

MEMBER PROTECTION POLICY 2017



CONTENTS

1.	Introduction	3
2.	Purpose of This Policy	3
3.	Scope of Policy	3
4.	Organisational Responsibilities	3
5.	Individual Responsibilities	4
6.	Position Statement: Child Protection	4
7.	Position Statement: Taking Images of Children	5
8.	Position Statement: Anti-Discrimination, Bullying, Sexual Harassment and Victimisation	5
9.	Position Statement: Sexual Relationships	6
10.	Position Statement: Pregnancy	6
11.	Position Statement: Gender Identity	7
12.	Position Statement: Cyber Bullying and Safety	7
13.	Position Statement: Social Networking Websites	7
14.	Complaints Procedures	7
15.	What is a Breach of This Policy?	8
16.	Disciplinary Measures and Penalties	8
17.	Amendment and Interpretation	9
	Attachment A: Employment Screening/Working with Children Check Requirements	10
	Attachment B: National Complaint Handling Guidelines	14
	Attachment C: National Reporting Requirements Documents/Forms	23
	Attachment D: Guidelines for Complaint Managers undertaking Evidence Collection Process	36
	Attachment E: Guidelines for Hearing Tribunal Members	37

1. INTRODUCTION

- 1.1. Netball's vision is that "everyone in Australia values their connection with netball". Netball Australia and its Member Organisations will know that this vision is achieved when everyone in Australia has an opportunity to be involved in netball in a way that brings them good health, recognition, achievement, enjoyment and a sense of belonging.
- 1.2. This Policy is applicable to the following organisations, with appropriate variations at State/Territory, association and club levels:
 - 1.2.1. Netball Australia: The national entity which is a member of or is recognised by the International Netball Federation as the entity governing netball in Australia.
 - 1.2.2. Member Organisation: The entity which is the official representative of and controlling authority for, Netball in a State. The current Member Organisations are: Australian Capital Territory Netball (ABN 85 800 220 698), Netball New South Wales (ABN 19 001 685 007), Northern Territory Netball (ABN 73 772 881 978), Netball Queensland (ACN 612 079 179), Netball South Australia (ABN 12 814 437 874), Netball Tasmania (ABN 62 028 131 759), Netball Victoria (ABN 83 704 752 745), and Netball Western Australia (ABN 36 657 982 648), as amended from time to time.
 - 1.2.3. Affiliates: Means a region, district, association or club, howsoever described, whether incorporated, unincorporated or otherwise, which is a member of a Member Organisation.

2. PURPOSE OF THIS POLICY

- 2.1. This Policy aims to ensure the core values, good reputation, positive behaviours and attitudes of Netball Australia, Member Organisations and Affiliates are maintained and enhanced.
- 2.2. This Policy assists Netball Australia, Member Organisations and Affiliates as it seeks to ensure that every person involved in netball is treated with respect and dignity, and is protected from discrimination, harassment and abuse. This Policy also seeks to ensure that everyone involved in netball is aware of her/his legal and ethical rights and responsibilities as well as the standards of behaviour expected of them.
- 2.3. This Policy also reflects netball's support of the sport industry principles and values outlined in The Essence of Australian Sport – principles of fairness, respect, responsibility and safety.
- 2.4. This Policy is accompanied by attachments that describe the practical steps Netball Australia, Member Organisations and Affiliates (where applicable and relevant) will take to reduce discrimination, harassment, child abuse and other forms of inappropriate behaviour from netball. Netball Australia, Member Organisations and Affiliates may take disciplinary action against any person or organisation bound by this Policy if they breach it.
- 2.5. Netball Australia and the Member Organisations employees and other workplace participants are required to comply with this Policy at all times. If an employee breaches this Policy, he or she may be subject to disciplinary action which in serious cases may include termination of employment. Agents and contractors who are found to have breached this Policy may have their contracts with Netball Australia or a Member Organisation terminated. For the purpose of a contract between employees, agents or contractors and Netball Australia or a Member Organisations, Netball Australia or the Member Organisation is not contractually bound by the terms of this policy.
- 2.6. The Netball Australia Board of Directors ("Board") has adopted this Policy in accordance with Rule 35.1 of the Netball Australia Constitution.
- 2.7. This Policy is effective from 28 April 2017 and will operate

until replaced. This Policy may be amended from time to time by the Netball Australia Board.

- 2.8. This Policy is supported by Member Protection procedures that have been adopted by Member Organisations and their Affiliates (associations and clubs).
- 2.9. This Policy and accompanying documents can be obtained from the Netball Australia website - www.netball.com.au or by contacting the relevant Member Organisation.

3. SCOPE OF POLICY

3.1. Who Does This Policy Apply To?

- 3.1.1. This Policy applies to the following people/ organisations whether they are operating in a paid or unpaid/voluntary capacity in Netball Australia or with a Member Organisation or Affiliate:
 - (a) Netball Australia.
 - (b) Member Organisations.
 - (c) Affiliates (including associations and clubs).
 - (d) Individual Members, including service award holders and life members.
 - (e) Individuals sitting on boards, committees and sub-committees.
 - (f) All employees, volunteers, independent contractors and other workplace participants.
 - (i) Support personnel (e.g. managers, physiotherapists, psychologists, masseurs, sport trainers);
 - (ii) Coaches and assistant coaches;
 - (iii) Athletes and players; and
 - (iv) Umpires, bench officials and other officials.
 - (g) Any other person or organisation that is a member of or affiliated to Netball Australia.
 - (h) Members of the Players Association.
 - (i) Any other Person who has agreed to be bound by this Policy.

3.2. When Does This Policy Apply?

- 3.2.1. This Policy applies:
 - (a) at any Netball Australia, Member Organisation or Affiliate function, event or workplace, including outside normal working hours;
 - (b) during work or voluntary activities, including dealing with Members, media, sponsors, other support employees, volunteers, independent contractors and other workplace participants or attending other external premises;
 - (c) during all netball related activities including games, training events and camps;
 - (d) at all times when providing services on behalf of Netball Australia, a Member Organisation or Affiliate; and
 - (e) at all times when acting in any capacity, whether voluntary or paid on behalf of Netball Australia, a Member Organisation or Affiliate.
- 3.2.2. This Policy will continue to apply to a person even after they have stopped their association or employment with Netball Australia, Member Organisation or Affiliates if disciplinary action, against that person, has commenced.

4. ORGANISATIONAL RESPONSIBILITIES

- 4.1. Netball Australia, Member Organisations and Affiliates will seek to:
 - 4.1.1. Adopt, implement and comply with this Policy and its regulations and attachments.
 - 4.1.2. Ensure that the Constitution, By-Laws, Rules, Policies or other documents include the necessary clauses for this Policy to be enforceable.
 - 4.1.3. Publish, distribute and otherwise promote this Policy and the consequences of any breach.
 - 4.1.4. Promote appropriate standards of conduct at all times.

- 4.1.5. Deal with any breaches of, or complaints made, under this Policy in an impartial, sensitive, fair, timely and confidential manner.
- 4.1.6. Apply this Policy consistently without fear or favour.
- 4.1.7. Recognise and enforce any penalty imposed under this Policy.
- 4.1.8. Endeavour to ensure that a copy of this Policy is available or accessible to all people and organisations to whom this Policy applies.
- 4.1.9. Appoint or have access to appropriately trained people to receive and handle complaints and allegations (e.g. Complaint Managers).
- 4.1.10. Monitor and review this Policy as required.

5. INDIVIDUAL RESPONSIBILITIES

- 5.1. Individuals bound by this Policy are responsible for:
 - 5.1.1. Making themselves aware of the Policy and complying with the codes and standards of behaviour it sets out.
 - 5.1.2. Undertaking any training required by Netball Australia, Member Organisations and/or Affiliates in relation to this Policy.
 - 5.1.3. Consenting to undergo screening as per Attachment A: Employment Screening/Working with Children Check Requirements and/or relevant State/Territory Legislation if the person holds or applies for a role that involves regular unsupervised contact with people under the age of 18 years.
 - 5.1.4. Placing the safety and welfare of children above other considerations.
 - 5.1.5. Being accountable for their behaviour.
 - 5.1.6. Following the steps outlined in this Policy for making a complaint or reporting possible child abuse.
 - 5.1.7. Complying with any decisions and/or disciplinary measures imposed under this Policy.
 - 5.1.8. Co-operating to provide a netball environment free of discrimination, child abuse, bullying, sexual harassment or victimisation.
 - 5.1.9. Understanding the possible consequences of breaching this Policy.
 - 5.1.10. Complying with all other requirements of this Policy.

6. POSITION STATEMENT: CHILD PROTECTION

- 6.1. Netball Australia, Member Organisations and Affiliates are committed to seeking to ensure the safety and wellbeing of all children and young people who participate in netball and access netball's services. Netball Australia supports the rights of the child and will seek to ensure a child-safe environment is maintained.
- 6.2. Netball Australia, Member Organisations and Affiliates acknowledge the valuable contribution made by staff, members and volunteers and encourage their active participation in providing and maintaining a safe, fair and inclusive environment for all participants.
- 6.3. Netball Australia, Member Organisations and Affiliates prohibit all forms of child abuse.
- 6.4. Child abuse involves conduct which puts a child at risk of harm and may include:
 - 6.4.1. **Physical abuse**, by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity)
 - 6.4.2. **Sexual abuse** by adults or other children, where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other

inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography, including child pornography, or inappropriate touching or conversations)

- 6.4.3. **Emotional abuse**, by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name-calling, ignoring or placing unrealistic expectations on a child)
- 6.4.4. **Neglect** (e.g. failing to give a child food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

6.5. Procedures to support child protection:

- 6.5.1. **Identify and Analyse Risk of Harm**
Netball Australia, Member Organisations and/or Affiliates (where applicable and relevant) will seek to, so far as reasonably practicable, develop and implement a risk management strategy, including a review of existing child protection practices, to determine how child-safe netball is and to identify any additional steps that can be taken to minimise and prevent the risk of harm to children because of the actions of an employee, volunteer or another person.
- 6.5.2. **Develop Codes of Behaviour**
 - (a) Netball Australia, Member Organisations and/or Affiliates (where applicable and relevant) will seek to develop and promote codes of behaviours that set out the conduct expected of all adults when they deal and interact with children involved in netball, especially those in the care of Netball Australia, Member Organisation and Affiliates.
 - (b) Netball Australia, Member Organisations and/or Affiliates (where applicable and relevant) will seek to develop and promote codes of behaviour that set out the conduct appropriate between children covered by this Policy.
- 6.5.3. **Choose Suitable Employees and Volunteers**
 - (a) Netball Australia, Member Organisations and/or Affiliates will endeavour to ensure that their organisation takes reasonable steps to engage the most suitable and appropriate people to work with children, especially those in positions that involve regular unsupervised contact with children. This may be achieved using a range of screening measures.
 - (b) Netball Australia, Member Organisations and/or Affiliates will ensure that working with children checks or screening are conducted for all employees and volunteers who work with children, where an assessment is required by law.
 - (c) If a criminal history report is obtained as part of the screening process of Netball Australia, a Member Organisation and/or Affiliate, the organisation will handle this information confidentially and in accordance with relevant State/Territory requirements.
- 6.5.4. **Support, Train, Supervise and Enhance Performance**
Netball Australia, Member Organisations, Affiliates and organisations (where applicable and relevant) bound by this Policy, will endeavour to take all reasonably practicable steps to ensure that all volunteers and employees who work with children have ongoing supervision, support and training. The goal is to develop skills and capacity to enhance their performance so as to maintain a child-safe netball environment.
- 6.5.5. **Empower and Promote the Participation of Children**
Netball Australia, Member Organisations and Affiliates (where applicable and relevant) will encourage junior participants to be involved in developing and maintaining a child-safe environment for netball.
- 6.5.6. **Report and Respond Appropriately To Suspected Abuse and Neglect**
 - (a) Netball Australia and the organisations bound by this Policy will endeavour to ensure that all volunteers and employees are able to identify and respond appropriately to children

at risk of harm at that they are aware of their responsibilities under respective State/Territory laws to make a report if they suspect on reasonable grounds that a child has been or is being abused or neglected. (Refer to Attachments in this Policy).

- (b) Netball Australia requires that any child who is abused or anyone who reasonably suspects that a child has been or is being abused by someone within netball, report it immediately to the police or relevant government agency and the CEO of Netball Australia or the CEO of the relevant Member Organisation.
- (c) If any person believes that another person or organisation bound by this Policy is acting inappropriately towards a child, or is in breach of this Policy, s/he may make an internal complaint. (Refer to Attachments in this Policy).
- (d) Netball Australia, Member Organisations and Affiliates will seek to ensure that all allegations of child abuse are dealt with promptly, seriously, sensitively and confidentially. A person should not be victimised for reporting an allegation of child abuse and Netball Australia will seek to ensure that the privacy of all persons concerned will be respected. Netball Australia's procedures for handling allegations of child abuse are outlined in the Attachments to this Policy.
- (e) If anyone bound by this Policy reasonably suspects that a child is being abused by her/his parent/s, they are advised to contact the relevant government department for youth, family and community services in their State or Territory.

7. POSITION STATEMENT: TAKING IMAGES OF CHILDREN

- 7.1. Images of children can be used inappropriately or illegally. Netball Australia requires every person and organisation bound by this Policy, wherever possible, to obtain permission from a child's parent/guardian before taking an image of a child that is not their own. They should make sure the parent/guardian understands how the image will be used.
- 7.2. Netball Australia, Member Organisation and Affiliates (where applicable and relevant) also require the privacy of others to be respected and prohibit the use of camera phones, videos and cameras inside changing areas, showers and toilets.
- 7.3. When using a photo of a child, Netball Australia, Member Organisations and Affiliates (where applicable and relevant) will not name or identify the child, publish personal information such as residential address, email address or telephone numbers without the consent of the parent/guardian.
- 7.4. Netball Australia, Member Organisations and Affiliates (where applicable and relevant) will not publicly provide or publish to any person or organisation, information about a child's hobbies, interests, school, or the like, as this information can be used by paedophiles or other persons to groom a child.
- 7.5. Netball Australia, Member Organisations and Affiliates (where applicable and relevant) will only use images of children that are relevant to netball and will ensure that they are suitably clothed in a manner that promotes participation in netball. Wherever possible, the organisation will seek permission from a child's parent/guardian before using the image.

8. POSITION STATEMENT: ANTI-DISCRIMINATION, BULLYING, SEXUAL HARASSMENT AND VICTIMISATION

- 8.1. Netball Australia, Member Organisations and Affiliates aim to provide a sporting environment where all those involved in netball activities are treated with dignity and respect.
- 8.2. Netball Australia, Member Organisations and Affiliates recognise that people cannot participate, enjoy themselves or perform at their best if they are discriminated against, sexually harassed or bullied.
- 8.3. This Policy sets out what conduct will constitute discrimination, bullying, sexual harassment and victimisation.

8.4. Discrimination

- 8.4.1. Discrimination occurs when someone is treated unfavourably on the basis of a particular personal characteristic. This is known as direct discrimination.
 - 8.4.2. Discrimination may also be indirect. Indirect discrimination is unreasonably imposing, or proposing to impose a requirement, condition or practice that has or is likely to have the effect of disadvantaging persons with a particular personal characteristic.
 - 8.4.3. In Australia, it is against the law to discriminate against someone because of their:
 - (a) age
 - (b) disability/impairment (physical, intellectual, mental, or psychiatric)
 - (c) HIV/AIDs status
 - (d) employment activity
 - (e) industrial activity/inactivity or membership of an industrial association
 - (f) lawful sexual activity/sexual orientation
 - (g) gender identity
 - (h) transgender, transsexual or intersex status
 - (i) marital or relationship status
 - (j) physical features
 - (k) political belief or activity
 - (l) pregnancy, potential pregnancy or breastfeeding
 - (m) race, colour, descent
 - (n) national or ethnic origin
 - (o) religious belief or activity
 - (p) sex or gender
 - (q) status as a parent or carer
 - (r) family responsibilities
 - (s) irrelevant criminal conviction
 - (t) medical record
 - (u) personal association with someone who is identified by reference to any of the above attributes.
 - 8.4.4. Unlawful discrimination may occur in a person's treatment in their employment or prospective employment; in the provision of goods, services or facilities; in their access to premises or through their participation in the activities of a club or sport.
 - 8.4.5. Examples of discrimination are available on the Play by the Rules website: www.playbytherules.net.au/legal-stuff/discrimination
 - 8.4.6. Some specific exceptions to State/Territory and Federal anti-discrimination law apply. For example, it is not unlawful discrimination for Netball Australia to hold a competitive sporting activity for boys and girls only who are under the age of 12, or of any age where strength, stamina or physique is relevant.
- ### 8.5. Bullying
- 8.5.1. Bullying is repeated, unreasonable behaviour directed towards a person, or group of persons, that creates a risk to health and safety.
 - 8.5.2. Bullying can be direct or indirect and it can include, but is not limited to, behaviours such as:

- (a) abusive, insulting or offensive language;
- (b) intimidating behaviour, for example, an attack or threat;
- (c) malicious teasing or practical jokes;
- (d) giving unreasonable assignments or deadlines;
- (e) intruding on an employee's privacy by spying or stalking;
- (f) displaying offensive material;
- (g) taking credit for someone else's work;
- (h) giving unfavourable duties to specific employees;
- (i) excluding or socially isolating employees; or
- (j) failure to intervene to stop bullying.

8.5.3. Bullying is not:

- (a) legitimate and reasonable management action;
- (b) legitimate and reasonable performance management processes;
- (c) legitimate and reasonable disciplinary action; or
- (d) legitimate and reasonable allocation of work in compliance with systems.

8.6. Sexual harassment

- 8.6.1. Means unwanted, unwelcome or uninvited behaviour of a sexual nature which could reasonably be anticipated to make a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, displays of pornographic or offensive material or other behaviour that creates a sexually hostile environment.
- 8.6.2. Sexual harassment is not behaviour based on mutual attraction, friendship and respect. If the interaction is between consenting adults, it is not sexual harassment.
- 8.6.3. Sexual harassment can occur regardless of any "innocent intent" on the part of the offender, and can take many forms and can be physical, visual, verbal or written.
- 8.6.4. Sexual harassment is prohibited regardless of the gender of the parties. A person can complain if he or she is harassed by someone of the same sex.

8.7. Victimisation

- 8.7.1. Means subjecting a person, or threatening to subject a person, to any unfair treatment because that person has or intends to pursue their right to make any complaint, including a complaint under government State or Federal legislation (e.g. anti-discrimination) or under this Policy, or for supporting another person to make complaint.
- 8.8. Discrimination, sexual harassment, bullying and victimisation are not only unacceptable, they may be unlawful pursuant to State and Federal legislation.
- 8.9. Netball Australia, Member Organisations and Affiliates prohibit all forms of sexual harassment, bullying, discrimination and victimisation.
- 8.10. It is the responsibility of all employees, volunteers, other workplace participants and all others bound by this Policy to ensure that proper standards of conduct are upheld in connection with netball and to take action to prevent discrimination, sexual harassment, bullying and victimisation.
- 8.11. If any person feels they are being sexually harassed, bullied, discriminated against or victimised by another person or organisation bound by this Policy, they may make an internal complaint in accordance with clause 14 of this Policy. In some circumstances they may also be able to make a complaint to an external organisation. (Refer to Attachments in this Policy).

9. POSITION STATEMENT: SEXUAL RELATIONSHIPS

- 9.1. Consensual sexual relationships between coaches, officials or athlete support personnel and the adult athletes they engage with due to on-court netball involvement, may not

necessarily constitute sexual harassment or be contrary to any other law. However, Netball Australia, Member Organisations and Affiliates (where applicable and relevant) take the position that such relationships should be avoided as they can have harmful effects on the person involved, on other persons and on netball's public image.

- 9.2. These relationships can also be perceived to be exploitative due to the differences in authority, maturity, status and dependence between the athlete and coach, official, or athlete support personnel.
- 9.3. Recognising the risk that the relative power of the coach, official or athlete support personnel may be a factor in the development of such relationships, the coach, official, or athlete support personnel at all levels should avoid them.
- 9.4. In the event that a player attempts to initiate an intimate relationship, the coach, official, or athlete support personnel must take personal responsibility for discouraging such approaches and explaining the ethical basis for their actions.
- 9.5. Netball Australia, Member Organisations and Affiliates remind all employees, volunteers, independent contractors, other workplace participants and all others bound by this Policy that sex with a child is a criminal offence and such conduct will not be tolerated.

10. POSITION STATEMENT: PREGNANCY

- 10.1. Netball Australia has a distinct Pregnancy in Netball Policy. (Available on the Netball Australia website).
- 10.2. Netball Australia seeks to provide an inclusive sporting environment for pregnant women involved in netball. Netball Australia expects everyone who is bound by this Policy to treat pregnant women with dignity and respect.
- 10.3. All those bound by this policy should seek to remove any unreasonable barriers to participation in netball that disadvantage women due to pregnancy or potential pregnancy.
- 10.4. Netball Australia will not tolerate any unlawful discrimination or sexual harassment against pregnant women or women who may become pregnant. Further details about behaviour that may amount to discrimination or sexual harassment are provided in the clause 8 of this Policy.
- 10.5. Netball Australia, Member Organisations and Affiliates will endeavour to take all reasonably practicable steps to ensure the safety, health and well-being of pregnant women and their unborn children.
- 10.6. Netball Australia, Member Organisations and Affiliates (where applicable and relevant) will seek to advise pregnant women of the risks involved in participating in netball while pregnant and encourage them to obtain medical advice about those risks.
- 10.7. Netball Australia, Member Organisations and Affiliates encourage all pregnant women to consult with their medical advisers, make themselves aware of the facts about pregnancy in sport, and ensure that they make informed decisions about participation in particular sporting activities, including netball.
- 10.8. Netball Australia, Member Organisations and Affiliates will only require pregnant women to sign a disclaimer if all other participants are required to sign one in similar circumstances. Women will not be required to undertake a pregnancy test prior to participation in any netballing activities.
- 10.9. If any person feels they are being sexually harassed or discriminated against by another person or organisation bound by this Policy, they may make a complaint in accordance with clause 14 of this Policy.

11. POSITION STATEMENT: GENDER IDENTITY

- 11.1. Netball Australia, Member Organisations and Affiliates seek to provide a safe, fair and inclusive netball environment in which people from all backgrounds can contribute and participate.
- 11.2. People who identify as transgender or transsexual should be treated fairly and with dignity and respect at all times. This includes acting with sensitivity when a person is undergoing gender transition.
- 11.3. Netball Australia, Member Organisations and Affiliates will not tolerate any unlawful discrimination, bullying or sexual harassment against a person who identifies as transgender or transsexual or who is thought to be transgender or transsexual. Descriptions of some of the types of behaviour that could be regarded as discrimination, sexual harassment or bullying are provided clause 8 of this Policy
- 11.4. Netball Australia, Member Organisations and Affiliates recognise that the exclusion of transgender or transsexual people from participation in netball has significant implications for their health, well-being and involvement in community life. Netball Australia, Member Organisations and Affiliates will seek to support participation in netball by all people on the basis of the gender with which they identify.
- 11.5. Netball Australia, Member Organisations and Affiliates recognise there is debate over whether a male to female transgender person may obtain any physical advantage over other female participants. This debate is reflected in the divergent discrimination laws across the country. If issues of performance advantage arise, Netball Australia will seek advice on the application of those laws in the particular circumstances.
- 11.6. Netball Australia notes that drug testing procedures and prohibitions also apply to people who identify as transgender or transsexual. A person receiving treatment involving a prohibited substance or method, as described on the World Anti-Doping Agency's Prohibited List, should apply for a Therapeutic Use Exemption to legitimately use a Prohibited Substance and Method in accordance with the International Standard for Therapeutic Use Exemptions under an applicable anti-doping policy or granted under a Rule.
- 11.7. If any person feels they are being sexually harassed, bullied or discriminated against by another person or organisation bound by this Policy, they may make a complaint in accordance with clause 14 of this Policy.

12. POSITION STATEMENT: CYBER BULLYING AND SAFETY

- 12.1. Bullying and sexual harassment in all forms are regarded by Netball Australia, Member Organisations and Affiliates as unacceptable in netball. These forms of conduct are unlawful and have the potential to cause great anxiety and distress to the person targeted by hurtful or derogatory comments or statements.
- 12.2. New technologies and communication tools, such as smart phones and social networking websites, have greatly increased the potential for people to be bullied through unwanted and inappropriate comments.
- 12.3. Netball Australia, Member Organisations and Affiliates will not tolerate abusive, discriminatory, intimidating or offensive statements being made online.
- 12.4. Frustration at an umpire, official, teammate, coach or sporting body should never be communicated on social networking or internet websites. These issues should instead be addressed – in a written or verbal statement or a complaint – to the relevant Affiliate, Member Organisation or Netball Australia.

13. POSITION STATEMENT: SOCIAL NETWORKING WEBSITES

- 13.1. Netball Australia acknowledges the enormous value of social networking websites, such as Facebook and Twitter, to promote netball and celebrate the achievements and success of the people involved in netball.
- 13.2. Netball Australia expects all people bound by this Policy to conduct themselves appropriately when using social networking sites to share information related to netball.
- 13.3. Netball Australia's policy with regard to social media engagement is that when engaging in social media, all those bound by this Policy are clear about what/who they are representing; take responsibility for ensuring that any references to Netball Australia, Member Organisations and Affiliates, their staff and volunteers, Members and other netball participants are factually correct and accurate and do not breach confidentiality requirements and laws; and that respect is shown for the individuals, companies and communities with which there is interaction.
- 13.4. Social media postings, blogs, status updates and tweets:
 - 13.4.1. Must not use offensive, provocative or hateful language.
 - 13.4.2. Must not be misleading, false or injure the reputation of another person.
 - 13.4.3. Should respect and maintain the privacy of others.
 - 13.4.4. Should, where relevant, promote netball in a positive way.
- 13.5. All those persons bound by this Policy should not post, send, forward or use any inappropriate information or material in any form of social media including but not limited to material which is:
 - 13.5.1. Intended to (or could possibly) cause insult or offence to, or intimidation or humiliation of Netball Australia, Member Organisations, Affiliates, sponsors, their staff and volunteers, Members and other netball participants;
 - 13.5.2. Defamatory of or could adversely affect the image, reputation or viability of Netball Australia, Member Organisations, Affiliates, sponsors, their staff and volunteers, Members and other netball participants;
 - 13.5.3. Contains any form of confidential information relating to Netball Australia, Member Organisations, Affiliates, sponsors, their staff and volunteers, Members and other netball participants.

14. COMPLAINTS PROCEDURES

14.1. Handling Complaints

- 14.1.1. Netball Australia aims to provide an easy to use, confidential and trustworthy procedure for complaints.
- 14.1.2. Any person may report conduct that may be in breach of this Policy. That person is known as the **complainant**.
- 14.1.3. A person accused by a complainant of conduct or behaviour that may be in breach of this Policy and who is bound by this Policy is known as the **respondent**.
- 14.1.4. If a complainant feels comfortable doing so, they may wish to raise the issue with the respondent and request that he or she stops engaging in the behaviour. Where this occurs, Netball Australia will not be involved in resolving the complaint.
- 14.1.5. For a complaint to be handled by Netball Australia, it must be made in writing using the Written Complaint Form (Attachment C1).
- 14.1.6. All written complaints are treated seriously by Netball Australia, Member Organisations and Affiliates. Once a complaint is received in writing, the relevant organisation will deal with the matter in accordance with the procedures set out in Attachment B to this

Policy.

- 14.1.7. Where a complaint relates to behaviour or an incident that occurred at the State/Territory level, or involves people operating at the State/Territory level, then the complaint should be reported to and handled by the relevant Member Organisation.
- 14.1.8. Where a complaint relates to behaviour or an incident that occurred at the club level, or involves people operating at the club level, then the complaint should be reported to and handled by the relevant club.
- 14.1.9. Where a complaint that relates to behaviour or an incident that occurred at the club or State/Territory level is serious, the applicable Member Organisation or club may seek advice on the matter from Netball Australia.
- 14.1.10. Individuals and organisations may also seek to have their complaint handled by an external agency under anti-discrimination, occupational health and safety, child protection, criminal or other relevant legislation.

14.2. Improper Complaints & Victimisation

- 14.2.1. Netball Australia seeks to provide a complaints procedure that has integrity and is free of unfair repercussions or victimisation against the complainant.
- 14.2.2. Netball Australia also seeks to take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with a complaint or for helping to sort it out. Disciplinary measures may be imposed on anyone who victimises another person for making a complaint or supporting another person's complaint.
- 14.2.3. Any person covered by this Policy who is found to have knowingly made an untrue complaint, vexatious or malicious complaint may be subject to disciplinary action.

15. WHAT IS A BREACH OF THIS POLICY?

- 15.1. It is a breach of this Policy for any person or organisation bound by this Policy to do anything contrary to this Policy, including but not limited to:
 - 15.1.1. Acting in a manner contrary to this Policy.
 - 15.1.2. Bringing netball, Netball Australia, Member Organisations or Affiliates into disrepute, or acting in a manner likely to bring netball, Netball Australia, Member Organisations or Affiliates into disrepute. This includes conduct that is dishonest, fraudulent, corrupt, illegal, unethical, improper, unsafe and conduct that may cause financial or reputational loss.
 - 15.1.3. Failing to follow Netball Australia, Member Organisations or Affiliates policies (including this Policy) and procedures for the protection, safety and well-being of children.
 - 15.1.4. Discriminating against, sexually harassing or bullying (including cyber-bullying) any person covered by this Policy.
 - 15.1.5. Victimising another person for making or supporting a complaint.
 - 15.1.6. Engaging in a sexually inappropriate relationship with a person that s/he supervises, or has influence, authority or power over.
 - 15.1.7. Verbally or physically assaulting another person, intimidating another person or creating a hostile environment within netball.
 - 15.1.8. Appointing or continuing to appoint a person to a role that involves working with children and young people contrary to this Policy.
 - 15.1.9. Disclosing to any unauthorised person or organisation any Netball Australia, Member Organisations or Affiliates information that is of a private, confidential or privileged nature.

- 15.1.10. Making a complaint that they know to be untrue, vexatious, malicious or improper.
- 15.1.11. Failing to comply with a penalty imposed after a finding that the individual has breached this Policy.
- 15.1.12. Failing to comply with a direction given to the individual as part of a disciplinary process.

16. DISCIPLINARY MEASURES AND PENALTIES

- 16.1. The Hearings Tribunal (as defined in the National Complaint Handling Guidelines) may impose disciplinary measures on an individual or organisation for a breach of this Policy.
 - 16.2. The Hearings Tribunal will seek to ensure that any disciplinary measure imposed is:
 - 16.2.1. Fair and reasonable.
 - 16.2.2. Applied consistently with any contractual obligations or other requirements at law .
 - 16.2.3. Commensurate with the principles of natural justice.
 - 16.2.4. Based on the evidence and information presented.
 - 16.2.5. Proportionate to the conduct engaged in. .
 - 16.2.6. Determined in accordance with the Constitution, By-laws, this Policy, the Complaint Handling Guidelines and/or the rules of netball.
- 16.3. If the Hearings Tribunal makes a finding that the respondent has committed a breach of this Policy, and in their reasonable opinion that breach is minor, one or more of the following forms of discipline may be imposed by the Hearings Tribunal:
 - 16.3.1. A direction that the individual make a verbal and/or written apology.
 - 16.3.2. A written warning.
 - 16.3.3. A direction that the individual attend counselling or training to address their behaviour.
- 16.4. If the Hearings Tribunal makes a finding that the respondent has committed a breach of this Policy, and in their reasonable opinion that breach is moderate, one or more of the following forms of discipline may be imposed by the Hearings Tribunal:
 - 16.4.1. A temporary demotion or transfer of the respondent to another location, role or activity.
 - 16.4.2. A temporary suspension of the respondent's membership or participation or engagement in a role or activity.
 - 16.4.3. The imposition of a good behaviour period.
 - 16.4.4. A withdrawal of any individual awards, placings or records won by the respondent in any tournaments, activities or events held or sanctioned by Netball Australia, Member Organisation and Affiliates.
- 16.5. If the Hearings Tribunal makes a finding that the respondent has committed a breach of this Policy, and in their reasonable opinion that breach is serious, one or more of the following forms of discipline may be imposed by the Hearings Tribunal:
 - 16.5.1. Termination of the respondent's membership, appointment or engagement.
 - 16.5.2. In the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently.
 - 16.5.3. A reasonable monetary fine in the opinion of the Hearings Tribunal.
 - 16.5.4. where property damage has occurred, a direction that the individual pay reasonable and appropriate compensation to the owner of the damaged property,

for an amount determined by the Hearings Tribunal.

- 16.5.5. withdrawal of any team awards, placings, records won in any tournaments, activities or events held or sanctioned by Netball Australia, a Member Organisation or an Affiliate.

16.6. Factors to Consider

- 16.6.1. The form of discipline to be imposed on a respondent (individual or organisation) may depend on factors such as:
- (a) The nature and seriousness of the breach.
 - (b) If the person knew, or should have known, that the behaviour was a breach of this Policy.
 - (c) The person's level of contrition.
 - (d) The effect of the proposed disciplinary measures on the person including any personal, professional or financial consequences.
 - (e) If there have been any relevant prior warnings or disciplinary action.
 - (f) Any other mitigating circumstances.

17. AMENDMENT AND INTERPRETATION

- 17.1. This Policy and its attachments may be amended withdrawn or replaced from time to time by Netball Australia in its sole discretion.
- 17.2. Headings used in this Policy are for convenience only and shall not be deemed part of the substance of this Policy or to affect in any way the language of the provisions to which they refer.
- 17.3. Words in the singular include the plural and vice versa.
- 17.4. Reference to "including" and similar words are not words of limitation.
- 17.5. The Attachments shall be considered an integral part of this Policy.
- 17.6. This Policy shall apply from its specified effective date.
- 17.7. A Person includes a body corporate.
- 17.8. Words importing a gender include any other gender.
- 17.9. A reference to a clause is a reference to a clause or subclause of this Policy.
- 17.10. Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- 17.11. In the event any provision of this Policy is determined invalid or unenforceable, the remaining provisions shall not be affected. This Policy shall not fail because any part of this Policy is held invalid.
- 17.12. Except as otherwise stated herein, failure to exercise or enforce any right conferred by this Policy shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any other occasion.

ATTACHMENT A: EMPLOYMENT SCREENING/WORKING WITH CHILDREN CHECK REQUIREMENTS

Netball Australia seeks to provide a child-safe environment. As part of this, Netball Australia, Member Organisations and Affiliates will seek to recruit appropriate and competent staff and volunteers who do not pose a risk to children. To this end, volunteers, independent contractors, employees and other workplace participants will be required to undertake employment screening and provide the state/territory relevant Working with Children (WWC) check.

Employment screening and WWC checks involves criminal history checks, signed declarations, referee checks and other appropriate checks that assess a person's suitability to work with children and young people.

Employment screening must be completed for all appointments to positions that involve direct, unsupervised contact with children as outlined in Attachment A1 - Employment Screening Requirements. In addition, all persons appointed to positions must sign Attachment A2 - Member Protection Declaration.

WWC check laws exist in all states and territories and appointment of personnel must comply with the relevant legislation as outlined in Attachment A3 - Working with Children Check Requirements.

Individuals travelling with children and young people to another State or Territory in a work-related capacity must comply with the screening requirements of that particular State or Territory.

A1: EMPLOYMENT SCREENING REQUIREMENTS

A2: MEMBER PROTECTION DECLARATION

A3: WORKING WITH CHILDREN CHECK REQUIREMENTS

A1: EMPLOYMENT SCREENING REQUIREMENTS

This attachment explains the screening process for people who currently occupy or who apply for any work (paid or voluntary) in Netball Australia, Member Organisations or Affiliates that involves direct and unsupervised contact with people under the age of 18 years. Netball Australia, Member Organisations or Affiliates will seek to follow the below process where possible and relevant.

Screening under this policy is not a replacement for any other procedure required by law. All appointments must comply with the relevant state/territory Working with Children (WWC) legislation.

1. We will identify those positions where people work, coach or have regular unsupervised contact with children and young people under the age of 18.
2. Before a person is offered such a position, we will ask him or her to complete a Member Protection Declaration (MPD) (see Attachment A2).
3. If a person is unable to provide a MPD, or if he or she cannot satisfactorily answer the questions in the MPD, we will not appoint him or her to the position.
4. Where possible, we will check a person's referees (verbal or written) about his or her suitability for the position.
5. We will ask each person to provide the state/territory relevant Working with Children check. If a person does not agree to obtain a WWC check, we will not appoint him or her to the position.
6. We will protect the privacy of each person who undertakes the screening process and keep all information we obtain strictly confidential.
7. We will seek to return all the information collected as part of the screening process (e.g. completed MPD forms, WWC check and referee reports) to the relevant person if he or she is not appointed to the position. Alternatively, all records will be destroyed within 28 days of the date of the decision or the expiry of any appeal period unless, within that time, the person requests the documents to be returned to him or her.
8. The records of all people appointed to our organisation will be kept on file in a secure location.

A2: MEMBER PROTECTION DECLARATION

Netball Australia, Member Organisations and Affiliates have a duty of care to all those associated with netball. It is a requirement of the Member Protection Policy, that Netball Australia, Member Organisations and Affiliates check the background of each person who works, coaches or has regular unsupervised contact (paid or voluntary) with people under the age of 18 years.

I _____ born / /
(full name) **(DOB)**

of _____
(address/suburb/postcode)

Sincerely declare:

1. I do not have any criminal charge pending before the courts.
2. I do not have any criminal convictions or findings of guilt for sexual offences, offences related to children or acts of violence
3. I have not had any disciplinary proceedings brought against me by an employer, sporting organisation or similar body involving child abuse, sexual misconduct or harassment, acts of violence, intimidation or other forms of harassment or acts of violence.
4. I am not currently serving a sanction for an anti-doping rule violation under an Australian Sports Anti-Doping Authority (ASADA) approved anti-doping policy applicable to me.
5. I will not participate in, facilitate or encourage any practice prohibited by the World Anti-Doping Agency Code or any other ASADA approved anti-doping policy applicable to me.
6. To my knowledge there is no other matter that Netball Australia, Member Organisations and Affiliates may consider to constitute a risk to its members, employees, volunteers, athletes or reputation by engaging me.
7. I will notify the relevant body (Netball Australia, Member Organisations and Affiliates) of the organisation(s) engaging me immediately upon becoming aware that any of the matters set out above has changed.

Declared in the State/Territory of _____

Signature: _____ Date: _____

Consent of Parent/Guardian (on behalf of a person under the age of 18 years)

I have read and understood the declaration provided by my child. I confirm and warrant that the contents of the declaration provided by my child are true and correct in every particular.

Name: _____

Signature: _____ Date: _____

A3: STATE/TERRITORY BASED CHILD PROTECTION LEGISLATION

Working with Children (WWC) checks aim to create a child-safe environment and to protect children and young people involved in our sport from physical and sexual harm.

They assess the suitability of people to work with children and young people and can involve:

- criminal history checks
- signed declarations
- referee checks, and
- other relevant background checks to assess a person's suitability to work with children and young people.

There is no national legislation and child protection system. However each state and territory has child protection laws specifying responsibilities for both organisations and individuals who work or have contact with children.

Volunteers, employees, independent contractors and other workplace participants must, if required to work with children, ensure that they comply with the requirements of the relevant state or territory legislation and hold a current WWC check.

NB: Some Member Organisations have WWC requirements over and above what is required by the relevant legislation.

Detailed information, including the forms required to complete a WWC check, are available from the relevant agencies in each state and territory.

Australian Capital Territory – Working with Vulnerable People

Contact Office of Regulatory Services
Website: www.ors.act.gov.au/community/working_with_vulnerable_people_wwvp
Phone: 02 6207 3000

New South Wales – Working with Children Check

Contact the Commission for Children and Young People
Website: www.kids.nsw.gov.au
Phone: 02 9286 7276

Northern Territory – Working with Children Clearance Notice

Contact the Northern Territory Screening Authority
Website: www.workingwithchildren.nt.gov.au
Phone: 1800 SAFE NT (1800 723 368)

Queensland – Blue Card System

Contact the Public Safety Business Agency – Blue Card Services
Website: www.bluecard.qld.gov.au
Phone: 1800 113 611

South Australia – Child related Employment Screening

Contact the Department for Education and Child Development
Website: www.families.sa.gov.au/pages/protectingchildren/AssessCrimHist
Phone: 1800 088 158

Tasmania – Working with Children Registration

Contact the Department of Justice
Website: www.justice.tas.gov.au/working_with_children
Phone: 1300 13 55 13

Victoria – Working with Children Check

Contact the Department of Justice and Regulation
Website: www.workingwithchildren.vic.gov.au
Phone: 1300 652 879

Western Australia – Working with Children Check

Contact the Department for Child Protection
Website: www.checkwwc.wa.gov.au
Phone: 1800 883 979

Travelling to other States or Territories

It is important to remember that when travelling to other states or territories, representatives of sporting organisations must comply with the legislative requirements of that particular state or territory.

ATTACHMENT B: NATIONAL COMPLAINT HANDLING GUIDELINES

Netball Australia, Member Organisations and Affiliates seek to deal with complaints in a fair, timely and transparent manner. All complaints will be treated seriously.

Individuals may seek to resolve complaints through an informal process, a formal process or through making a complaint to the relevant external body.

Netball Australia, Member Organisations and Affiliates aim to address complaints in a manner that maintains confidentiality as far as possible and will seek to ensure that no one is victimised for making, supporting or providing information about a complaint.

The following Guidelines may be followed to assist in the resolution of grievances and complaints.

ATTACHMENT B1: COMPLAINTS PROCEDURE

ATTACHMENT B2: MEDIATION PROCEDURE

ATTACHMENT B3: EVIDENCE COLLECTION PROCESS

ATTACHMENT B4: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE

ATTACHMENT B5: HEARINGS TRIBUNAL PROCESS

ATTACHMENT B6: PENALTY GUIDELINES

Guideline Principles

- 1.1 Netball Australia aims to support people associated with our sport to make and resolve any complaints they may have in a fair, timely and effective way.
- 1.2 Given the different circumstances that can arise, the process of managing an individual complaint may change.

Scope of these Guidelines

- 1.3 These Guidelines have been developed in accordance with the Complaints Procedure in clause 14 of this Policy to assist with the management of complaints involving a breach of this Policy as set out in clause 15 "*What is a Breach of this Policy?*".
- 1.4 Complaints that do not involve a breach of this Policy do not fall within the scope of these Guidelines.
- 1.5 The following complaints will **not** be managed by these Guidelines:
 - (a) Complaints in relation to spectators, supporters, parents, relatives or guardians who are not members of a netballing body;
 - (b) Complaints in relation to personal grievances;
 - (c) Complaints in which the last incident occurred more than 6 months ago; or
 - (d) Frivolous and/or vexatious complaints.

Complaints involving minors

- 1.6 Where a complaint involves a person who is under the age of 18 years of age:
 - (a) the parent or guardian may represent the interests of the child; and
 - (b) the parent or guardian may support the child to manage the complaint.

External Procedures

- 1.7 Nothing in this Policy or these Guidelines will prevent an individual or organisation from pursuing a complaint externally.
- 1.8 If a complaint is referred externally at any stage, the process under these Guidelines will immediately cease.
- 1.9 Serious incidents, such as assault or sexual assault, should be reported to the police.

Confidentiality

- 1.10 All complaints will be kept confidential as far as possible and will not be disclosed to another person without consent except if the law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

B1: COMPLAINTS PROCEDURE

The following steps should be taken to manage complaints under this Policy:

1. Step 1: Making a Complaint

- 1.1 A complaint must be made in writing to the Complaint Manager at the club or association at which the incident occurred.
- 1.2 A complaint should be made using the C1: Written Complaint Form and include specifics about the complaint/s including location, dates, times and witnesses and details of the section/s of the Policy that the Complainant alleges have been breached.
- 1.3 The **Complaint Manager** is the person at the relevant Member Organisation or Affiliate (club or association) who has undertaken the Play by the Rules training as well as any further training Netball Australia advises is required to manage complaints under this Policy. These training requirements may be amended, updated or changed from time to time at the absolute discretion of Netball Australia.
- 1.4 Each club, association and Member Organisation is required to have at least one Complaint Manager.
- 1.5 The complaint will be managed by the Complaint Manager at the netballing body most closely associated with the complaint as outlined in clauses 14.1.7 – 14.1.9 (inclusive) of the Policy
- 1.6 To avoid any doubt:
 - (a) if the Complaint Manager at the club most closely associated with a complaint is not able to manage the complaint for any reason (ie conflict of interest or personal interest in the matter), the complaint will be elevated to the Complaint Manager of the association;
 - (b) if the Complaint Manager at the association most closely associated with a complaint is not able to manage the complaint for any reason (ie 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.

2. Step 2: Discuss Options for Resolving the Complaint

- 2.1 When a complaint is received by the Complaint Manager under step 1, the Complaint Manager will firstly discuss the possible options with the Complainant for resolving the problem using these Guidelines, including:
 - (a) Mediation in accordance with the process under Attachment 2B;
 - (b) further evidence collection by the Complaint Manager and Hearing Tribunal determination;
 - (c) referral to an external body (ie court, tribunal, government agency, external mediator, police, other authority); or
 - (d) other process agreed between the Complaint Manager and the parties.
- 2.2 The Complaint Manager will also decide whether the complaint is properly made under this Policy, taking into account:
 - (a) whether the Complaint relates to a mere personal grievance;
 - (b) whether the person/s complained about are bound by the Policy;
 - (c) whether the Complaint is suggestive of a breach of this Policy; and
 - (d) whether the Complaint specifies which part of this Policy has allegedly been breached.
- 2.3 Taking into account the Complainant's views, the Complaint Manager will then decide whether:
 - (a) to collect further evidence;
 - (b) if the parties agree, to refer the complaint to mediation;
 - (c) to commence another process appropriate in the circumstances, examples of which include:
 - (i) referring the matter to the police or other appropriate authority;

- (ii) implementing an interim arrangement (such as temporarily separating the parties from engaging with one another to avoid a reoccurrence of the alleged incident);
- (d) where the parties reach a compromised resolution, to record an outcome and finalise the complaint (ie. a written apology to conclude the matter, an agreement to cease the behaviour complained of etc.).

3. Step 3: Commence appropriate process

- 3.1 If the Complaint Manager decides that further evidence is required, the Complaint Manager will follow the evidence collection process at Step 4 below in accordance with Attachment B3.
- 3.2 If the Complaint Manager decides, and the parties consent to mediation under Step 2, the mediation will be conducted in accordance with Attachment B2 or as otherwise agreed by the Complaint Manager, the Complainant and the Respondent.
- 3.3 If the Complaint Manager decides to refer the complaint to an external agency under Step 2, the Complaint Manager will record this in writing in Attachment C2: Confidential Record of Complaint and the complaint management process under these Guidelines will immediately cease.
- 3.4 If the Complaint Manager decides to commence another process to finalise the complaint, the Complaint Manager will record the agreed resolution in writing in Attachment C2: Confidential Record of Complaint and may assist the parties if required.

4. Step 4: Collect evidence

- 4.1 If Mediation or another agreed process is not the path chosen to deal with the complaint, the Complaint Manager will be responsible for conducting an evidence collection process.
- 4.2 As part of this process, Complaint Manager will:
 - (a) request a written response from the respondent;
 - (b) collect witness statements (if applicable and required); and
 - (c) collect any other relevant evidence including video footage, photos, recordings etc.
- 4.3 Further guidelines to assist the Complaint Manager with the evidence collection process are provided at Attachment B3.

5. Step 5: Appoint Hearings Tribunal

- 5.1 After the Complaint Manager completes the evidence collection process under step 4, the Complaint Manager will appoint a Hearings Tribunal.
- 5.2 The Hearings Tribunal will comprise:
 - (a) one person who in the Complaint Manager's reasonable opinion is experienced in ensuring that procedural fairness is provided; and
 - (b) another person who in the Complaint Manager's reasonable opinion has a thorough knowledge of the sport of netball, (collectively, **Hearings Tribunal**).
- 5.3 The Complaint Manager will give the Hearings Tribunal members copies of all the evidence collected by the Complaint Manager in Step 4 as well as the Record of Evidence Collection Process at Attachment C5.

6. Step 6: Role of the Hearings Tribunal

- 6.1 The Hearings Tribunal is responsible for determining the complaint by either:
 - (a) assessing the evidence "on the papers" (without holding a hearing); or
 - (b) holding a hearing under Attachment B5.
- 6.2 The Hearings Tribunal will make a decision to either:
 - (a) substantiate the complaint (or part of the complaint); or

- (b) dismiss the complaint (or part of the complaint).
- 6.3 The Hearings Tribunal must communicate its decision to the parties in writing and record the outcome using the Record of Hearing Tribunal Decision at Attachment C6.
- 6.4 If the Hearings Tribunal dismisses the complaint:
 - (a) the decision is final and a party may only dispute a decision on the basis of a failure to accord procedural fairness.
 - (b) 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 under step 6.3 above setting out the basis for the alleged procedural failing in accordance with 6.4(a).
 - (c) 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.
- 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 Complaint Manager to appoint a new Hearings Tribunal and revert to Step 5.
- 7. Step 7: Issuing Proposed Penalty**
- 7.1 If the complaint (or part of the complaint) is substantiated by the Hearings Tribunal in Step 6, the Hearings Tribunal is responsible for issuing a proposed penalty (if any) with its decision (**proposed penalty**).
- 7.2 The range of penalties that may be imposed by the Hearings Tribunal and the process for selecting an appropriate proposed penalty is listed at Attachment B6.
- 8. Step 8: Submissions on the Proposed Penalty**
- 8.1 The Hearings Tribunal will request submissions on the proposed penalty from both parties.
- 9. Step 9: Finalising the Penalty**
- 9.1 Taking into account the submissions received from the parties in Step 8 and following the requirements of Attachment B6, the Hearings Tribunal will either:
 - (a) request more information from one or both parties in relation to their submissions on the proposed penalty (either “on the papers” or by holding a hearing);
 - (b) confirm the proposed penalty is the final penalty “on the papers”; or
 - (c) amend the proposed penalty and issue a revised final penalty “on the papers”.
- 9.2 Where the Hearings Tribunal requests more information under step 9.1(a), it will consider the further information provided and either:
 - (a) confirm the proposed penalty is the final penalty “on the papers”; or
 - (b) amend the proposed penalty and issue a revised final penalty “on the papers”.
- 9.3 The Hearings Tribunal must communicate the final penalty to the parties in writing and record the outcome in the Record of Hearing Tribunal Decision at Attachment C6.
- 9.4 There is no further right to appeal after the final penalty is imposed by the Hearings Tribunal.

B2: MEDIATION

10. Role of Mediation and the Mediator

- 10.1 Mediation is a process that allows the people involved in a complaint to talk through the issues with an impartial person, the mediator, who will assist the parties to attempt to agree to a solution.
- 10.2 The mediator helps those involved in a complaint to communicate their concerns and encourages them to discuss potential solutions to those issues.
- 10.3 The mediator is unbiased and does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to talk through the issues and makes sure that the process is as fair as possible for all concerned.
- 10.4 The people involved in a formal complaint (complainant and respondent(s)) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator. Mediation may occur at any stage in the complaints process.

11. Electing to Mediate a Complaint

- 11.1 In determining whether mediation is appropriate, the following factors will be considered by the Complaint Manager:
 - (a) whether the complainant or respondent are willing to attempt mediation;
 - (b) whether there is a real or perceived power imbalance between the parties;
 - (c) whether the complaint involves serious, proven allegations potentially requiring intervention from an external agency; and/or
 - (d) any other factor considered relevant by the Complaint Manager.

12. Process for Mediation

- 12.1 Mediation may occur at any stage after a written complaint is received by the Complaint Manager.
- 12.2 If mediation is chosen to try and resolve the complaint, the Complaint Manager will either conduct the mediation themselves or arrange for a mediator to mediate the complaint.
- 12.3 The mediation will be conducted confidentially and on a 'without prejudice' basis (i.e. it will not affect the rights of the complainant and the respondent(s) to pursue an external process if the complaint is not resolved).

13. Outcome of the Mediation

- 13.1 If the complaint is resolved at mediation:
 - (a) the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and both parties will sign that agreement;
 - (b) the mediator will record the outcome and advise the Complaint Manager (where the mediator is external);
 - (c) no further action may be taken by either party in relation to the complaint under these Guidelines (except by agreement between the parties).
- 13.2 If the complaint is not resolved at mediation, and the Complainant wishes to continue with the complaint, the Complaint Manager will:
 - (a) commence the Evidence Collection Process under Attachment B3; or
 - (b) commence another process appropriate in the circumstances.
- 13.3 The mediator must document the mediation and record any outcome using Attachment C4: Record of Mediation.

B3: EVIDENCE COLLECTION PROCESS

There will be times when a complaint will need to be investigated and evidence gathered.

14. Purpose of Evidence Collection

- 14.1 Collecting further evidence will help the Hearings Tribunal to determine the facts relating to the complaint and to make a decision as well as possible findings and recommendations.

15. Commencing the Evidence Collection Process

- 15.1 The process of evidence collection will be undertaken by the Complaint Manager.
- 15.2 The Evidence Collection Process will be commenced in circumstances where:
- (a) Mediation under Attachment B2 is unsuccessful; or
 - (b) the Complaint Manager considers further evidence is required.

16. The Process of Evidence Collection

- 16.1 The Complaint Manager will:
- (a) provide the respondent(s) with a copy of the written complaint (if not done previously);
 - (b) contact the respondent(s) and request a written response to the complaint within 14 days;
 - (c) if required, meet separately with the respondent(s) or the complainant in person to collect further evidence or clarify any aspect of their written evidence;
 - (d) if applicable and required, collect statements from witnesses either by:
 - (i) interviewing the witness in person;
 - (ii) interviewing the witness on the phone; or
 - (iii) requesting the witness provide their version of events in writing.
 - (e) if applicable and required, collect any other evidence relevant to the complaint, examples of which may include:
 - (i) video footage;
 - (ii) photographs;
 - (iii) recordings;
 - (iv) site inspection; and/or
 - (v) tangible items.

17. Consider whether interim measures are required

- 17.1 If while collecting the evidence, the Complaint Manager considers that pending the determination of the complaint, the health and safety of any party to the complaint may be put at risk, it may order that:
- (a) a party is temporarily suspended from any role they hold with Netball Australia, the relevant Member Organisation or Affiliate; and/or
 - (b) a party is temporarily banned from any event or activities held by or sanctioned by Netball Australia, the relevant Member Organisation or Affiliate; and/or
 - (c) a party is temporarily transferred to an alternate role until the complaint has been finally determined; and/or
 - (d) a party is temporarily 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.

18. Concluding the Evidence Collection Process

- 18.1 The Complaint Manager should complete the evidence collection process within 4 weeks of commencing the Evidence Collection Process under this Attachment B3.
- 18.2 Once the Evidence Collection Process is complete, the Complaint Manager will:
- (a) Complete the Record of Evidence Collection Process at Attachment C5;
 - (b) advise the Hearing Tribunal of any interim measures put in place under step 4 of this Evidence Collection Process above;
 - (c) appoint a Hearings Tribunal as soon as practicable after finalising the evidence collection process and provide the Hearings Tribunal with:
 - (i) a copy of the Attachment C5 Record of Evidence Collection Process prepared by the Complaint Manager under step 5.2(a); and
 - (ii) a copy of all evidence collected.

B4: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE

If you believe a child is in immediate danger or a life-threatening situation, contact the Police immediately on 000.

Fact sheets on reporting allegations of child abuse in different states and territories are available at www.playbytherules.net.au

Netball Australia, Member Organisations and Affiliates treat allegations of child abuse or neglect seriously and will endeavour to manage such complaints promptly and with sensitivity.

All people working with Netball Australia, Member Organisations and Affiliates in a paid or unpaid capacity have a duty to report any concerns to the appropriate authorities, following the steps outlined below.

19. Step 1: Receive the allegation

- 19.1 If a child or young person raises with you an allegation of child abuse or neglect that relates to them or to another child, it is important that you listen, stay calm and be supportive.

Do	Don't
Make sure you are clear about what the child has told you	Do not challenge or undermine the child
Reassure the child that what has occurred is not his or her fault	Do not seek detailed information, ask leading questions or offer an opinion.
Explain that other people may need to be told in order to stop what is happening.	Do not discuss the details with any person other than those detailed in these procedures.
Promptly and accurately record the discussion in writing.	Do not contact the alleged offender.

20. Step 2: Report the allegation

- 20.1 Immediately report any allegation of child abuse or neglect, or any situation involving a child at risk of harm, to the police and/or the relevant child protection agency. You may need to make a report to both.
- 20.2 Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the allegation should be reported.
- 20.3 If the allegation involves a person to whom this policy applies, then also report the allegation to Netball Australia, or the relevant Member Organisation or Affiliate.

21. Step 3: Protect the child and manage the situation

- 21.1 If Netball Australia, a Member Organisation or Affiliate receives a report of allegations of child abuse, the following steps may be taken as appropriate:
- The appropriate person from Netball Australia, the Member Organisation or Affiliate will assess the immediate risks to the child and take interim steps to ensure the child's safety and the safety of any other children.
 - This may include redeploying the alleged offender to a position where there is no unsupervised contact with children, supervising the alleged offender or removing/suspending him or her until any investigations have been concluded.
 - The appropriate person from Netball Australia, the Member Organisation or Affiliate will consider what services may be most appropriate to support the child and his or her parent/s.
 - The appropriate person from Netball Australia, the Member Organisation or Affiliate will consider what support services may be appropriate for the alleged offender.
 - The appropriate person from Netball Australia, Member Organisations or Affiliate will seek to put in place measures to protect the child and the alleged offender from possible victimisation and gossip.

22. Step 4: Take internal action

- 22.1 If Netball Australia, a Member Organisation or Affiliate receives a report of allegations of child abuse, the following steps may be taken as appropriate:
- Regardless of the findings 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.
 - The appropriate person from Netball Australia, the Member Organisation or Affiliate may consider all information relevant to the matter – including any findings made by the police, the child protection authority and/or court to determine a course of action.
 - If disciplinary action is recommended, the appropriate person from Netball Australia, the Member Organisation or Affiliate may follow the procedures set out in the Member Protection Policy.
 - The appropriate person from Netball Australia, the Member Organisations or Affiliate may provide the relevant government agency with a report of any disciplinary action taken, where this is required.

B5: HEARINGS PROCEDURE

The following hearing procedure will be followed by a Hearings Tribunal established by Complaint Manager.

23. Purpose and function of the Hearings Tribunal

- 23.1 The Hearings Tribunal is responsible for determining the complaint by either:
- (a) assessing the evidence “on the papers” (without holding a hearing) where it considers it appropriate by following the procedure in clause 5 below; or
 - (b) holding a hearing by following the procedure in clause 6 below.
- 23.2 The Hearings Tribunal will make a decision to either:
- (a) substantiate the complaint (or part of the complaint); or
 - (b) dismiss the complaint (or part of the complaint).
- 23.3 The Hearings Tribunal is responsible for communicating its decision to the parties and the Complaint Manager in writing as soon as practicable after the hearing.
- 23.4 The Hearings Tribunal is also responsible for issuing any proposed penalty with its decision if the complaint is substantiated.
- 23.5 The Hearings Tribunal is required to complete the Record of Hearing Tribunal Decision in accordance with Attachment C6.

24. Role and responsibility of Hearings Tribunal members

- 24.1 Each member of each Hearings Tribunal established under this Policy shall be indemnified by the Club, Association, Affiliate or Member Organisation of which they are a member, 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.
- 24.2 Except as required by law or 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.

25. Establishing the Hearings Tribunal

- 25.1 The Complaint Manager is responsible for appointing the members of a Hearings Tribunal.
- 25.2 The Hearings Tribunal will be comprised of the following two members:
- (a) one person who in the Complaint Manager’s reasonable opinion has a thorough understanding of, and experience dealing with, matters involving procedural fairness; and
 - (b) one person who in the Complaint Manager’s reasonable opinion has a thorough knowledge of the sport of netball, collectively, (the **Hearings Tribunal**).
- 25.3 The Complaint Manager will provide each member of the Hearings Tribunal with:
- (a) a copy of all the evidence collected by the Complaint Manager during the Evidence Collection Process; and
 - (b) a copy of the Record of Evidence Collection Process prepared by the Complaint Manager.

26. Assess the evidence and select the procedure to be followed

- 26.1 The Hearings Tribunal will consider the evidence collected by the Complaint Manager in the Evidence Collection Process.
- 26.2 Provided that procedural fairness is provided to the parties, the Hearings Tribunal shall determine in its absolute discretion whether to:
- (a) assess the evidence on the papers; or
 - (b) hold a hearing.

27. Option 1: Assess the evidence “On the Papers”

- 27.1 If the Hearings Tribunal elects to assess the evidence on the papers the Hearings Tribunal will make a finding as to whether the complaint is:
- (a) substantiate; or
 - (b) unsubstantiated.

28. Option 2: Hold a Hearing

- 28.1 The Hearings Tribunal may hear and determine a complaint in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that procedural fairness is afforded to the parties at all times.
- 28.2 The Tribunal will be held ‘in camera’ (i.e it will not be a public hearing and only those directly involved in the matter may attend).
- 28.3 If the Hearings Tribunal elects to hold a hearing:
- (a) the Hearings Tribunal will notify the parties in writing of the manner in which the hearing will be conducted and the date, time and place for the hearing;
 - (b) the Hearings Tribunal will advise the parties in writing that they may:
 - (i) make either verbal or written submissions to the Hearings Tribunal; and
 - (ii) arrange for witnesses to attend the hearing;
 - (c) the Hearings Tribunal will make a finding as to whether the complaint is:
 - (i) substantiate; or
 - (ii) unsubstantiated.
- 28.4 Where a person under the age of 18 years of age is required to attend a hearing before the Hearings Tribunal, that person’s parent(s) or guardian(s) are required to attend with the person and may represent their interests.
- 28.5 Separate representation is not permitted or necessary in a hearing conducted under this Attachment B5. Notwithstanding this, a Party may seek an exception to be represented by writing to the Hearings Tribunal in the following circumstances:
- (a) where the complaint involves damage to property of considerable value;
 - (b) where the complaint involves allegations in breach of state, territory or federal legislation;
 - (c) where the exception is sought by a party who is a minor under the age of 18 years old; or
 - (d) where the exception is sought by a party who is at a substantial disadvantage in comparison to the other party in the reasonable opinion of the Hearings Tribunal.
- 28.6 The Hearings Tribunal will then determine whether representation will be permitted or not.
- 28.7 Each party to a hearing shall bear their own costs in relation to the hearing.

29. Communicating a substantiated decision to the parties

- 29.1 Where a complaint is substantiated under clauses 5.1(a) or 6.3(c)(i) the Hearings Tribunal will propose a penalty under Attachment B6.
- 29.2 The Hearings Tribunal will, as soon as practicable after the hearing, communicate its decision and the proposed penalty in writing to:
- (a) the Complainant and Respondent(s);
 - (b) the Complaint Manager who established the Hearings Tribunal; and
 - (c) any other party represented at the hearing.
- 29.3 The Hearings Tribunal will also:
- (a) advise the Complainant and Respondent(s) in writing that they may make written submissions to the Hearings Tribunal in relation to the

- (b) proposed penalty within 7 days; and follow the procedure in Attachment B6 “3. Finalising the Proposed Penalty” to finalise the penalty.

30. Communicating an unsubstantiated decision to the parties

- 30.1 Where a complaint is unsubstantiated under clauses 5.1(b) or 6.3(c)(ii), the Hearings Tribunal will, as soon as practicable after the hearing, communicate its decision in writing to:
- (a) the Complainant and Respondent(s);
 - (b) the Complaint Manager who established the Hearings Tribunal; and
 - (c) any other party represented at the hearing.

31. Review on basis of Procedural fairness

- 31.1 A decision communicated under clauses 7 and 8 is final and binding on the parties.
- 31.2 A decision will only be reviewed if there is a failure to accord procedural fairness.
- 31.3 To request a review of a decision made by the Hearings Tribunal, the party must write to the CEO or Executive of the netballing body managing the complaint within 14 days setting out the basis for the alleged failure to accorded procedural fairness.
- 31.4 The CEO or Executive of the relevant netballing body may, in his or her or its ultimate discretion, determine that there is no basis for a review where there is no identifiable failing to afford procedural fairness.
- 31.5 Where the CEO or Executive considers that a failure to afford procedural fairness has occurred, the CEO or Executive will ask the Complaint Manager to appoint a new Hearings Tribunal.

32. Finalising the complaint

- 32.1 Once the Hearings Tribunal has advised the parties in writing:
- (a) that the complaint has been unsubstantiated; or
 - (b) that the complaint has been substantiated and a final penalty has been determined (if applicable), and neither party request a review under clause 9, the decision of the Hearings Tribunal is final and binding on the Parties. There is no avenue for appeal under this Policy.
- 32.2 The Hearings Tribunal will record the outcome and penalty ordered (if applicable) in the Record of Hearing Tribunal Decision (Attachment C6) and advise the Complaint Manager in writing that the complaint has been finalised.
- 32.3 Nothing in this Policy prevents any person from taking action under state, territory or commonwealth legislation.

B6: DISCIPLINARY MEASURES AND PENALTIES

33. Issuing a Proposed Penalty

- 33.1 A proposed penalty may be issued by a Hearings Tribunal when a complaint (or part of a complaint) is substantiated under the Hearings Procedure in Attachment B5.
- 33.2 The Hearings Tribunal will communicate the proposed penalty to the parties in writing (if any) and request submissions on the proposed penalty from both parties.
- 33.3 In considering the imposition of a penalty, the Hearings Tribunal may take evidence or enquire if any prior offences have been committed by the respondent and take this into account in imposing any penalty.

34. Penalty Levels

- 34.1 There are three penalty levels under this Attachment B6, ranging from less serious to most serious.

35. Level 1 - minor breaches

- 35.1 Level 1 penalties should be imposed for minor breaches of the Policy and may include:
- (a) a direction that the individual make a verbal and/or written apology;
 - (b) a written warning;
 - (c) a direction that the individual attend counselling or training to address their behaviour.

36. Level 2 - moderate breaches

- 36.1 Level 2 penalties should be imposed for moderate breaches of the Policy and may include:
- (a) a temporary demotion or transfer of the respondent to another location, role or activity;
 - (b) a temporary suspension of the respondent's membership or participation or engagement in a role or activity associated with Netball Australia;
 - (c) the imposition of a good behaviour period;
 - (d) withdrawal of any individual awards, placings or records won by the respondent in any tournaments, activities or events held or sanctioned by Netball Australia, a Member Organisation or an Affiliate.

37. Level 3 - serious breaches

- 37.1 The Hearings Tribunal must not impose a level 3 penalty without first obtaining written approval that the penalty is reasonable in the circumstances from the CEO or Executive of the Member Organisation most closely associated with the complaint.

- 37.2 Level 3 penalties should be imposed for serious breaches of the Policy and may include:
- (a) termination of the respondent's membership or participation or engagement;
 - (b) in the case of a coach or official, a direction that the relevant organisation de-register the accreditation of the coach or official for a period of time or permanently;
 - (c) a reasonable monetary fine in the opinion of the Hearings Tribunal;
 - (d) where property damage has occurred, a direction that the respondent pay reasonable and appropriate compensation to the owner of the damaged property, for an amount determined by the Hearings Tribunal;
 - (e) withdrawal of any team awards, placings, records won in any tournaments, activities or events held or sanctioned by Netball Australia, a Member Organisation or an Affiliate.

38. Finalising the Proposed Penalty

- 38.1 The complainant and respondent(s) may make submissions to the Hearings Tribunal in relation to the proposed penalty within 7 days of notification.
- 38.2 The Hearings Tribunal will consider any submissions received and will finalise the penalty by either:
- (a) approving the proposed penalty; or
 - (b) amending the proposed penalty.
- 38.3 The Hearings Tribunal may request further information from either the complainant or respondent(s) prior to finalising the penalty under clause 3.2.
- 38.4 If a penalty imposed under this Policy affects other organisations required to comply with this Policy, the relevant organisations shall be notified of the penalty as soon as possible.
- 38.5 Notification of such penalty to a Member Organisation shall be deemed to be notification to all Affiliates which are members of the Member Organisation and notification of such penalty to an Affiliate shall be deemed to be notification to all members of the Affiliate.
- 38.6 Every organisation to which this Policy applies shall recognise and enforce any decision and penalty imposed under this Policy.
- 38.7 The Hearings Tribunal must record the final penalty in the Record of Hearing Tribunal Decision (Attachment C6).

ATTACHMENT C: NATIONAL REPORTING REQUIREMENTS DOCUMENTS/FORMS

Netball Australia, Member Organisations and Affiliates (where applicable and relevant) make available the attached forms to assist in the documenting of complaints received, both formal and informal, where necessary and appropriate.

Information about complaints, and any additional records and notes, will so far as reasonably practicable, be treated confidentially and stored securely.

Netball Australia, Member Organisations and Affiliates treat allegations of child abuse or neglect seriously and will endeavour to treat such allegations promptly and with sensitivity.

Netball Australia, Member Organisations and Affiliates (where applicable and relevant) will seek to ensure that everyone who works with netball in a paid or unpaid capacity understands how to appropriately receive and record allegations of child abuse and neglect and how to report those allegations to the relevant authorities in their State or Territory.

C1: WRITTEN COMPLAINT FORM

C2: CONFIDENTIAL RECORD OF COMPLAINT

C3: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION

C4: RECORD OF MEDIATION

C5: RECORD OF EVIDENCE COLLECTION PROCESS

C6: RECORD OF HEARING TRIBUNAL DECISION

C1: WRITTEN COMPLAINT FORM

Complainant's Name and age	<input type="checkbox"/> Over 18	<input type="checkbox"/> Under 18
Complainant's contact details	Phone: Email:	
Role/status in netball	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Official	<input type="checkbox"/> Parent or guardian <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Other: _____ _____
Name and age (if known) of person complained about (respondent)	<input type="checkbox"/> Over 18	<input type="checkbox"/> Under 18
	Name: _____	Name: _____
Respondent's role/position in netball (if known)	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid)	<input type="checkbox"/> Official <input type="checkbox"/> Other (who is also bound by the Policy) _____ _____
When/where did the incident take place?		
Description of incident What are the facts? Please provide as much detail as you can.		
What is the nature of the complaint? Tick more than one box if necessary	<input type="checkbox"/> Sexual Harassment <input type="checkbox"/> Sexual/sexist <input type="checkbox"/> Sexuality <input type="checkbox"/> Race <input type="checkbox"/> Religion <input type="checkbox"/> Pregnancy	<input type="checkbox"/> Discrimination <input type="checkbox"/> Bullying <input type="checkbox"/> Disability <input type="checkbox"/> Child Abuse <input type="checkbox"/> Verbal abuse <input type="checkbox"/> Physical abuse
		<input type="checkbox"/> Victimisation <input type="checkbox"/> Other _____ _____

<p>Please specify the section of Member Protection Policy allegedly breached (category/basis/ grounds)</p>	<p>Policy section breached:</p>
<p>How would you like the issue to be resolved?</p>	
<p>Is there any other information that may assist Netball Australia to manage your complaint? Please attach any documents or information you think may assist.</p>	
<p>What is the complainant going to do now?</p>	

This complaint and any notes must be provided to the Complaint Manager at the netballing body most closely associated with the complaint in order to be managed under the Complaint Handling Guidelines.

<p>Methods (if any) of attempted informal resolution by complainant before submitting written complaint</p>	
<p>Proposed resolution procedure to be followed (outline)</p>	
<p>If Evidence Collection Procedure followed:</p>	<p>Description of procedure and evidence collected:</p>
<p>List of documents or evidence collected in evidence collection procedure</p>	<p>1. _____ 4. _____</p> <p>2. _____ 5. _____</p> <p>3. _____ 6. _____</p>
<p>If matter referred to Hearings Tribunal:</p>	<p>Tribunal Members Appointed:</p> <p>Name: _____</p> <p>Name: _____</p> <p>Method used by Hearings Tribunal:</p> <p><input type="checkbox"/> On the Papers <input type="checkbox"/> Hearing</p> <p>Details of all attendees at hearing (including representatives if granted):</p> <p>Name: _____ Name: _____</p> <p>Name: _____ Name: _____</p> <p>Name: _____ Name: _____</p> <p>Name: _____ Name: _____</p> <p>Decision:</p> <p><input type="checkbox"/> Complaint substantiated(or part of complaint)</p> <p><input type="checkbox"/> Unsubstantiated</p>

Proposed Penalty (if applicable):	
Details of submissions received in relation to proposed penalty (if applicable):	
Final penalty (if applicable):	<input type="checkbox"/> Level 1 - Details: <input type="checkbox"/> Level 2 - Details: <input type="checkbox"/> Level 3 - Details: Note: Level 3 penalties must be reviewed by CEO or Executive – tick box to confirm <input type="checkbox"/>
If mediated:	Date of mediation: Both/all parties present: Agreement: Any other action taken:
If application made to review decision for failure to provide procedural fairness	Name of CEO or Executive: _____ <input type="checkbox"/> Review approved: (list reasons) <input type="checkbox"/> Review not approved: (list reasons)
Time to resolution	<input type="checkbox"/> Less than 3 months to resolve <input type="checkbox"/> Between 3 – 8 months to resolve <input type="checkbox"/> More than 8 months to resolve
Completed by	Name: Position in Netball Australia/Member Organisation/Affiliate: Signature: _____ Date: / /
Signed by:	Complainant: Respondent:

This record and any notes must be kept in a confidential and safe place. Do not enter it on a computer system. If the complaint is of a serious nature, or is escalated to and/or dealt with at the next level, the original must be forwarded to the higher body (ie. Netball Australia or Member Organisation) and a copy kept at the Member Organisation or Affiliate (whatever level the complaint was made).

C3: CONFIDENTIAL RECORD OF CHILD ABUSE ALLEGATION

Before completing this form, please ensure that the steps outlined at Attachment B4 have been followed and advice has been sought from the police and/or relevant child protection agency.

Complainant's Name (if other than the child)	Name:	Date Formal Complaint Received: / /
Role/status in netball		
Child's name	Age:	
Child's address		
Person's reason for suspecting abuse (e.g. observation, injury, disclosure)		
Role/status in netball	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Athlete/player <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid)	<input type="checkbox"/> Official <input type="checkbox"/> Other (who is also bound by the Policy): _____ _____
Witnesses (if more than 3 witnesses, attach details to this form)	Name (1): Contact details: Name (2): Contact details: Name (3): Contact details:	
Interim action (if any) taken (to ensure child's safety and/or to support needs of respondent)		
Police contacted	Who: When: Advice provided:	
Child protection agency contacted	Who: When: Advice provided:	
CEO contacted	Who: When:	

Police investigation (if any)	Finding:
Child protection agency (if any)	Finding:
Internal investigation (if any)	Finding:
Action taken	
Completed by	Name: Position in Netball Australia/Member Organisation/Affiliate: Signature: Date: / /
Signed by	Complainant (if not a child)

This record and any notes must be kept in a confidential and safe place. If required, the form should be provided to the police and/or relevant child protection agency.

C4: RECORD OF MEDIATION

Present at Mediation	
Date of mediation	
Venue of mediation	
Mediator	
Summary of mediation (minutes attached)	
Outcome of mediation	
Completed by (signature)	
Signed by	Complainant (signature) Respondent (signature)

This record and any notes must be kept in a confidential and safe place. A copy should be retained by Netball Australia, the Member Organisation or Affiliate (whatever level the complaint was made).

C5: RECORD OF EVIDENCE COLLECTION PROCESS

Date evidence process commenced:	
Date evidence process finalised:	
Name of Complainant:	
Brief details of Complaint received:	Date: Overview:
Name of Respondent(s):	
Details of written Response received from Respondent(s):	Date: Overview:
Details of further evidence collected from Complainant (if applicable)	Date: Method of evidence collection: <input type="checkbox"/> in person <input type="checkbox"/> telephone <input type="checkbox"/> in writing Details:
Details of further evidence collected from Respondent(s) (if applicable)	Date: Method of evidence collection: <input type="checkbox"/> in person <input type="checkbox"/> telephone <input type="checkbox"/> in writing Details:
Number of witnesses:	
Details of evidence collected from witness (if applicable) **Note: repeat this section for each witness	Date: Method of evidence collection: <input type="checkbox"/> in person <input type="checkbox"/> telephone <input type="checkbox"/> in writing Details:

Date evidence process commenced:	Name: _____ Name: _____ Name: _____ Name: _____ Name: _____ Name: _____ Name: _____ Name: _____
Method of Hearing	<input type="checkbox"/> On the papers OR <input type="checkbox"/> Hearing
Hearing Tribunal Date and venue (if applicable)	
Hearing Tribunal Decision (attach report)	<input type="checkbox"/> Complaint substantiated(or part of complaint) OR <input type="checkbox"/> Unsubstantiated
Date of decision:	
Penalty Proposed (if applicable)	
Decision reviewed on basis of procedural failings (if applicable)	Date review lodged: <input type="checkbox"/> Review approved <input type="checkbox"/> Review denied
Final Penalty	
Completed by	Name: Position in Netball Australia/Member Organisation/Affiliate: Signature: _____ Date: / /
Signed by:	Complainant: Respondent:

his record and any notes must be kept in a confidential and safe place. A copy should be retained by Netball Australia, the Member Organisation or Affiliate (whatever level the complaint was made).

ATTACHMENT D: GUIDELINES FOR COMPLAINT MANAGERS UNDERTAKING EVIDENCE COLLECTION PROCESS

What is the aim of the Evidence Collection Process?

- The aim of the Evidence Collection Process is to collect further information that will assist the Hearings Tribunal to determine the most appropriate way to deal with a complaint.
- You are not required to make any decisions in relation to the value or merits of the evidence collected in this process. You should not discuss your opinions or conclusions with any person while the evidence collection process is underway.
- Your role is to remain neutral and never appear to take sides. Your focus should be on collecting information that is relevant to the factual circumstances of the complaint.

1. Step 1 – Assess the complaint

- 1.1 Before speaking with any other parties mentioned in the complaint, it is important that you review the complaint closely yourself.
- 1.2 In doing this, you should think carefully about what further information you require in order to obtain a clearer understanding of the circumstances of the complaint.
- 1.3 Relevant factors are as follows:
 - (a) ascertain the key facts relevant to the complaint (identify the relevant information by answering who, what, when, where, why);
 - (b) identify the part of the Member Protection Policy that the complainant alleges has been breached;
 - (c) identify whether there are any gaps that make the complaint difficult to understand;
 - (d) identify possible witnesses to the complaint and if/how they are contactable;
 - (e) identify whether any physical or documentary evidence is likely to be available and where/with who that evidence is located (e.g. emails, letters, text messages, damaged property etc); and
 - (f) consider whether the complaint indicates a systematic problem or is part of a series of complaints that indicates a pattern of conduct.

2. Step 2 – Plan the Evidence Collection Process

- 2.1 If the facts are particularly complicated, it can be useful to prepare a chronology of events. More witnesses may also be required to be interviewed/provide statements in these circumstances to clarify the facts.

3. Step 3 – Consider collecting evidence from Complainant

- 3.1 Generally, if further evidence is required from the complainant to clarify the allegations in the complaint, it is usually best to collect that evidence first.
- 3.2 The reason for this is that you will then be able to put a clearer set of facts to which the respondent(s) can respond.
- 3.3 When dealing with the complainant, it is important to manage their expectations to ensure that they are based on a realistic understanding of what outcomes can be achieved under the Complaint Handling Guidelines.

4. Step 4 – Request a response from the Respondent(s)

- 4.1 After obtaining further evidence from the complainant (if applicable), a copy of the complaint and any further evidence gathered from the complainant should then be provided to the respondent for comment.
- 4.2 Ideally, you should ask the respondent(s) to provide a written response within 7 days of receipt of the documents.
- 4.3 The complainant should be provided with a copy of the respondent(s)' response when it is received.
- 4.4 Where the response contains allegations against the complainant or another person, that person should also be given an opportunity to provide a written response.

5. Step 5 – Collecting evidence from witnesses

- 5.1 Where there is a clear dispute over the facts, statements from witnesses or other relevant evidence may be required.
- 5.2 Witnesses should be contacted via phone or email and asked to provide their version of events in writing within 7 days.
- 5.3 If, after receiving a witness's statement of events, you require further information, you may consider meeting with the witness or calling them to get a better explanation of their recollection.
- 5.4 Any person who is interviewed in person or by phone and who is below the age of 18 years is required to have a parent or guardian present.
- 5.5 Any tangible evidence relevant to the complaint should be collected and stored securely. You should also record how you came to obtain that evidence.

6. Step 6 – Provide evidence and Record of Evidence Collection Process to Hearings Tribunal

- 6.1 Once the evidence collection process has been finalised, you should complete the Record of Evidence Collection Process at Attachment C5.
- 6.2 This Record of Evidence should be provided to the Hearings Tribunal along with a copy of all the evidence collected.
- 6.3 The Record of Evidence should not make any recommendations as to how the Hearings Tribunal should proceed.

Guide to Conducting fact to face and phone interviews

1. At the commencement of an interview, you should begin with a brief introduction as to the purpose of the discussion and advise the witness that you will be taking notes during the meeting for the purposes of creating a witness statement.
2. You should advise the witness that the information they provide will be treated confidentially so far as is possible and will only be shared with others (including the complainant/respondent(s)) on a limited "need to know basis".
3. You should consider what the purpose of the meeting with each witness is and tailor the questions you ask for that purpose, limiting the information revealed about the situation to the greatest extent possible.
4. Listen carefully and follow up on all matters that arise during the discussion-- even unexpected ones. Try to avoid being overly focused on a list of questions to the extent that it prevents the witnesses from revealing other points that may turn out to be relevant.
5. You should encourage the witness to contact you after the interview if they think of anything else that might be relevant to the complaint.
6. At the end of the discussion, remind the witness of the importance of confidentiality.
7. Tell the witness that you will be drafting a document based on what they told you and will provide it to them to review shortly.

ATTACHMENT E: GUIDELINES FOR HEARING TRIBUNAL MEMBERS

These guidelines have been prepared to assist a person appointed by a Complaint Manager as a member of a Hearings Tribunal to:

- follow the Hearings Tribunal Process under Attachment B5;
- impose a penalty under Attachment B6; and
- complete the Record of Hearing Tribunal Decision under Attachment C6.

1. Prior to the Hearing

- 7.1 As a member of the Hearings Tribunal, you should first review the information gathered by the Complaint Manager in the Evidence Collection Process and prepare a list of questions in advance of the hearing.
- 7.2 The Hearings Tribunal should then notify the complainant and respondent(s) in writing that a hearing will be held to deal with the complaint.
- 7.3 It is a good idea to provide the parties with the following information in writing prior to the hearing:
- (a) full details of the allegations made in the complaint.
 - (b) copies of relevant statements, the complaint/response(s) and any other relevant paperwork.
 - (c) advise of the date, time and place of the hearing (a reasonable time frame would be between 1-2 weeks from the date of the letter to give the parties a chance to prepare).
 - (d) advise of who will be at the hearing and the basic format to be followed.
 - (e) provide contact details for the person to confirm attendance and whether or not they will be bringing any witnesses.

2. Commencing the Hearing

- 2.1 You, or the other member of the Hearings Tribunal should welcome and introduce all parties and their roles within the meeting (if one party is a minor or has been granted a representation exemption, please see notes at the end of these Guidelines).
- 2.2 It is often useful to read the complaint out loud and ask the parties to confirm that they have had a chance to consider the complaint and are happy to proceed.
- 2.3 You should then explain that the purpose of the hearing is to:
- (a) discuss the complaint and the alleged breaches of the Policy;
 - (b) listen to both parties version of events;
 - (c) cross-examine both the parties and any other witnesses;
 - (d) consider any other available evidence; and
 - (e) decide what, if any, disciplinary measures should be imposed under Attachment B6.

3. Adducing evidence from the parties at the Hearing

- 3.1 Usually, the complainant should firstly be asked to recall in their own words what happened.
- 3.2 The respondent(s) should then be given an opportunity to respond to any remarks made by the complainant.
- 3.3 After all parties have had an opportunity to speak, you should summarise the position of each party.
- 3.4 You should then ask the complainant and respondent(s) any questions you have in relation to the evidence they have given (either written or oral) so that you can better understand the facts.

4. Managing witnesses at the Hearing

- 4.1 You should then ask if either party has any witnesses who they would like to give evidence.
- 4.2 In the event that there are witnesses, the complainant's witnesses should go first, followed by the respondents.

- 4.3 You may ask a witness questions at any stage during the hearing, however it is usually best to hold your questions until the end of their testimony so that they do not lose their train of thought or get confused.

5. Concluding the Hearing

- 5.1 Once all witnesses have provided their evidence, you should ask if any person has any final comments before the hearing is concluded.
- 5.2 You should then explain that the hearing will be adjourned for the members to confer and make a decision.
- 7.4 You should advise the parties of the approximate date they should expect a decision by and that in the event that the complaint is substantiated, a proposed penalty will also be issued with the decision.

6. Making a Decision

- 6.1 Following the hearing, both members of the Hearings Tribunal should discuss the evidence presented and either:
- (a) substantiate the complaint; or
 - (b) unsubstantiated the complaint.
- 6.2 The decision should be communicated to the relevant parties in writing in accordance with Attachment B5.

7. Considerations when imposing a proposed penalty

- 7.1 Where a decision is made to substantiate a complaint, you are also responsible for issuing a proposed penalty with the decision.
- 7.2 When considering what penalty is appropriate in the circumstances, the following factors may be considered:
- (a) nature and seriousness of the behaviour, conduct or incidents;
 - (b) the wishes of the complainant (where appropriate);
 - (c) if the individual concerned knew or should have known that the behaviour was a breach of the Policy;
 - (d) level of contrition of the respondent(s);
 - (e) the effect of the proposed disciplinary action on the respondent(s) including any personal, professional or financial consequences;
 - (f) if there have been relevant prior warnings or disciplinary action involving similar conduct;
 - (g) the ability to enforce discipline if the person is a parent or spectator (even if they are bound by the Policy); and/or
 - (h) if there are any mitigating circumstances such that the respondent(s) shouldn't be disciplined at all or not disciplined so seriously.

- 7.3 Where a Level 3 penalty is proposed, you must contact the CEO or Executive of the Member Organisation most closely associated with the complaint to confirm that they consider the proposed penalty to be appropriate in the circumstances.

- 7.4 You should advise the complaint and respondent(s) that they may make submissions in relation to the proposed penalty in writing within 7 days.

8. Finalising the proposed penalty

- 8.1 You should then review and consider any further information received, once again taking into account

the factors outlined above at point 7.2.

- 8.2 You may contact the parties and request further information in relation to the proposed penalty if required.
- 8.3 As soon as practicable, once you have reviewed any information provided in relation to the proposed penalty, you are required to make a decision as to whether the proposed penalty will be:
 - (a) confirmed; or
 - (b) amended.
- 8.4 You are required to advise the parties and the Complaint Manager in writing of the final penalty and confirm that the complaint has been finalised.
- 8.5 Please ensure the outcome is recorded using the Record of Hearing Tribunal Decision (Attachment C6) and stored securely in accordance with Australian privacy principle with all correspondence, paperwork and materials relevant to the complaint.

