the umpires is not intended to be a sanctionable offence.</p>

### 4 Level 4 Offences

The offences set out at 4.1 and 4.2 below are Level 4 offences. The range of penalties which shall be imposed for a Level 4 Offence is set out in Appendix B - Schedule of Disciplinary Penalties. Members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
4.1	Use language or gestures that offends, insults, humiliates, intimidates, threatens, disparages or vilifies another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.	Abusively disparaging speech
4.2	Engage in deliberate physical contact of a more serious nature with other players, umpires, officials or spectators.	<p>This includes striking with a clenched/open fist and striking using a ball or another object which results in a more serious injury to another person.</p> <p>Please note that this offence is not intended to capture physical contact occurring naturally in gameplay. For example aggressive defending which may be delt with at the time by the umpires is not intended to be a sanctionable offence.</p>



## 5 Level 5 Offences

The offence set out at 5.1 below is a Level 5 offence. The range of penalties which shall be imposed for a Level 5 Offence is set out in Appendix B - Schedule of Disciplinary Penalties. Members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
5.1	Engage in <u>serious</u> deliberate physical contact with other players, umpires, officials or spectators during the course of play.	This includes fighting, melees, brawls and/or striking with a clenched/open fist and striking using a ball or another object which results in significant injury to another person.

## Appendix B – Schedule of Minimum Sanctions

Please note that the below sanctions represent the minimum sanction only. There is no scope for a Tribunal or Hearing Officer to issue a sanction which is less than the minimum sanction set out in the table below once a relevant offence has been proven or admitted. However, the Tribunal or Hearing Officer may issue a more lengthy/serious sanction where the circumstances indicate that this is appropriate.

Level of Offence	<u>Minimum</u> Penalties for all Netball NSW and Affiliated association competitions	
Level 1	1 <sup>st</sup> Offence	1 Week Suspension
	Subsequent Offence	2 Week Suspension
Level 2	1 <sup>st</sup> Offence	2 Week Suspension
	Subsequent Offence	4 Week Suspension
Level 3	1 <sup>st</sup> Offence	6 Week Suspension
	Subsequent Offence	8 Week Suspension
Level 4	1 <sup>st</sup> Offence	10 Week Suspension
	Subsequent Offence	14 Week Suspension
Level 5	1 <sup>st</sup> Offence	18 Week Suspension
	Subsequent Offence	20 Week Suspension

## Appendix C – Incident Report

### Incident Report

Please submit the incident report to the relevant Netball NSW Affiliate club/association as soon as possible and not more than 48 hours after the incident. The Netball NSW Disciplinary Policy can be accessed at uploaded on the Netball NSW website under “Community” “Governance” “Policies” or by clicking the following link:

<https://nsw.netball.com.au/policies>.

An Incident Report Form may be submitted by any person witnessing an alleged On-Court Incident.

<b>Contact Details of Person Making Report</b>  <i>Please note that Netball NSW and its Affiliates cannot accept anonymous submissions</i>	Person Reporting's Full Name:  Person Reporting's Phone Number:  Person Reporting's Email Address:	Time/Date of Report:
<b>Role/Position of Person Making Report if relevant (e.g. Umpire, Team Official etc.)</b>		
<b>Where did the incident occur? (Venue/Association/Division/Court)</b>		
<b>Date and Time of Incident</b>		
<b>Details of Involved Teams</b>	Team A Name:  Team B Name:	
<b>Details of Person Cited</b>	Cited Person's Full Name:  Cited Person's Team:  Cited Person's Position (i.e. position on court GA/GK etc, coach, manager, etc):	
<b>Witness Details (Name, Phone Number and Email Address)</b>		
<b>Statement of Facts</b>		

<b>Was any On-Court Action Taken? (e.g. Member Ordered Off)</b>	
<b>Signature of Person Making Report</b>	

**Official Use Only**

<b>Report Received By</b>	Name:  Signature:	Time/Date of Receipt of Report:
<b>Level of Offence (refer to Appendix A of the Disciplinary Policy)</b>	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5	
<b>Assessment of Report</b>	<input type="checkbox"/> Noted – No action taken <input type="checkbox"/> Actioned – Automatic suspension/Hearing Officer sanction issued <input type="checkbox"/> Disciplinary Tribunal <input type="checkbox"/> Warning <input type="checkbox"/> Member Protection Issue (to be dealt with under Member Protection Policy)	
<b>Action Taken/ Outcome/ Details of Sanction</b>		

## Appendix D – Notification of Automatic Suspension

### Notification of Suspension

*Insert Date as [Day, Date Month Year]*

To: *Insert Member details.*

*By E Mail - Hand Delivered*

Of: *Team name.*

Dear *Insert name,*

We refer to the incident on *insert date* in a Netball game between *team name and team name at the venue and event, court number at the time recorded.*

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

### Suspension

You were ordered off for the remainder of the Match by an umpire and an Incident Report has subsequently been provided identifying an offence in the range of a level 1 or 2 per Appendix A of the Netball NSW Disciplinary Policy.

The Hearing Officer has considered this report and has determined that a *one (1) / two (2)* Week Suspension is appropriate without the matter being heard by a Disciplinary Tribunal in accordance with Clause 5.2.2 of the Disciplinary Policy.

*Express how this suspension is to apply in accordance with clause 5.2.4 (i.e. in weeks or for a specified date range)*

### Right to Appeal

Please refer to Clause 9 of the Disciplinary Policy for procedures relating to appeal.

Please find attached the Notice of Appeal which must be completed if you wish to make an application to appeal. Please note that pursuant to Clause 5.2.5 of the Disciplinary Policy, a person who has incurred an automatic 1 or 2 Week Suspension under Clause 5.2.2 is not entitled to participate in any Netball Activity during the suspension period, even where that person is awaiting an Appeal hearing.

Yours sincerely,

Insert name

Hearing Officer

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

P: *insert phone number*

E: *insert email*

## Appendix E - Notification of Disciplinary Tribunal

### Notification of Disciplinary Tribunal Hearing

*Insert Date as [Day, Date Month Year]*

To: *Insert Member details.*

*By E Mail - Hand Delivered*

Of: *Team name.*

Dear *Insert name,*

We refer to the alleged incident on *insert date* in a Netball Match *between team name and team name at the venue and event, court number at the time recorded.*

As a Member within a competition operated by an organisation Affiliated with Netball NSW, *insert Affiliate name*, you are subject to the Netball NSW Disciplinary 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 Disciplinary Policy.

#### Attendance at Tribunal Hearing

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

#### Details of Hearing

Time: *Insert Time*

Date: *Insert Day and Date*

Location: *Insert Location*

**Alleged Charge:** As per Clause 4.1 of the Disciplinary Policy [**REMOVE IF NOT RELEVANT TO PERSON REQUIRED TO ATTEND**] it is alleged that you have committed the following offence as outlined in Annexure A of the Disciplinary Policy *Include details of offence*

Attached is a copy of the Incident Report in respect of the incident referred to above.

#### Confirmation of Attendance

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

#### Non-attendance at Disciplinary Tribunal Hearing

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 Disciplinary Tribunal provided that the Disciplinary Tribunal is satisfied that all notification procedures under the Disciplinary Policy have been carried out.

A charged person, club or reporting person may apply to the Tribunal Chairperson to have a Disciplinary Tribunal hearing:

- adjourned; or
- convened in another way (e.g. teleconference)

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 or club. This decision will be solely at the discretion of the Tribunal Chairperson.

If prior to your attendance at the Tribunal you have any questions, you are encouraged to contact the Hearing Officer, **insert name** who will assist you as far as practicable.

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

Yours sincerely,

**Insert name**

Hearing Officer

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

P: **insert phone number**

E: **insert email**

## Appendix F – Record of Disciplinary Tribunal

### Record of Disciplinary Tribunal

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:

*As per Clause 4.1 of the Netball NSW Disciplinary Policy, identify the alleged breach in accordance with the offences set out in Appendix A of the Policy.*

#### Statement of the incident:

*Set out a statement of the incident and refer (if relevant) to the offences listed in Appendix A of the Netball NSW Disciplinary Policy.*

#### 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 Disciplinary Tribunal*

#### 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](mailto:policy@netballnsw.com) as soon as possible after the conclusion of the Tribunal.



Appendix G – Application to Appeal Form

NOTICE OF APPEAL

Notice of appeal is to be lodged within 5 Days of Receipt by charged person of the notification of a Tribunal decision. Any notice of appeal must comply with Clause 9 of the Netball NSW Disciplinary. All documentation relevant to appeal, including initial Tribunal documentation and appeal fee (if applicable) should be included.

**FIRST LEVEL OF APPEAL**  
Relevant Appeals Officer  
(Please refer to Clause 9 of the Netball NSW Disciplinary Policy)

**SECOND LEVEL OF APPEAL**  
Netball NSW Appeals Officer  
E: [policy@netballnsw.com](mailto:policy@netballnsw.com)  
Post: PO Box 369, Lidcombe, NSW 1825

I hereby appeal against the decision of the Disciplinary Tribunal/ Appeal Tribunal made on the following date:

dd

mm

yy

Applicant

PLEASE USE CAPITAL LETTERS

FIRST NAME

SURNAME

DATE OF BIRTH: DAY/MONTH/YEAR

CLUB / TEAM

AFFILIATES NAME

I understand there are only two levels of appeal following the decision of the initial Disciplinary Tribunal. Any appeal must first be made to the same organisation that convened the initial Disciplinary Tribunal and then to the Netball NSW Appeal Tribunal or External Appeals Tribunal as appropriate. The decision of the Netball NSW Appeal Tribunal or External Appeals Tribunal is final and binding on the parties.

SIGNATURE

**GROUND OFS OF APPEAL (FIRST LEVEL OF APPEAL)**

☐ Significant new evidence

☐ Variation of sanction imposed by Disciplinary Tribunal

☐ Significant Failure of Procedural Fairness

**GROUND OFS OF APPEAL (SECOND LEVEL OF APPEAL)**

☐ Significant new evidence

☐ Significant Failure of Procedural Fairness

Further Details of Grounds of Appeal

Evidence Called/ Submitted

Office Use Only

report received

d \_ m \_ yyyy

:

h m

Appeal Fee

Received

Processed

Appeal Tribunal

(first

(surname

(chair

d \_ m \_ yyyy

Appeal

Appeal  
Denied

Appeal  
Granted

## Appendix H - 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 Disciplinary 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 Disciplinary Policy.

*You have been granted the right to be heard by an Appeal Tribunal/ You are required to attend a Appeal Tribunal hearing* in relation to the findings of the Disciplinary 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 need to be determined by the Tribunal Chairperson.

#### Confirmation of Attendance

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

If a person who is required to attend an Appeals 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 the Disciplinary Policy have been carried out.

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

Yours sincerely,

*Insert name*

Appeals Officer

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

P: *insert phone number*

E: *insert email*

## Appendix I – Record of Appeal Tribunal

### Notification of Findings by Appeals Tribunal

Insert date as [Day, Date Month Year]

To: insert name, and address

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 Disciplinary 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

A person who has received a sanction under the Disciplinary Policy shall not play, coach, umpire, officiate or otherwise take part in Netball Activities as directed by the Disciplinary Tribunal until the sanction has been served to the satisfaction of Netball NSW and/or a Netball NSW Affiliate insert name of Affiliate).

#### Further Recommendations

Netball NSW will communicate with regional, state and national association to make nearby Affiliates aware of the sanction imposed against you. You are not permitted to compete or participate in any Netball Activity conducted by Netball NSW and/or its Affiliates during the suspension period.

#### 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 a Notice of 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