

## NETBALL AUSTRALIA MEMBER PROTECTION POLICY CHANGES AND FAQs

In July 2017 Netball Australia released its updated National Member Protection Policy and Complaint Handling Procedure. As a Member Organisation Netball WA adopts this policy and it is a requirement of affiliation that our Regions, Associations and their affiliate clubs adopt this policy as well.

**The National Member Protection Policy is specifically for Member Protection related issues. Any competition relation issues should be dealt with according to the relevant competition rules (i.e. Competition Policies & Procedures or Competition By-Laws).**

Please note the following key changes to the documentation:

Member Protection Policy:

- Removal of parents, guardians, spectators and sponsors as people bound by the policy unless they have specifically agreed to be (i.e. partner guardian agrees via child's membership form or via volunteer or non-player registration form).
- Change in terminology from Member Protection Information Officer to Complaints Managers.
- For a complaint to be handled by Netball Australia, Member Organisations or Affiliates, it must be made in writing using the Written Complaint Form.
- Any disciplinary measure imposed must be:
  - Commensurate with the principles of natural justice; and
  - Proportionate to the conduct engaged in; and
  - Determined in accordance with the Complaint Handling Guidelines.
- Greater clarity around penalties that may be imposed for a minor, moderate and serious breach of the policy.

***Attachment A – Employment Screening & WWCC: no change***

***Attachment B1 – National Complaint Handling Guidelines:***

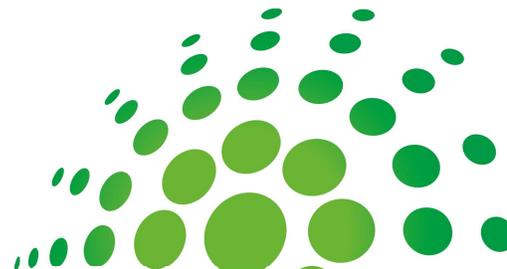
- Any member protection related complaint must be made within 6 months of the last incident.
- A complaint must be made using the C1 Written Complaints Form.
- The Complaints Manager is a person who has undertaken the 'Play by the Rules' training as well as any further training Netball Australia advises.
- Each club, association and Member Organisation is required to have a least one Complaints Manager.
- Where a complaint involves a person under the age of 18 years of age, the parent or guardian may represent the interests of the child and support the child to manage the complaint.

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- Requirement for all formal complaints not managed via Mediation to be determined by the Evidence Collection and Hearings Tribunal Process unless another process is agreed to by both parties.
- The Hearings Tribunal will issue a proposed penalty (if any). Parties to the complaint may make submissions on the proposed penalty to the Hearings Tribunal. The Hearings Tribunal will then issue the final penalty.
- There is no right of appeal after the final penalty is imposed by the Hearings Tribunal.

***Attachment B2 – Mediation Procedure: no change***

***Attachment B3 – Evidence Collection Process***

- Change in title from Investigation Process to Evidence Collection Process.
- The Evidence Collection Process is now a required step if the formal complaint is to be determined by a Hearings Tribunal. It will help the Hearings Tribunal to determine the facts of the complaint as well as possible findings and recommendations.
- Provides timelines for the Evidence Collection Process as well as what may constitute evidence.
- Allows for interim measures to be taken whilst the Evidence Collection Process is ongoing i.e. temporary suspension.
- The Record of Evidence is completed and provided to the Hearing Tribunal Members for consideration.

***Attachment B4 – Procedure for handling allegations of Child Abuse: no changes***

***Attachment B5 – Hearings Tribunal Process***

- The Hearings Tribunal may determine a complaint by either assessing the papers or holding a hearing.
- The Hearings Tribunal will make a decision to either substantiate the complaint or dismiss the complaint (or part of the complaint)
- The Complaints Manager is responsible for appointing the Hearings Tribunal. The Hearings Tribunal will be comprised of two members, one with experience in dealing with matters involving procedural fairness and one person who has a thorough knowledge of the sport of netball.
- The process for considering the complaint via the papers or via a hearing is outlined.
- A decision of the Hearings Tribunal is final and binding on the parties and will only be reviewed if there is a failure to accord procedural fairness. The request to review must be made within 14 days.

***Attachment B6 – Penalty Guidelines***

- Change in title from Disciplinary Procedures to Penalty Guidelines
- Defining incidents as minor, moderate and serious and providing examples of proportionate penalties for each level.



- The parties may make submissions in relation to the proposed penalty within 7 days of notification.
- The Hearings Tribunal will consider any submissions and finalise the penalty by approving the proposed penalty or amending the proposed penalty.

#### ***Attachment C – National Reporting Requirements Documents/Forms***

- Updated to reflect new National Complaint Handling Guidelines.

Additional fact sheets have been developed to support volunteer personnel to correctly and effectively manage the National Complaint Handling Guidelines:

- Guidelines for Complaint Managers undertaking Evidence Collection Process.
- Guidelines for Hearings Tribunal Members.

#### **FAQs**

##### ***What effect does the change in terminology from Member Protection Information Officer (MPIO) to Complaints Manager have?***

The changes to the Member Protection Policy's Complaints Procedure does not preclude an informal process taking place prior to a formal complaint being made and this may be managed in any way as determined by the complainant and/or a MPIO.

However, for a complaint to be managed via the Member Protection Policy Complaint Handling Procedure, it must be submitted in writing using the prescribed form.

##### ***Are MPIOs still required?***

Yes, the role of the MPIO is to provide information and guidance on complaints procedures and act as a support person to the complainant. Their role is not to manage the evidence collection or hearing tribunal process – this would be a conflict of interest and therefore is the role of the Complaints Manager.

As such, Netball Australia has specified that a Complaints Manager is responsible for evidence collection or hearing tribunal process. The previous Member Protection Policy did not clearly articulate that the MPIO may not manage the complaint procedure and there was confusion in relation to the difference between the MPIO and Hearings Officer.

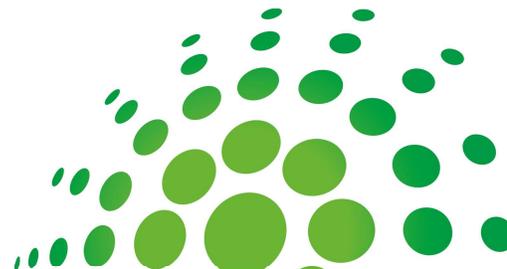
MPIOs can still undertake their support role as part of the complaints procedure and Netball WA may provide information to clubs and associations around the role of the MPIO.

##### ***Any member protection related complaint must be made within 6 months of the last incident.***

##### ***What options are available to the individual once the 6 months are up?***

To uphold the integrity of the evidence collection process, it was deemed unreasonable to collect evidence/statements around incidents that occurred more than 6 months ago as recollections/memory may be compromised.

A complainant still has access to external agencies if they wish to make a complaint at any time.



***Each Club, Association and Member Organisation is required to have at least one Compliant Manager. What are the consequences if they do not?***

If an association or club does not have a Complaints Manager as outlined Attachment B1: Complaints Procedure, Clause 1.6 would apply:

- if the Complaint Manager at the club most closely associated with a complaint is not able to manage the complaint for any reason (i.e. conflict of interest or personal interest in the matter), the complaint will be elevated to the Complaint Manager of the association;
- if the Complaint Manager at the association most closely associated with a complaint is not able to manage the complaint for any reason (i.e. conflict of interest or personal interest in the matter), the complaint will be elevated to the Complaint Manager of the Member Organisation of which the club is a member to handle.

The advice Netball WA has received is that the '**Play by the Rules**' Complaint Handling Course is more accessible than the MPIO training. It is more appropriate for the tasks that an individual is required to undertake under the complaints procedure and is a simple, free course that takes approximately 2 hours to complete.

***There is no right of appeal after the final penalty is imposed by the Hearings Tribunal  
At what level does this apply? i.e. Is there no right to appeal after the decision of the Hearing Tribunal at club level? This does not allow for a complaint to be escalated to a higher level.***

There is a process for appeal outlined in the complaint procedure:

Clause 6.4 - If the Hearings Tribunal dismisses the complaint:

- the decision is final, and a party may only dispute a decision on the basis of a failure to accord procedural fairness.
- a party may write to the CEO or Executive of the netballing body managing the complaint within 14 days of receiving the decision of the Hearings Tribunal setting out the basis for the alleged procedural failing in accordance with clause 6.4(a).
- The CEO or Executive of the relevant netballing body may, in his or her or its ultimate discretion, reject an application to appeal on the basis that there is no identifiable failing to afford procedural fairness.

Clause 6.5 – Where the CEO or the Executive consider that a failure to afford procedural fairness has occurred, the CEO or Executive will ask the Complaints Manager to appoint a new Hearings Tribunal and revert to step 5 of the Complaints Procedure.

If the Hearings Tribunal substantiates the complaint, then clause 8.1 applies - The hearing tribunal will request submissions on the proposed penalty from both parties.

Based on the feedback received from MOs during the review of the Complaints Handling Procedure, it was determined that appeals would be managed by the body that managed the original complaint.



**Attachment B4 – Procedure for handling allegations of Child Abuse: no change (pg. 2 of Summary of Changes)**

- 22. Step 4: Take internal action: (a) Regardless of the finding of any investigation conducted by the police and/or child protection agency, the appropriate person from Netball Australia, the Member Organisation or Affiliate may assess the allegations to decide whether the alleged offender should return to his or her position, be dismissed, be banned or face any other disciplinary action.

**Please note: It is illegal in WA to allow a person issued with an interim negative notice or negative notice (Working with Children’s Check/Child Protection legislation) to return to child-related work. It is up to the organisation whether the individual is removed from work within the organisation however they cannot have any contact with children whilst performing their role.**

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