



## **GRIEVANCE AND DISPUTE RESOLUTION POLICY**

**Adopted by NSW Netball Association Ltd Board Meeting and effective as at  
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Commencement date: #####  
Next review date: #### 2020

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Attachments

Attachment A: **Netball NSW Complaints, Grievances and Disputes Decision Tree**

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## 1. INTRODUCTION

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- 1.1 Netball NSW and its Affiliates aim to provide the highest level of delivery of their programs, competitions, events and activities. Netball NSW recognises that on occasions, issues can arise that require assistance or support to resolve.
- 1.2 Everyone involved in Netball in NSW is encouraged to raise concerns that they may have at any point regarding the safety, welfare, wellbeing, health, behaviours or conduct of members, Affiliates or other participants in Netball in NSW.
- 1.3 Netball NSW (as the controlling authority for Netball in NSW) has in place a range of policies and procedures for member protection, complaint handling, reporting of concerns, disciplinary action and dispute resolution to ensure any concerns are addressed in a timely and fair manner.
- 1.4 The vast majority of Affiliates that conduct netball competitions and activities in NSW are registered as 'incorporated associations' under the Associations Incorporation Act 2009.
- a. Under this Act, any incorporated association is required to have in place a procedure for managing and handling grievances and disputes. If the Constitution does not include a dispute resolution procedure, then the procedure outlined in the Model Constitution is taken to be part of the Association's Constitution.
  - b. The Model Constitution can be found via <https://www.fairtrading.nsw.gov.au/associations-and-co-operatives/associations/starting-an-association/about-the-constitution>
- 1.5 This Policy deals primarily with grievances and/or disputes between members of an Affiliate or between members and an Affiliate (internal disputes) which are within the scope of clause 3.1 of this Policy. That is, they do not involve member protection issues or disciplinary (On-court) Offences. Examples of grievances and disputes that might be dealt with by this Policy include but are not limited to:
- Disputes between members and Affiliates regarding selection of teams and/or coaches and other officials which didn't follow procedures as set out in their policies;
  - Disputes between members and Affiliates regarding court time in representative matches and, in particular, the application of the 30% rule at Junior State titles;
  - Disputes between members and Affiliates regarding the conduct of members of the Executive Committee of the Affiliate;
  - Disputes between members and Affiliates concerning how the AGM meetings are run;
  - Disputes between members and Affiliates regarding the application of the rules of the netball competitions and activities conducted by an Affiliate;
- 1.6 When identifying which Policy to follow for different complaints, grievances and/or disputes, refer to Attachment A - Netball NSW Complaints, Grievances and Disputes Decision Tree.

## 2. DEFINITIONS

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

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

**Disciplinary Action** is taken when a member has breached the Rules of Netball or engaged in other improper behaviour (such as harassing other members or acting in a way that harms Netball NSW, the Affiliate or Netball as a sport), and can include a warning, sanction or suspension or cancellation of membership.

**Executive Committee** means the governing body of the Affiliate.

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

**Model Constitution (Model rules)** means the Model Constitution, which covers the matters required by Schedule 1 of the Associations Incorporation Act 2009 (the Act) and is set out in Schedule 1 of the Associations Incorporation Regulation 2016 which has been prepared by NSW Fair Trading.

**Natural justice** is also called 'procedural fairness'. It means that the processes used by a decision maker must be fair and proper. The law says that an Affiliate's dispute resolution procedures must allow for 'natural justice' to be applied.

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

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

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

**Rules of Netball** means that the competition will be conducted with reference to 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 and its Affiliate's Competition Rules.

### 3. PURPOSE OF THIS PROCEDURE

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- 3.1 This Policy provides a process for dealing with grievances and/or disputes that:
- a) are outside the scope of the Netball NSW Member Protection Policy, and/or
  - b) outside the scope of Disciplinary Action arising from when an Individual Member or any other person or organisation is charged with an offence whilst his/her team/club is participating in netball competitions and games organized by Netball NSW or its Affiliates ("On-court Offences"). Disciplinary Action for On-court Offences is dealt with under the Netball NSW Disciplinary Policy.
- 3.2 The Netball NSW Board of Directors ("Board") has adopted this Policy in accordance with the NSW Netball Association Limited Constitution.
- 3.3 The Procedure is effective from ## ## ##### and will operate until replaced. This Policy may be amended from time to time by resolution of the Netball NSW Board.
- 3.4 This Policy and its accompanying documents can be obtained from the Netball NSW website [www.netballnsw.com.au](http://www.netballnsw.com.au) or by contacting Netball NSW.

### 4. SCOPE OF THIS POLICY

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#### 4.1 Who Does this Policy Apply To?

- 4.1.1 This Policy applies to the following people / organisations, whether they are operating in a paid or unpaid/voluntary capacity in Netball NSW or with an Affiliate:
- a) Netball NSW and its members;
  - b) Affiliates and their members;
  - c) Individuals sitting on Boards, committees and sub-committees of Netball NSW and/or its Affiliates
  - d) All employees, volunteers, independent contractors and other participants in Netball in NSW, including:
    - (i) Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sports trainers etc.);
    - (ii) Coaches and assistant coaches;
    - (iii) Athletes and players;
    - (iv) Umpires, bench officials and other officials; and
    - (v) Administrators.
  - e) Any other person or organisation that is an individual member of or affiliated with Netball NSW;

- f) Parents, guardians, spectators and sponsors and any other person or organisation to the fullest extent possible;
- g) Any other person who has agreed to be bound by this Policy.

## 4.2 When Does This Policy Apply?

### 4.2.1 This Policy applies:

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

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

## 5. COMMITMENT

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### 5.1 Netball NSW and its Affiliates are committed to:

- a) addressing any legitimate grievance or dispute brought to its attention regarding the welfare, health and safety of all children and young people, members and/or participants in Netball in NSW;
- b) dealing with all grievances or disputes in a fair, timely and transparent manner, as appropriate;
- c) escalating a grievance or dispute as appropriate to ensure that appropriate persons are involved;
- d) considering the reasonable wishes of the parties to a grievance or dispute;
- e) providing communication on a regular basis as to the progress of the grievance or dispute;
- f) clearly explaining the next steps and options to all parties involved in the grievance or dispute at every step;
- g) maintaining appropriate confidentiality regarding grievances or disputes, subject always to legal requirements regarding disclosure;
- h) reporting any serious issues involving children and young people to relevant authorities, in accordance with relevant State legislation;
- i) ensuring that the principles of natural justice and procedural fairness are followed when dealing with any grievance or dispute; and
- j) maintaining appropriate records of any grievance or dispute in a safe and confidential manner.

## 6. CONFIDENTIALITY

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

## 7. GRIEVANCE AND DISPUTE RESOLUTION PROCESS

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### 7.1 Who handles grievances and disputes within an Affiliate?

The Executive Committee is responsible for the administration of the Affiliate, including the handling of internal disputes between members, as well as disputes between members and the Affiliate. This is done in accordance with the Associations Incorporation Act 2009 (the Act) and the Affiliate's Constitution.

### 7.2 What should I do if I have a grievance or dispute?

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

#### Informal approaches

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

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

##### Step 2: Contact a Member Protection Information Officer

We encourage you to talk with our Member Protection Information Officers (MPIOs) *[ or designated official/s ]* if:

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

The MPIO *[ or designated official/s ]* will:

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

##### Step 3: Decide how to address your concern

After talking with the MPIO *[ or designated official/s ]*, you may decide:

- there is no problem;

- the problem is minor and you do not wish to take the matter forward;
- to try and resolve the problem yourself, with or without a support person;
- to resolve the problem with the help of someone impartial, such as a mediator; or
- to resolve the matter through a formal process.

### 7.3 What if the matter cannot be resolved informally?

Under *section 10 Resolution of disputes* of the Model Constitution:

- (1) A dispute between a member and another member (in their capacity as members) of the Association, or a dispute between a member or members and the Association, are to be referred to a Community Justice Centre for mediation under the *Community Justice Centres Act 1983*.
- (2) If a dispute is not resolved by mediation within 3 months of the referral to a Community Justice Centre, the dispute is to be referred to arbitration.
- (3) The *Commercial Arbitration Act 2010* applies to a dispute referred to arbitration.

7.4 The process set out in clauses 7.2 and 7.3 above is extended to apply to all people/organisations referred to in clause 4.1 above and in all circumstances referred to in clause 4.2 above, whether or not:

- a) an individual is a member of Netball NSW and/or its Affiliates;
- b) the Affiliate is incorporated or unincorporated or a company limited by guarantee or otherwise;
- c) there is any dispute resolution procedure set out in the Constitution of the Affiliate.

### 7.5 What are Community Justice Centres? What is mediation? And who is involved?

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

- a) Mediation is an informal, problem-solving process in which an impartial person (a mediator) helps people with a dispute come together to reach an agreement everyone can live with. Thousands of people use mediation services every year to talk about their disputes and reach a solution.
- b) CJC mediation is run by impartial, trained mediators. The mediators don't take sides, or make a decision about a dispute. Their role is to make sure each person has a chance to have their say, keep the discussion on track, and help you come to an agreement wherever possible.
- c) Community Justice Centre mediation:
  - Is free.
  - Has no waiting lists.
  - Is held in a venue near you.
  - Let's everyone have their say.
  - Is confidential.
  - Is more likely to preserve the relationships of the people involved in the conflict.
- d) Community Justice Centres can be found and/or contacted on the below details:  
 w: [www.cjc.justice.nsw.gov.au](http://www.cjc.justice.nsw.gov.au) p: 1800 990 777  
 e: [cjc@justice.nsw.gov.au](mailto:cjc@justice.nsw.gov.au)

## 8. FREQUENTLY ASKED QUESTIONS



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### **Can we remove (or discipline) a member or committee member who is causing trouble?**

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

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

### **The Affiliate is in disarray. Are there other options?**

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

#### **Hold a special general meeting**

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

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

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

#### **Leave the group (association or club)**

If you are personally involved in a dispute, you could consider non-legal options. On many occasions the time, energy and stress associated with an internal dispute will not be worth it, particularly where your involvement with the Affiliate is voluntary.

Often the best option may be to simply leave the group and join another one, or start up another Affiliate.