



MEMBER PROTECTION POLICY

ATTACHMENT D – DISCIPLINARY MEASURES ADMINISTRATIVE PROTOCOL

**Adopted by NSW Netball Association Ltd Board Meeting and effective as at
1 January 2017**

Last review date: 8th October 2013
Next review date: 13th December 2016

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1. INTRODUCTION

Disciplinary measures are aimed at punishing the wrongdoing of members and to deter unacceptable and inappropriate behaviour whilst participating in netball. It is focussed upon on court and associated game related behaviour by all participants including coaches, managers, officials and players. It may also apply to complaints that have been lodged which involve on court and associated behaviours.

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

To ensure that relevant measures imposed are correctly applied, all persons are to be aware that discipline measures will be communicated to the relevant person/s or Affiliate/s as deemed appropriate.

Disciplinary measures can be instituted in the following circumstances:

- a) Where a formal complaint lodged under Attachment B - Complaint Handling Regulation is determined to be either:
 - i) A Category 'A' complaint; or
 - ii) A complaint that during a 'Formal Approach' process is identified as involving multiple parties and/or multiple issues and is determined better dealt with by the Hearings Tribunal; or
- b) Where a netball player is charged with an offence whilst his/her team is participating in organised netball competitions and games.

The initiating process can be one of two ways:

1. A referral by the Hearing Officer or Investigation Officer during the complaints handling process; or
2. The submission of an Incident Report Form found at Attachment C6 of the MPP.

As a referral from a Hearing Officer or Investigation Officer immediately invokes the authority of a Hearings Tribunal, focus will be placed upon the process associated with the lodgement of an Incident Report Form.

An incident Report Form can be filled out by any person who has witnessed conduct that they believe to be inappropriate and in breach of the MPP. The form is usually filled out by an umpire, coach or manager however, players may also fill out the form if they choose to. The form must be completed as soon as practicable and as close as possible to the incident identified in the form. Upon completion, the form is to be handed to the executives of the relevant Affiliate or NSW official, whichever is appropriate.

2. DEFINITIONS

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

Business Day means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in NSW.

Calendar Days is any day of the week, including weekends.

3. OFFENCES

Upon receipt of the Incident Report Form, the Executive is to meet and assess each report individually. The Executive are to identify the type and level of offence that has allegedly been committed.

The offences identified in the tables below are based upon the expectations that all members will participate in netball activities in accordance with the Member Protection Policy and Codes of Behaviour. In particular, that members will show respect and consideration towards others and act in a manner that brings credit upon the game of netball and its affiliate.

Once the level of offence has been identified, the Executive may determine how to deal with it. There are five types of offence levels, ranging from the less serious to the most serious. Each of the rules for the following offences has a guideline. The guidelines are intended as an illustrative guide only and in the case of any doubt as to the interpretation of the rule, the provisions of the rule itself shall take precedence over the provisions of the guidelines. The guidelines should not be read as an exhaustive list of offences or prohibited conduct.

The Executive are to make their determination based upon the following guidelines:

1. Level 1 offences may be dealt with by utilising the Hearing Officer process identified at Attachment B - Complaint Handling Regulation of the MPP or refer the matter to a Hearings Tribunal.
2. Level 2-5 offences are to be referred to a Hearings Tribunal.

3.1 Level 1 Offences

The offences set out at 3.1.1 to 3.1.3 below are Level 1 offences. The range of penalties which shall be imposed for a Level 1 Offence is set out under the Schedule of Disciplinary Penalties section below. Financial members must not:

No	Rule	Guidelines
3.1.1	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.
3.1.2	Show dissent at an umpire's decision by action or verbal abuse.	Includes excessive, obvious disappointment with an umpire's decision or with an umpire making the decision and/or obvious delay in resuming play. 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 UOP/ Affiliate official, against the performance of an umpire.
3.1.3	Use language that is obscene, offensive or insulting and/or the making of an obscene gesture.	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. 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.

3.2 Level 2 Offences

The offences set out at 3.2.1 to 3.2.6 below are Level 2 offences. The range of penalties which shall be imposed for a Level 2 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

No	Rule	Guidelines
3.2.1	Show serious dissent at an umpire's decision by action or verbal abuse.	Dissent should be classified as serious where 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. 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 UOP / Affiliate official, against the performance of an umpire.
3.2.2	Engage in inappropriate and deliberate physical contact with other players or umpires during the course of play.	Without limitation, players will breach this regulation if they deliberately walk or run into or shoulder another player, umpire or match official.
3.2.3	Charge or advance towards an umpire in an aggressive manner.	
3.2.4	Deliberately and maliciously distract or interfere with another player or umpire during the course of play.	Without limitation, players will breach this rule if they deliberately attempt to distract an opponent or umpire by words or gestures.
3.2.5	Throw the ball at or near a player or official in an inappropriate and/or dangerous manner.	This rule will not prohibit a player from returning the ball in the normal fashion.
3.2.6	Use language that is obscene, offensive or of a seriously insulting nature to another player, official or spectator.	This is language or gestures which are directed at another person. Refer to the comments under rule 3.1.3 above in relation to the seriousness of the breach.

3.3 Level 3 Offences

The offences set out at 3.3.1 to 3.3.3 below are Level 3 offences. The range of penalties which shall be imposed for a Level 3 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

No	Rule	Guidelines
3.3.1	Intimidate an umpire or official whether by language or conduct.	Includes appealing in an aggressive or threatening manner.
3.3.2	Threaten to assault another player, Team official or spectator.	Self-explanatory.
3.3.3	Use language or gestures that offend, insult, humiliate, intimidate, threaten, disparage or vilify another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.	Self-explanatory.

3.4 Level 4 Offences

The offences set out at 3.4.1 to 3.4.2 below are Level 4 offences. The range of penalties which shall be imposed for a Level 4 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

No	Rule	Guidelines
3.4.1	Threaten to assault an umpire or official.	Self-explanatory.
3.4.2	Use language or gestures that seriously 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.	Self-explanatory.

3.5 Level 5 Offences

The offences set out at 3.5.1 to 3.5.2 below are Level 5 offences. The range of penalties which shall be imposed for a Level 5 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

No	Rule	Guidelines
3.5.1	Physically assault another player, umpire, coach, official or spectator.	This includes fighting and/or striking with a clenched/open fist and striking using a ball or another object.
3.5.2	Engage in rough play in the field of play.	This includes undue rough play and an attempt to strike with a clenched or open fist. This also includes kicking or attempting to kick, deliberately tripping an opponent and/or deliberately elbowing an opponent.

4. HEARINGS TRIBUNAL ADMINISTRATION

The procedures established in this attachment applies to all registered financial members of Netball NSW whether they are participating or not in Affiliate competition and all Netball NSW governed events.

This attachment outlines the jurisdiction, procedures and possible outcomes under the auspices of the Hearings Tribunals. For clarification and ease of reference, each Tribunal will be addressed individually in this Attachment.

Jurisdiction

- 4.1.1 The function of the Hearings Tribunal is to hear all matters as provided in the Member Protection Policy in relation to complaints of a serious and/or complex nature and allegations of offences under the Member Protection Policy.
- 4.1.2 A matter can be referred to a Hearings Tribunal in one of three ways:
- a. when a complaint lodged under the complaint handling regulation has been deemed a Category A complaint, or
 - b. a complaint has been or is being investigated and determined to be more appropriately dealt with by the Hearings Tribunal, or
 - c. when a member has been charged with an offence established under Clause 3 – Offences, of this policy, or other conduct determined to be unacceptable.

Penalties

- 4.1.3 The penalties available to the Hearings Tribunal are those set out in Clause 8 and Clause 9. Such penalties includes administrative and disciplinary type penalties.
- 4.1.4 Hearings Tribunals have the authority to award either an administrative or a disciplinary penalty or a combination of both. In awarding penalties, the members of the Tribunal are to take into account the factors and guidance contained within Clause 7.

Tribunal Administration

- 4.1.5 Where the Hearing Officer or relevant person of Netball NSW or an Affiliate (if applicable) receives a complaint referred to it under the Policy, he or she is to undertake the role of Tribunal Administrator and follow the procedures set out below.
- 4.1.6 Upon receipt of the complaint, the Hearings Officer or relevant person shall, as soon as possible, undertake the following steps:

- a) **STEP ONE:** Determine the composition of the Hearings Tribunal. The Hearings Tribunal for each hearing shall be appointed by the relevant Affiliate or the CEO of Netball NSW (where relevant). The persons who are designated to comprise the Tribunal must be persons who are reasonably considered to be impartial, in that they will not be influenced or affected by their relationship with the Complainant or Respondent. The Tribunal shall comprise of the following impartial and independent persons:
- i) a barrister or solicitor (who shall be the Chairperson) or, if after reasonable attempts have been made to obtain one without success, then a person with considerable previous experience in hearing tribunal matters;
 - ii) a person with a thorough knowledge of the sport; and
 - iii) one other person of experience and skills deemed suitable to undertake the role of Tribunal member.
- b) **STEP TWO:** Send the following written documents and/or notifications to the identified persons.
- a) The Respondent:
 - i) a signed copy of the complaint, including all evidence and information upon which reliance has been placed to support the complaint (referred to as 'Notice of Alleged Breach')
 - ii) a notice setting out the date, time and place for the hearing of the alleged breach which shall be as soon as reasonably practicable after receipt of the complaint or information. However the date assigned must be at least 14 calendar days to allow for sufficient time for the respondent(s) to prepare; and
 - b) Complainant(s) and the Chairperson of the Hearings Tribunal:
 - i) a copy of the Notice of Alleged Breach.
 - c) Complainant(s) and the Respondent:
 - i) that they can make either verbal or written submissions to the Hearings Tribunal;
 - ii) that they may arrange for witnesses to attend the Hearings Tribunal in support of their position;
 - iii) in the case of the Respondent, any possible penalties that may be imposed if the complaint is found to be true;
 - iv) that, in the case of the Respondent, when they appear at the Hearings Tribunal, they have the right to provide any evidence or witnesses to respond to the proposed penalties;
 - v) that, in the case of the Respondent, that they have the right to present evidence in mitigation, whether it be documentary or via a witness;
 - vi) that if the Complainant or the Respondent is considered a minor (that is, under the age of 18 years), they should have a parent or guardian present;
 - vii) in addition, the Respondent may also have a representative of their Affiliate attend with them; and
 - viii) where a person under the age of 18 years is called before a Hearings Tribunal that person's parent(s) or guardian(s) is permitted to attend with the person.

Improper, vexatious or malicious complaints

- 4.1.7 If within 48 hours of sending the Notice of Alleged Breach, the Respondent alleges in writing to the Hearings Officer or relevant person that the complaint is improper, vexatious or malicious, the Chairperson shall as a preliminary issue, determine whether or not such complaint is improper, vexatious or malicious and shall advise the parties of his or her determination.
- 4.1.8 The Hearing Officer or relevant person shall provide to the other parties to the hearing (see STEP TWO) a copy of the written allegation made by the Respondent, that the complaint is improper, vexatious or malicious.
- 4.1.9 The Chairperson shall determine such preliminary issues as soon as practicable and in whatever manner the Chairperson considers appropriate in the circumstances provided that she/he does so in accordance with the principles of natural justice.
- 4.1.10 The decision of the Chairperson under this clause may be appealed within 48 hours of the determination to the relevant appeal body (refer to Appeals Tribunal).

Preliminary Actions By Hearings Tribunal

- 4.1.11 If, upon receipt of the Notice of Alleged Breach the Hearings Tribunal considers that pending the determination of the matter the Respondent may put at risk the safety and welfare of the Complainant or others, it may order that the Respondent be:
- a. suspended from any role they hold with Netball NSW or the relevant Affiliate; and/or
 - b. banned from any event or activities held by or sanctioned by Netball NSW and/or the Affiliate;
 - c. transferred to an alternate role until the matter has been finally determined; and/or
 - d. required not to contact or in any way associate with the Complainant or other person about whom the alleged breach relates, pending the determination of the hearing.
- 4.1.12 However, before such an order is made and enforced, the Tribunal must advise the Respondent of the proposed action and offer an opportunity to respond to the proposed action. The Respondent is to be given three business days to provide a response. In undertaking this action, Tribunal members are to consider utilising Attachment E – Hearings and Appeals Tribunal Procedural Requirements as a guide to the process to be implemented to ensure that procedural fairness is afforded.
- 4.1.13 There is no right of appeal of the decision by a Hearings Tribunal under this section.

Basic Outline Of Procedure

- 4.1.14 The purpose of the hearing shall be to determine whether the Respondent has committed a breach of this Policy. If the Hearings Tribunal considers that the Respondent has committed a breach of this Policy, it may impose any one or more of the penalties set out in Clause 7 and/or Clause 8.

- 4.1.15 The Hearings Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances provided that it does so in accordance with the principles of natural justice. This means that the Respondent is to be made aware of the allegations and the evidence in support and that both parties have the opportunity to respond to any evidence produced during the hearing.
- 4.1.16 The Tribunal is to consider utilising all appropriate means of receiving and reviewing evidence to ensure expediency of the process. This includes by way of teleconference, video conference or other suitable methods of communication. Refer to Attachment E – Hearings and Appeals Tribunal Procedural Requirements.

Children

- 4.1.17 When a matter before the Tribunal involves children, there are certain considerations that are to be taken into account. Such considerations are:
- a. whether the child be the Complainant or Respondent, the child is to be given the option of giving evidence via closed circuit television or other technology,
 - b. in the instance that the child is the Complainant, the child is to be given the option of providing evidence in the form of:
 - i. a recording undertaken with an investigating officer or other relevant person,
 - ii. a transcript of the recording certified by the investigator or other relevant person,
 - iii. orally in the Tribunal hearing room,
 - iv. via closed circuit television or other similar technology, or
 - v. utilising alternative arrangements such as the use of screens, planned seating arrangements to reduce exposure or in premises other than the Tribunal hearing room (with necessary adjournment implemented).
- 4.1.18 Children are to have available to them a support person of their choice. This is regardless of whether the child is a Complainant or Respondent.
- 4.1.19 The parties to the hearing shall include the Complainant, the Respondent, the relevant organisation (being Netball NSW or the relevant Affiliate) and any witnesses which the Hearings Tribunal considers necessary to participate in the hearing.
- 4.1.20 As a general rule, no party to the hearing may be represented by a legally qualified person. However, the Chairperson of the Hearings Tribunal may grant leave for a party to the hearing to be represented by a barrister or solicitor where their livelihood or proprietary is at risk. A party may be represented by an advocate who is not a barrister or solicitor at the hearing.
- 4.1.21 Each party to the hearing shall bear their own costs in relation to the hearing.

- 4.1.22 The Chairperson must ensure the Hearings Tribunal must complete the report form “*Record of Tribunal Decision*” Attachment C– Reporting Requirements and Document / Forms (Attachment C5) of the Member Protection Policy. The Hearings Tribunal shall give its decision as soon as practicable after the hearing. The Hearings Officer or relevant person will deliver to the following a statement of written reasons:
- a. the Complainant;
 - b. the Respondent; and
 - c. any other party represented in the hearing.
- 4.1.23 The statement of written reasons is to include:
- a. an outline of the allegations;
 - b. the evidence in support of the allegations, including any admissions;
 - c. the evidence which does not support the allegations, including possible defences and mitigating circumstances;
 - d. an assessment of conflicting evidence including why one person’s version of events was considered more reliable than another person’s, if required;
 - e. the determination on each allegation;
 - f. mitigating factors taken into account for punishment purposes;
 - g. the punishment(s) imposed, if any;
 - h. the right to appeal to the Appeals Tribunal outlining the restrictions and requirements on such appeals, including time restrictions.
- This process is confidential and should remain confidential. Any breach of this requirement may be dealt with by disciplinary action.
- 4.1.24 For more detailed information on the procedure to be adopted during the Tribunal Hearing process, refer to Attachment E - Hearings and Appeals Tribunal Procedural Requirements. Attachment E is to be read in conjunction with this Attachment.
- 4.1.25 Each member of each Hearings Tribunal established under this Policy shall be indemnified by the organisation which appointed them, from any claim or action for loss, damages, or costs made against them arising out of, or in connection with their function as a member of the Hearings Tribunal under this Policy.
- 4.1.26 Except as otherwise provided in this Policy, all members of the Hearings Tribunal shall keep all matters relating to the hearing (including but not limited to the nature of the Complaint, information obtained before and during the hearing and the decision of the Hearings Tribunal) confidential.
- 4.1.27 To the extent of any inconsistency between the hearing procedure set out in the Constitution of Netball NSW and/or Affiliates (if applicable) and the hearing procedure set out in this Policy, this Policy shall prevail in relation to all complaints under this Policy.
- 4.1.27 Where a person has had a decision made against them by the Hearings Tribunal, that person has 5 calendar days in which to lodge an appeal in the instance that the person(s) wishes to lodge an appeal against the decision of the Hearings Tribunal. The time commences from the date of notification of the decision.

5. LODGEMENT OF APPEALS

Grounds for an Appeal

- 5.1 Where a party is appealing a decision of a Hearings Tribunal, the party represented may only appeal such decision, on the following grounds:
- that a denial of natural justice / procedural fairness has occurred;
 - that the disciplinary measure imposed is unjust, harsh, excessive or onerous;
- 5.2 An affiliate or individual member who submits an appeal due to dissatisfaction with the outcome of the complaint process at mediation, Hearing Officer or Investigation Officer stage, may appeal a decision on one or more of the following grounds:
- that a denial of natural justice / procedural fairness has occurred;
 - that the disciplinary measure imposed is unjust, harsh, excessive or onerous;
 - that a financial member is materially affected or disadvantaged by a decision of a Hearings Tribunal;
 - that an Affiliate is materially affected or disadvantaged by a decision of a Hearings Tribunal;
 - that an individual financial member is materially affected by a decision of an Affiliate or Netball NSW;
 - that an Affiliate is materially affected by a decision of Netball NSW; or
 - that a Club is materially affected by a decision of an Association.
- 5.3 The timeframes for the lodgement of appeals following notification of a decision is as follows:

Nature of Appeal	Lodgement Time
Appeals against Netball NSW Hearings Tribunal decisions for State and State Age Championships.	4 hours
Appeals against Netball NSW Hearings Tribunal decisions for Premier League, Metro League and Night Inter District.	48 hours
Appeals against Affiliate Hearings Tribunal decisions.	5 business days
Appeals against any Netball NSW Committee, Panel or Administrative decision.	5 business days
Appeals against Affiliate administrative decisions and/or sanctions	5 business days

- 5.4 An appeal in relation to a decision of a Tribunal established by Netball NSW is to be lodged with the CEO of Netball NSW.
- 5.5 An appeal in relation to a decision of a Tribunal established by an Affiliate is to be lodged with the President/Secretary of the relevant Affiliate.
- 5.6 For appeals against Hearings Tribunal decisions, the grounds of the appeal are to be submitted to the CEO of Netball NSW or the Affiliate President/Secretary, as appropriate, at least 72 hours before the Appeals Tribunal is scheduled to hear the appeal. If the appellant is unable to lodge the submission to the Appeals Tribunal within the timeframe permitted, an extension of time stating the reasons for the extension required is to be submitted to the Chairperson of the Appeals Tribunal. The Chairperson will decide whether to grant an extension. The appeal is to be made on the “*Application to Appeal Form*” Attachment C7 – Reporting Requirements and Documents/Forms).

- 5.7 For appeals against decisions made and/or sanctions imposed by Hearing Officers, the grounds of the appeal are to be submitted to the CEO of Netball NSW or the Affiliate President/Secretary, as appropriate, at least 72 hours before the Appeals Tribunal is scheduled to hear the appeal. If the appellant is unable to lodge the submission to the Appeals Tribunal within the timeframe permitted, an extension of time stating the reasons for the extension required is to be submitted to the Chairperson of the Appeals Tribunal. The Chairperson will decide whether to grant an extension. The appeal is to be made on the *“Application to Appeal Form”* Attachment C7 – Reporting Requirements and Documents/Forms).

6. APPEALS TRIBUNAL ADMINISTRATION

The administrative procedures established in this attachment applies to all registered financial members of Netball NSW whether they are participating or not in Affiliate competition and all Netball NSW governed events.

This attachment outlines the jurisdiction, procedures and possible outcomes under the auspices of the Appeals Tribunals. For clarification and ease of reference, each Tribunal will be addressed individually in this Attachment. NOTE: specific procedural requirements are set out in Attachment E, which is to be read in conjunction with this Attachment.

- 6.1 The function of the Appeals Tribunal is to hear all appeals resulting from decisions of the Hearings Tribunal or where a registered financial member of an Affiliate is aggrieved by a decision and the matter has not been the subject of a Hearings Tribunal decision.
- 6.2 An appeal shall be made to the following appeal body:
- a. an appeal against a decision of a Hearings Tribunal established by an Affiliate shall be made to the Appeals Tribunal of the relevant Affiliate. Subject to the discretion of the chairperson of the Appeals Tribunal, all appeals to the relevant Affiliate shall be heard at the principal place of business of the Affiliate; and
 - b. an appeal against a decision of a Hearings Tribunal established by Netball NSW shall be made to the Appeals Tribunal of Netball NSW. Subject to the discretion of the chairperson of the Appeals Tribunal, all appeals to Netball NSW shall be heard at the principal place of business of Netball NSW.
 - c. where a decision has not been subject of a Hearings Tribunal, the appeal must be lodged to the relevant agency who made the decision.
- 6.3 In all cases, the appellant Affiliate or individual member must be a financial member affiliated with Netball NSW.
- 6.4 All appeal hearings should be heard expeditiously and, where possible, within the timeframes established for the various categories of appeals as detailed in the procedures.
- 6.5 There is only one right of appeal following the decision of the initial Hearings Tribunal. Any appeal must be solely and exclusively resolved by the appeal body and the decision of such appeals body is final and binding on the parties. It is agreed that no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant appeal body. Note: This provision does not prevent any person or organisation taking action under State or Commonwealth law.
- 6.6 The process for such appeal is as follows:
- a. the party wishing to appeal ("the Appellant") shall:
 - i. **within 72 hours** of the hearings tribunal delivering its decision advise, in writing, the Hearing Officer or relevant person of Netball NSW or the Affiliate (as the case may be) of their intention to appeal ("Notice of Intention to Appeal"); or

- ii. **within 5 days** of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the appeal body if there is urgency), submit to the Hearing Officer or relevant person of Netball NSW or the Affiliate the grounds of appeal.
- b. The Hearing Officer or relevant person of Netball NSW or the Affiliate shall:
- i. appoint an Appeals Tribunal to hear and determine the appeal as soon as possible after receipt of the Notice of Intention to Appeal. The tribunal shall comprise of persons in accordance with Clause 4 STEP ONE but shall not include any person who sat on the tribunal which made the decision under appeal.
 - ii. provide a copy of the grounds of appeal to the other party, to the Hearing Officer or relevant person of the organisation which established the hearings tribunal who made the decision which is the subject of the appeal and the chairperson of the appeal body.
 - iii. on completion of the procedures in (i) and (ii), the Hearings Officer or relevant person of Netball NSW or the Affiliate shall determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details.
- 6.7 An outline of the appeal process shall be the same as the procedure for the Hearings Tribunal set out in Clause 4.1.14 – 4.1.27, noting that procedural requirements are contained within Attachment E – Hearings and Appeals Tribunal Procedural Requirements.
- 6.8 The appeal body may reject an appeal on the basis that the grounds of appeal are not satisfied.
- 6.9 Where an Appeal has been heard by an Appeals Tribunal and the appellant has evidence that proves a denial of natural justice and/or procedural fairness during the Tribunal process, the appellant can lodge a request for legal review with Netball NSW. Such review will be undertaken by a solicitor drawn from the Netball NSW’s legal panel.
- 6.10 The following procedures will apply:
- a. The appellant will forward all written evidence to the CEO of Netball NSW together with a lodgement fee of \$500.00.
 - b. The CEO of Netball NSW will appoint a solicitor from the Association’s legal panel who will undertake an assessment of the evidence presented in terms of procedural fairness and the rules of natural justice. The solicitor has the authority to make any further enquiries and request further evidence from any party deemed necessary to undertake the review.
 - c) Notwithstanding the above (Clause 6.10 a. and Clause 6.10 b.), the CEO will retain discretion with regards to the charging of the above fees subject to the following considerations:
 - i. On completion of the review, the solicitor will present the findings to the CEO.

- ii. Where the solicitor upholds the appeal, the Appeals Tribunal decision will be set aside and Netball NSW will convene a further Appeals Tribunal and the lodgement fee of \$500.00 will be refunded to the appellant. No person who was involved in any action relating to the appeal under review is permitted to be involved in the further appeal.
 - iii. Where the solicitor dismisses the appeal the appellant will forfeit the lodgement fee of \$500.00.
 - iv. The decision of the solicitor is final. Note: This provision does not prevent any person or organisation taking action under State or Commonwealth law.
- d) within a 24 month period, the third and subsequent request will be at the expense of the Affiliate / party.
- 6.11 The appeal body has no power to award costs and each party shall bear their own costs in relation to any appeal.
- 6.12 To the extent of any inconsistency between the hearing appeal procedures set out in the Constitution of Netball NSW and or Affiliates and the Appeals Tribunal procedures set out in this policy, this policy shall prevail in relation to all complaints under this policy.
- 6.13 Where an Appeals Tribunal hears an appeal as a result of a decision by a Hearings Tribunal and suspends an individual member for a period of 12 months or more, that member is ineligible to be a member of any Affiliate in New South Wales for the period of the suspension imposed.
- 6.14 Where an Appeals Tribunal hears an appeal as a result of a decision by a Hearing Tribunal to deal with charged disciplinary offences and suspends an individual member from participating for a period of less than twelve months, that member may remain a financial member of the Affiliate in New South Wales.

7. APPLICATION OF DISCIPLINARY MEASURES – GENERAL CONSIDERATIONS

- 7.1 When a Hearings Tribunal or Appeals Tribunal is established to deal with complaints or offences, the relevant body is to ensure that the considerations identified herein are taken into account when disciplining registered financial members of Netball NSW. This is to assist in providing a fair and consistent process is adopted.
- 7.2 Any disciplinary measure imposed by Netball NSW and/or an Affiliate under this Policy must:
- a. conform to the principles of natural justice;
 - b. be fair and reasonable;
 - c. be based on the evidence and information presented;
 - d. be within the powers of the Hearings Tribunal and Appeals body to impose the disciplinary measure.
- 7.3 The form of discipline to be imposed on an individual or organisation will depend on factors such as:
- a. jurisdiction over the individual or Affiliate;
 - b. nature and seriousness of the behaviour or incidents;
 - c. in a case where action is taken concurrently with or in lieu of a resolution of a formal complaint, the wishes of the complainant;
 - d. whether the individual concerned knew or should have known that the behaviour was a breach of the policy;
 - e. the level of contrition of the respondent(s);
 - f. the person's actions post the alleged incident;
 - g. the effect of the proposed disciplinary measure on the respondent(s) including any person, professional or financial consequences;
 - h. if there have been any relevant prior warnings or disciplinary action; and/or
 - i. if there are any mitigating circumstances such that the respondent(s) shouldn't be disciplined at all or not disciplined so seriously.

8. PENALTIES FOR BREACH OF THE MEMBER PROTECTION POLICY

This section covers those matters which are likely to fall into the category of a breach of the Member Protection Policy, and are brought before the Hearings Tribunal under the auspices of being a 'complaint' (refer to Introduction - Clause 1 a)).

This also applies to behaviour which has been charged as an 'offence' under Clause 3 above.

8.1 If the Hearings Tribunal considers that a person or organisation to whom this Policy applies, has breached this Policy, it may impose the following penalties:

a. **For breaches committed by organisations:**

If the Hearings Tribunal considers that Netball NSW, an Affiliate or any other organisation has breached this Policy, it may impose one or a combination of the following penalties on such organisations:

- i. direct that any funding granted or given to it by Netball NSW or an Affiliate cease from a specified date;
- ii. impose a monetary fine for an amount determined by the appropriate Tribunal;
- iii. impose a warning;
- iv. recommend to Netball NSW and / or the relevant Affiliate that its membership of such organisation be suspended or terminated in accordance with their applicable constitution;
- v. direct that any rights, privileges and benefits provided to that organisation by Netball NSW or an Affiliate be suspended for a specified period and / or terminated;
- vi. direct that Netball NSW and/or the Affiliate cease to sanction events held by or under the auspices of that organisation;
- vii. any other such penalty as the Hearings Tribunal considers appropriate.

b. **For breaches committed by individual persons:**

If the Hearings Tribunal considers that an individual person to whom this Policy applies has breached this Policy, it may impose any one or a combination of the following penalties on such person:

- i. direct that the offender attend counselling to address their conduct;
- ii. recommend that Netball NSW or the relevant Affiliate terminate the appointment of the role which the offender holds with such organisation;
- iii. where there has been damage to property, direct that the offender pay compensation to the relevant organisation which controls or has possession of the property;
- iv. impose a monetary fine for an amount determined by the Hearings Tribunal;
- v. impose a warning;
- vi. withdraw any awards, placings, records won in any tournaments, activities or events held or sanctioned by Netball NSW or an Affiliate;
- vii. direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by, Netball NSW, an Affiliate or any other organisation which has provided funding;
- viii. any other such penalty as the hearings tribunal considers appropriate.

- 8.2 If an Affiliate or individual financial member commits a second or subsequent breach under this Policy within 10 years of the last breach, then the Hearings Tribunal shall have regard to the previous breach, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent breach.
- 8.3 A second or subsequent breach can only be a second or subsequent breach once the original (first breach) has been identified, the person has been charged and the charge found proven and a punishment has been previously imposed. Thus the second or subsequent breach must take place after finalisation of the first/original breach.
- 8.4 If the penalty imposed by a Hearings Tribunal affects other organisations required to comply with this Policy, the Hearing Officer or relevant person of the organisation from which the Hearings Tribunal is established shall as soon as possible notify the relevant organisations of the penalty.
- 8.5 Every organisation to which this Policy applies shall recognise and enforce any decision and penalty imposed by a Hearings Tribunal under this Policy.
- 8.6 When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by that individual in the future may result in the imposition of a more serious form of discipline.

9. SCHEDULE OF DISCIPLINARY PENALTIES

- 9.1 In addition to those measures at Clause 8 above, the following penalties in the table below are available for persons who have been charged with an offence, as identified in tables at Clause 3, (including players, coaches, umpires, officials and spectators).
- 9.2 Penalties imposed will be served at the current event or should the event conclude before the full penalty has been served such penalty will continue at the next event as defined under this Policy that the offender becomes eligible to participate in.
- 9.3 The suspensions identified in the table below are to apply to calendar weeks during the relevant netball season. Where the suspension timeframe is longer than the remaining weeks within the current season, the remaining balance of the suspension is required to continue into the ensuing season.

Level of Offence	Minimum penalties for Netball NSW and Affiliate competitions	Minimum penalties for all other events including but not limited to State Age Championships, State Championships, Affiliates, Invitational or Gala Carnivals
Level 1	1 st offence: Official warning or 1 week suspension. Subsequent offence: Elevation to Level 2 offence.	1 st offence: Official warning or 1 game suspension. Subsequent offence: Elevation to Level 2 offence.
Level 2	1 st offence: 2 week suspension. Subsequent offence: 12 week suspension.	1 st offence: 2 game suspension. Subsequent offence: 12 game suspension.
Level 3	1 st offence: 3 weeks suspension. Subsequent offence: 26 weeks suspension.	1 st offence: 3 game suspension. Subsequent offence: 26 game suspension.
Level 4	1 st offence: 26 weeks suspension. Subsequent offence: 26 weeks suspension.	1 st offence: 4 game suspension Subsequent offence: 52 game suspension
Level 5	1 st offence: 52 calendar weeks suspension. Subsequent offence: 52 calendar weeks suspension.	1 st offence: 52 calendar weeks suspension. Subsequent offence: 52 calendar weeks suspension.

- 9.4 All Level 4 and Level 5 offences implemented by Affiliates must be notified formally, in writing, to Netball NSW.
- 9.5 Penalties imposed will be served across all Netball NSW Championships and Competitions and, where applicable, will include all Affiliates competitions.