



# Netball NSW

## Whistleblower Policy

Adopted by New South Wales Netball Association Ltd at its Board Meeting held on 30 July 2024

Next Reviewed: January 2027  
Last Reviewed: February 2024

## Contents

1	Purpose .....	3
2	Definitions .....	3
3	Which disclosures qualify for protection under the Corporation Action and this policy? .....	5
4	How so I make a Protected Disclosure.....	7
5	Investigation Process .....	9
6	Roles and Responsibilities.....	10
7	Whistleblower Protection .....	11
8	Fair Treatment .....	12
9	Policy Administration Details .....	13

## 1 Purpose

- 1.1 The New South Wales Netball Association Limited (ACN 001 685 007) (**Netball NSW**) is committed to promoting the highest standards of integrity and ethical behaviour in all its activities.
- 1.2 Netball NSW encourages people who have a working relationship with Netball NSW to notify any Disclosable Matter to an Eligible Recipient in accordance with this policy to enable Netball NSW to address it appropriately.
- 1.3 Disclosable Matters disclosed by a Whistleblower to an Eligible Recipient in accordance with this policy will qualify for protection under the Corporations Act 2001 (Cth) (**Corporations Act**). The applicable protections are outlined in clause 7 below.
- 1.4 The objective of this policy is to provide information about:
  - a) which disclosures of information qualify for protection under the Corporations Act and this policy;
  - b) to whom Protected Disclosures may be made, and how they may be made;
  - c) how Netball NSW will investigate Protected Disclosures;
  - d) the protections available to Whistleblowers;
  - e) how Netball NSW will support Whistleblowers and protect them from Detriment;
  - f) how Netball NSW will ensure fair treatment of those mentioned in Protected Disclosures, including employees of Netball NSW where applicable; and
  - g) how this policy will be made available to Netball NSW's officers, employees and volunteers.
- 1.5 This policy will be made available:
  - a) to all existing officers, directors, employees and volunteers by email or post via their nominated address, upon request;
  - b) to all new officers, directors, employees and volunteers as part of their new starter package; and
  - c) on Netball NSW's company share drive.

## 2 Definitions

- 2.1 In this policy:
  - a) **Detriment** means any damage arising from reprisal against a Whistleblower, including (but not limited to):
    - i) if the Whistleblower is a Netball NSW employee:
      - a. dismissal;
      - b. injury in his or her employment with Netball NSW;
      - c. alteration of duties to his or her disadvantage; or
      - d. discrimination between the Whistleblower and other Netball NSW employees;
    - ii) harassment or intimidation;
    - iii) harm or injury (including psychological harm);
    - iv) damage to property, reputation or business or financial position;
    - v) repeated failure to select an individual;
    - vi) a reduction in future contract value;

- vii) removal of coaching or other financial and non-financial support; or
- viii) any other damage.

- b) **Disclosable Matter** means any information which the discloser has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to Netball NSW or the tax affairs of Netball NSW. This includes (but is not limited to) information which the discloser has reasonable grounds to suspect indicates that Netball NSW or an officer or employee of Netball NSW has engaged in conduct that:
- i) constitutes an offence against, or a contravention of, a provision of the Corporations Act, Australian Securities and Investments Commission Act 2001 (Cth), Insurance Act 1973, Life Insurance Act 1995 or the Australian Charities and Not-for-profits Commission Act 2012 (Cth), or any instrument made under an Act referred to in this subclause;
  - ii) constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
  - iii) represents a danger to the public or the Australian financial system, including conduct that poses significant risk to public safety or the stability of, or confidence in, the Australian financial system, whether or not it is in breach of any law.

Examples of Disclosable Matters include (but are not limited to):

- a. corruption (e.g. offering or accepting bribes);
- b. fraudulent behaviour (e.g. money laundering, misappropriation of funds or falsifying documents);
- c. unlawful or corrupt use of Netball NSW's funds or other resources;
- d. illegal activity (e.g. theft, violence or threatened violence, dealing in, or use of, illicit drugs, criminal damage against property);
- e. a breach of any law, regulation, internal policy or code (except a disclosure relating solely to a "personal work-related grievance" - see clause 3.5);
- f. endangerment to the health and safety of others or potential damage to the environment;
- g. systematic practices that pose a serious risk to the health and safety of a person on Netball NSW's premises;
- h. maladministration (e.g. unjust, based on improper motives, unreasonable, oppressive or negligent);
- i. causing or threatening to cause Detriment against a person who has made a Protected Disclosure or is believed or suspected to have, or to be planning to make, a Protected Disclosure;
- j. actions that may cause financial or non-financial loss to Netball NSW or be otherwise detrimental to the interests of Netball NSW including improper accounting or financial reporting practices; or
- k. concealing any Disclosable Matter.

c) **Eligible Recipient** means a person or entity listed in the table in clause 4.6.

d) **Protected Disclosure** has the meaning given in clause 3.1.

e) **Whistleblower** means an individual who is, or has been, any of the following:

- i) an officer of Netball NSW;

- ii) a director of Netball NSW;
  - iii) an employee of Netball NSW (whether permanent, part-time, fixed-term or temporary);
  - iv) an individual who supplies goods or services to Netball NSW (whether paid or unpaid);
  - v) an employee of a person (individual or entity) who supplies goods or services to Netball NSW (whether paid or unpaid);
  - vi) an associate of Netball NSW (as defined in the Corporations Act); or
  - vii) a relative or dependant of any individual listed in preceding paragraphs (i)- (vi) above or a dependant of such an individual's spouse.
- f) **Wrongdoer** means an individual who is deemed to have engaged in a Disclosable Matter following an investigation undertaken in accordance with this policy.

### 3 Which disclosures qualify for protection under the Corporation Action and this policy?

- 3.1 A disclosure of information qualifies for protection under the Corporations Act and this policy if it is made by a Whistleblower:
- a) to an Eligible Recipient about a Disclosable Matter; or
  - b) and is an “public interest disclosure” (see clause 3.9) or an “emergency disclosure” (see clause 3.10).
- 3.2 A disclosure of information that is not a Protected Disclosure does not qualify for protection. Non-protected disclosures may be protected under other legislation, such as the *Fair Work Act 2009* (Cth).
- 3.3 Whistleblowers can still qualify for protection under the Corporations Act even if their disclosure turns out to be incorrect or unsubstantiated, as long as they had reasonable grounds to suspect that a Disclosable Matter existed at the time of the disclosure.
- 3.4 This policy does not apply to objectively trivial or vexatious matters and is not intended to replace or be used instead of other policies and reporting procedures of Netball NSW, such as those relating to dispute resolution, personal work-related grievances and member protection matters.
- 3.5 Generally, disclosures that relate solely to personal work-related grievances do not qualify for protection. A disclosure will concern a personal work-related grievance if the information:
- a) concerns a grievance about any matter in relation to the discloser's employment, or former employment, having or tending to have implications for the discloser personally; and
  - b) does not have significant implications for Netball NSW unrelated to the discloser; and
  - c) does not concern conduct or alleged conduct about a Disclosable Matter.
- 3.6 Examples of disclosures regarding personal work-related grievances that may not qualify for protection include:

- a) an interpersonal conflict between the discloser and another employee;
  - b) a decision that does not involve a breach of workplace laws;
  - c) a decision relating to the engagement, transfer or promotion of the discloser;
  - d) a decision relating to the terms and conditions of engagement of the discloser; or
  - e) a decision to suspend or terminate the engagement of the discloser or otherwise discipline the discloser.
- 3.7 A disclosure of a personal work-related grievance may still qualify for protection if it:
- a) concerns a Disclosable Matter that is accompanied by a personal work-related grievance;
  - b) concerns a potential breach of Commonwealth laws punishable for a period of 12 months or more;
  - c) concerns Netball NSW engaging in conduct that represents a danger to the public;
  - d) concerns Netball NSW engaging in misconduct that extends beyond the discloser's personal circumstances;
  - e) concerns allegations that the discloser or another person has suffered, or has been threatened with, Detriment as a result of the discloser making a Protected Disclosure; or
  - f) involves a discloser seeking legal advice about the operation of the whistleblower provisions of the Corporations Act.
- 3.8 Disclosures that relate solely to personal work-related grievances that do not qualify for protection will generally be dealt with under Netball NSW's Workplace Harassment, Discrimination and Bullying Policy.
- 3.9 A protected "**public interest disclosure**" is a disclosure made to a journalist or Member of Parliament (Commonwealth or State) where:
- a) at least 90 days have passed since the time of first disclosure to ASIC, the Australian Prudential Authority (**APRA**) or another prescribed Commonwealth body;
  - b) the Whistleblower does not have reasonable grounds to believe action has been, or is being, taken in relation to the disclosure;
  - c) the Whistleblower has reasonable grounds to believe that a further disclosure is in the public interest;
  - d) the Whistleblower notifies the original recipient that they intend to make a public interest disclosure and provides sufficient information to identify the previous Protected Disclosure; and
  - e) the extent of the information disclosed is no greater than necessary to inform the recipient of the Disclosable Matter.
- 3.10 A protected "**emergency disclosure**" is a disclosure made to a journalist or Member of Parliament (Commonwealth or State) where:
- a) the information has been previously disclosed to ASIC, APRA or another prescribed Commonwealth body;
  - b) the Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
  - c) the Whistleblower notifies the original recipient that they intend to make an emergency disclosure and provides sufficient information to identify the previous Protected

Disclosure; and

- d) the extent of the information disclosed is no greater than necessary to inform the recipient of the substantial and imminent danger.

3.11 Making a public interest disclosure or emergency disclosure is a serious matter and to ensure the discloser is protected by law, the discloser should take independent legal advice or consult with an Eligible Recipient before taking any such step.

3.12 This policy applies to disclosures where the discloser has objectively reasonable grounds to suspect wrongdoing, or of an improper state of affairs or circumstances in relation to Netball NSW or its operations. A disclosure may still qualify for protection even if it turns out to be inaccurate. However, where it is shown that a person purporting to be a whistleblower has knowingly or recklessly made a false report of wrongdoing, then that conduct itself will be considered a serious matter and that person may be subject to disciplinary action, which may include dismissal in serious cases.

#### 4 How do I make a Protected Disclosure

4.1 A disclosure must be made to an Eligible Recipient, being any of the people or entities listed in the table below in order for it to qualify as a Protected Disclosure.

4.2 Disclosures may be made anonymously, although Netball NSW is best placed to investigate a disclosure and protect the Whistleblower when the Whistleblower's identity is known.

4.3 If a disclosure is made anonymously, the Whistleblower should provide sufficient information to allow the matter to be properly investigated. Netball NSW encourages Whistleblowers to provide an anonymous email address and to adopt a pseudonym for the purposes of making the disclosure, through which additional questions can be asked and information provided and to assist in protecting anonymity.

4.4 If a disclosure is not anonymous, the recipient of the disclosure must keep the Whistleblower's identity confidential unless the Whistleblower consents to his or her identity being disclosed or where disclosure is permitted under the Corporations Act, including disclosure to ASIC, APRA, the AFP or to a lawyer for the purposes of obtaining legal advice or representation in connection with the operation of whistleblower laws.

4.5 Generally, the identity of, or any information that is likely to lead to the identification of, a Whistleblower (this applies to such information obtained directly or indirectly because of the Disclosure) must not be disclosed except with their consent. Note that disclosures of information likely to lead to the identification of a Whistleblower may be made if it is reasonably necessary for the purposes of investigating a Disclosable Matter. In such circumstances, Netball NSW must take all reasonable steps to reduce the risk of the Whistleblower being identified.

4.6 Eligible Recipients

Who to contact	How to contact
Any officer or senior manager of Netball NSW,	Email, phone or directly speak to:

<p>but in particular, the individuals listed in the right hand column.</p>	<ul style="list-style-type: none"> <li>• Tracey Scott, Chief Executive Officer (CEO) <a href="mailto:TScott@netballnsw.com">TScott@netballnsw.com</a> +61 433 416 733</li> <li>• Lucy Sayers, Manager - Governance, Integrity &amp; Special Projects <a href="mailto:LSayers@netballnsw.com">LSayers@netballnsw.com</a> 02 9951 5073</li> <li>• Jenny Doak, HR Manager <a href="mailto:jdoak@netballnsw.com">jdoak@netballnsw.com</a> 02 9951 5076</li> <li>• Sallianne Faulkner, President <a href="mailto:sfaulkner@netballnsw.com">sfaulkner@netballnsw.com</a></li> </ul>
<p>An auditor engaged by Netball NSW</p>	<p>KPMG <a href="https://home.kpmg/au/en/home.html">https://home.kpmg/au/en/home.html</a></p>
<p>The Australian Securities &amp; Investments Commission</p>	<p><a href="http://www.asic.gov.au/complain">http://www.asic.gov.au/complain</a></p>
<p>Commissioner of Taxation (in relation to Netball NSW's tax affairs only)</p>	<p><a href="https://www.ato.gov.au/general/gen/whistleblowers/">https://www.ato.gov.au/general/gen/whistleblowers/</a></p>
<p>A legal practitioner for the purpose of obtaining legal advice or representation under the “protection for Whistleblowers” provisions of the Corporations Act</p>	<ul style="list-style-type: none"> <li>• Australian Capital Territory: <a href="https://www.actlawsociety.asn.au/lawyers-directory">https://www.actlawsociety.asn.au/lawyers-directory</a></li> <li>• Northern Territory: <a href="https://lawsocietynt.asn.au/nt-legal-directory/other-legal-links-1/9-pages/legal-directory-a-links.html">https://lawsocietynt.asn.au/nt-legal-directory/other-legal-links-1/9-pages/legal-directory-a-links.html</a></li> <li>• New South Wales: <a href="https://www.lawsociety.com.au/for-the-public/find-a-lawyer">https://www.lawsociety.com.au/for-the-public/find-a-lawyer</a></li> <li>• Queensland: <a href="http://www.qls.com.au/for_the_community/find_a_solicitor">http://www.qls.com.au/for_the_community/find_a_solicitor</a></li> <li>• South Australia: <a href="https://referral.lawsocietysa.asn.au/">https://referral.lawsocietysa.asn.au/</a></li> <li>• Tasmania: <a href="https://lst.org.au">https://lst.org.au</a></li> <li>• Victoria: <a href="https://www.liv.asn.au/find-a-lawyer">https://www.liv.asn.au/find-a-lawyer</a></li> <li>• Western Australia: <a href="https://www.lawsocietywa.asn.au/find-a-lawyer/">https://www.lawsocietywa.asn.au/find-a-lawyer/</a></li> </ul>



## 5 Investigation Process

### 5.1 Whom to address your concerns to

- a) If your concern relates to an employee of Netball NSW or any matter other than those mentioned in clause 5.1 (b) or (c) below, this should be addressed to the Netball NSW CEO or Manager - Governance, Integrity & Special Projects (**Manager**).
- b) If your concern relates to the Netball NSW CEO or a director this should be addressed to the president of Netball NSW.
- c) If your concern relates to the president of Netball NSW it should be addressed to the deputy chair of Netball NSW

### 5.2 Initial review

- a) Upon receiving a disclosure that qualifies for protection under the Corporations Act and this policy, Netball NSW will take the steps set out in this clause 5 to review the disclosure.
- b) For any concerns raised in regard to Netball NSW employees or any matters other than those mentioned in clauses 5.1(b) or (c), the Netball NSW CEO or Manager will promptly carry out an initial review of the disclosure. A disclosure will not be reviewed or investigated by any other individual, unless the disclosure concerns the CEO, in which case the investigation will be conducted by the Netball NSW president.
- c) For any concerns raised in regard to Netball NSW directors or the CEO, the president will promptly carry out an initial review of the disclosure. A disclosure will be reviewed or investigated by an appointed external investigator.
- d) For any concerns raised in regard to the Netball NSW president, the deputy chair will promptly carry out an initial review of the disclosure. A disclosure will be reviewed or investigated by an appointed external investigator.

### 5.3 Investigation

- a) Notwithstanding anything in this clause 5, Netball NSW will investigate Protected Disclosures covered by this policy in an objective, fair and appropriate manner, which may necessitate different approaches depending on the circumstances of each disclosure. Netball NSW reserves the right to use both internal and external resources to investigate a disclosure or part of it.
- b) As a general guide and subject to the particular circumstances applying to the Protected Disclosure, the steps in the investigation process may include the following:
  - i) interview the Whistleblower to obtain relevant information;
  - ii) interview any alleged wrongdoer to obtain a response to the Protected Disclosure in so far as it relates to the alleged wrongdoer;
  - iii) interview any relevant witnesses regarding relevant matters arising from the Protected Disclosure;
  - iv) review any documents or other material relevant to the Protected Disclosure;
  - v) if necessary, conduct further interview/s with the Whistleblower to obtain further information or a response to material arising from the investigation; and
  - vi) if necessary, conduct further interview/s with any alleged wrongdoer regarding further material arising from the investigation.

- c) Interviews need not be conducted face to face. All relevant material including interviews and documents obtained during the investigation is then considered and a report prepared.
- d) The report may make findings of fact and determine whether a Protected Disclosure has been substantiated or not substantiated, in whole or part. The report may also include recommendations arising from any factual findings.

#### **5.4 Action following investigation**

- a) Once a disclosure is made, and if deemed necessary, immediate action will be taken to prevent alteration or destruction of any relevant records. Such actions may include (but are not limited to):
  - i) removing relevant records and placing them in a secure location;
  - ii) limiting access to the location where the records currently exist; and
  - iii) preventing the individual who is the subject of the disclosure from accessing the records.
- b) If the allegation is substantiated by the investigation, the Wrongdoer will be subject to appropriate disciplinary action in proportion to the misconduct, including dismissal if necessary, by the appropriate level of management.
- c) Netball NSW will also take all reasonable steps, including commencing legal proceedings to recover any loss from the Wrongdoer.

#### **5.5 Timing**

- a) Netball NSW aims, where practicable, to finalise investigations of Protected Disclosures within 90 days of the date the disclosure is first made. Where finalisation is not practicable, however, Netball NSW will take reasonable steps to ensure that progress is made in relation to a disclosure within 90 days of the date the disclosure is first made.
- b) Netball NSW will take reasonable steps to keep the Whistleblower informed (including through confidential communication channels used) of the progress of an investigation of their Protected Disclosure. The frequency of updates and timeframe will vary according to the nature of the Protected Disclosure, however updates will usually be made during the three key stages of the process: when the investigation has begun, when it is in progress and after it has been finalised.

#### **5.6 Impartiality**

- a) An investigator investigating a disclosure under this clause 5 will act impartially and without bias in conducting the investigation. An investigator must declare any material personal interest the investigator has in any matter relevant to the investigation for which the investigator has responsibility, immediately to Netball NSW. The investigator must then take no further part in the investigation unless directed otherwise (other than to provide relevant material or information by way of a handover to a new investigator or to take any necessary incidental action for that purpose).

### **6 Roles and Responsibilities**

#### **6.1 Employees and volunteers have a responsibility to:**

- a) disclose Disclosable Matters in accordance with this policy;
- b) not raise vexatious, malicious or frivolous concerns;
- c) ensure that their behaviour complies with Netball NSW's policies and procedures;
- d) participate in resolution pathways with honesty whilst maintaining confidentiality;
- e) ensure they do not cause, or threaten to cause, Detriment to Whistleblowers; and

- f) protect the identity of, or any information that is likely to lead to the identification of, Whistleblowers or individuals mentioned in a Protected Disclosure (this applies to such information obtained directly or indirectly because of the Protected Disclosure).
- 6.2 Managers have a responsibility to:
- a) conduct themselves in line with Netball NSW's policies and the relevant legislation;
  - b) disseminate approved policies to officers and employees;
  - c) ensure employees have received, read and understood policies;
  - d) assess the risks of Disclosable Matters within their area of control;
  - e) educate employees and volunteers about whistleblower laws; and
  - f) facilitate, receive and investigate Protected Disclosures where applicable.
- 6.3 The Executive General Manager People & Culture or their delegate has responsibility to:
- a) provide training and coaching to potential recipients of Protected Disclosures and employees on this policy; and
  - b) report instances of Disclosable Matters to the CEO where lawfully permitted and as appropriate.
- 6.4 The Chief Executive Officer has a responsibility to:
- a) facilitate, receive and investigate Protected Disclosures; and
  - b) oversee the management of Protected Disclosures in accordance with this policy.

## **7 Whistleblower Protection**

- 7.1 Netball NSW will endeavour to protect any Whistleblower that makes a Protected Disclosure where that Whistleblower has reasonable grounds to suspect the Protected Disclosure concerns a Disclosable Matter.
- 7.2 It is unlawful for Netball NSW or any other person to engage in conduct against any Whistleblower that causes, or will cause, Detriment in circumstances where the person believes or suspects that the Whistleblower or any other person made, may have made, proposes to make or could make a Protected Disclosure. Any Netball NSW employee, officer, director or volunteer proven to have caused, or attempted to cause, Detriment to any Whistleblower may be subject to disciplinary action up to and including termination.
- 7.3 Similarly, Netball NSW itself must not engage in conduct that causes a Whistleblower Detriment. In particular, Netball NSW will not subject the Whistleblower to civil, criminal or administrative liability (including disciplinary action) for making a disclosure and will not enforce any contractual remedy, such as dismissal, against the Whistleblower on the basis of a disclosure. This protection applies whether the disclosure is proven or not.
- 7.4 Actions that are not Detriment include administrative action that is reasonable for the purpose of protecting a Whistleblower from Detriment and managing a Whistleblower's unsatisfactory work performance, if the action is in line with Netball NSW's performance management framework.
- 7.5 Where a Protected Disclosure is made, Netball NSW will assess the risk of the Whistleblower being subjected to Detriment and may implement interim measures to manage the risk of Detriment. This may include implementing temporary alternative working arrangements or

other measures to support and protect the Whistleblower, including (but not limited to) providing the Whistleblower with:

- a) access to the Employee Assistance Program (EAP);
- b) flexibility to work practices as necessary and relevant;
- c) paid personal leave beyond what is currently available (as approved by Netball NSW);
- d) paid access to other legal services as reasonably required in the circumstances; and
- e) paid access to psychological services as needed (beyond what is provided via the EAP).

7.6 Netball NSW will take reasonable precautions to securely store any records relating to a Protected Disclosure and only permit access to authorised persons who are directly involved in the managing of the Protected Disclosure and subsequent investigation.

7.7 The fact that a Whistleblower has made a Protected Disclosure will not give rise to any civil, criminal or administrative liability (including disciplinary action) on the part of the Whistleblower, and the fact of making the Protected Disclosure and its content is not admissible against the Whistleblower in criminal or civil proceedings.

7.8 However, a Whistleblower can still be pursued for having made a false disclosure and is not granted immunity in connection with the Whistleblower's own conduct that is revealed by the matters highlighted in the disclosed information (ie the Whistleblower's own conduct in the misconduct, improper affairs or other circumstances which are revealed by the Protected Disclosure.

## **8 Fair Treatment**

- 8.1 Netball NSW will ensure the fair treatment of both Whistleblowers and any employees mentioned in a Protected Disclosure by:
- a) educating employees, officers, directors, senior managers and volunteers on the requirements of this policy;
  - b) facilitating anonymous Protected Disclosures;
  - c) maintaining confidentiality over Protected Disclosures and, to the extent practicable, the identity of Whistleblowers (unless permitted by law) and others identified in Protected Disclosures;
  - d) taking steps to ensure investigations into Disclosable Matters are confidential, fair and objective;
  - e) protecting Whistleblowers from Detriment as outlined in clause 7 above;
  - f) taking steps to monitor the wellbeing of Whistleblowers and employees mentioned in Protected Disclosures;
  - g) regularly updating the Whistleblower on the progress of any investigation into a Protected Disclosure; and
  - h) not taking any disciplinary action against an employee mentioned in a Protected Disclosure unless or until the Protected Disclosure is substantiated.

## 9 Policy Administration Details

Date Effective:	30 July 2024
Version Number:	2
Policy changes, updates or amendments:	This Policy may be rescinded, changed or replaced at any time at the absolute discretion of the Chief Executive Officer of Netball NSW or their authorised delegate.
Status of Policy:	The terms of this Policy are not intended to be contractual in nature and do not form part of any worker's contract of employment or engagement.
Review:	1 January 2027
<b>Related policies, procedures and resources</b>	Code of Conduct Workplace Harassment, Discrimination and Bullying Policy Netball NSW Staff Handbook