



POLICY



MEMBER DISCIPLINARY POLICY

Version: 1.2020

Approved by CEO on: 22-10-2020

Policy Type: Strategic

Approved by Board on: 9-11-2020

Responsible Person: Stakeholder
Manager

Scheduled review date: September 2021

Creation Date: January 2020

1. Purpose

The purpose of this document is to outline the Disciplinary Policy and related procedures that are to be used by Netball WA to deal with disciplinary actions and matters against Members under **Rule 11** of the Constitution.

2. Applicability

This document applies to all Netball WA Members, Netball WA and the Netball WA Board.

For the avoidance of doubt, the procedure set out in this Policy shall not apply to any incident or matter to which other policies of Netball WA or Netball Australia apply. Any disciplinary matter which may be dealt with in accordance with other policies (including, but not limited to, the Member Protection Policy and the Integrity Framework Policies) shall be dealt with in accordance with the disciplinary procedure set out in that policy.

This Policy does not impose any contractual obligations on Netball WA, is not incorporated into, and does not form part of, any contract between Netball WA and anyone to whom this Policy applies.

3. Definitions

The below terms have the following meanings unless otherwise stated in this Policy:

Appeals Officer means the person appointed to this role under **Rule 5** of this Policy. **Appeals**

Tribunal means the group appointed to this role under **Rule 5** of this Policy. **Appellant** means a person who had made an appeal under **Rule 5** of this Policy.

Board means the Netball WA Board.

Constitution means the Netball WA Rules of Association.

Member means any Member of Netball WA under the Constitution.

Member Entity means all Associations, Clubs, Associates and other approved Members of Netball WA, excluding Individual and Life Members.





Policy means this Disciplinary Policy.

Respondent means the Member who is the subject of disciplinary proceedings under this Policy.

Reviewer means the person appointed by the Netball WA Board under **Rule 1** of this Policy.

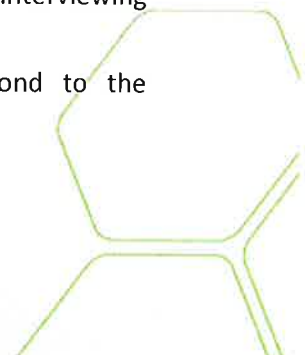
4. Responsibilities

The Netball WA Board is responsible for ensuring the implementation of this Policy, including delegating the responsibility of management of this Policy.

5. The Policy

5.1 Commencement of Disciplinary Proceedings

- 5.1.1 The Board must appoint a Reviewer for the purpose of carrying out **Rule 5.2** of this Policy on their behalf.
 - 5.1.1.1 The Reviewer may hold another position within Netball WA and/or its Member Entities.
 - 5.1.1.2 As far as is possible, the Reviewer should not have a conflict of interest in the matter to be considered by appeal.
- 5.1.2 The Board may delegate to the Reviewer the purpose of carrying out **Rules 5.1.4 and 5.1.5** of this Policy.
- 5.1.3 Any action being taken by a delegated Reviewer, or outcomes of a decision, must be reported to the Board as soon as is practicable, including details of the decision-making process.
- 5.1.4 Where the Board is advised or considers that a Member of Netball WA has allegedly:
 - 5.1.4.1 Breached, failed, refused or neglected to comply with a provision of the Constitution, policies or any resolution or determination of the Board; or
 - 5.1.4.2 Acted in a manner unbecoming of a Member or prejudicial to the objects and interests of Netball WA and/or the sport of netball; or
 - 5.1.4.3 Brought Netball WA or the sport of netball into disrepute; the Board may commence, or cause to be commenced, disciplinary proceedings against that Member in accordance with this Policy.
- 5.1.5 If the Board determines that disciplinary proceedings are to be commenced against a Member, the Board may take the steps it considers necessary to:
 - 5.1.5.1 Obtain information about the alleged conduct that is the subject of the disciplinary process, including but not limited to undertaking an investigation, reviewing relevant documentary material or interviewing relevant witnesses;
 - 5.1.5.2 Provide the Respondent with an opportunity to respond to the allegations that are the subject of the disciplinary process;





5.1.5.3 Determine whether or not the alleged conduct the subject of the disciplinary process occurred; and

5.1.5.4 Determine what, if any, disciplinary action to take against the Respondent.

5.1.6 **Rule 5.2** must be followed by the Reviewer if **Rule 5.1.2** is actioned by the Reviewer or the Board. **Rule 5.2** is not exhaustive and the Board or the Reviewer may take further steps as are considered necessary and/or appropriate in the circumstances.

5.1.7 The Board or Reviewer may implement any interim administrative or other arrangements, within reason, that will apply until the disciplinary process is completed.

5.1.8 Any person may make a report under this Policy.

5.1.9 Where a report is to be made under this Policy by a person who is not a Netball WA Board Member, the report should be made to the Reviewer.

5.2 Decision Making Procedures

5.2.1 The Reviewer shall serve on the Respondent a notice in writing:

5.2.1.1 Setting out the alleged conduct of the member that has given rise to the disciplinary process;

5.2.1.2 Stating that the Respondent may address the Reviewer at a meeting to be held in relation to the matter;

5.2.1.3 Stating the date, place and time of that meeting, including who will be in attendance, and;

5.2.1.4 Informing the Respondent that they may do one or more of the following:

5.2.1.4.1. Attend that meeting;

5.2.1.4.2. Give the Reviewer, before the date of the hearing, a written statement regarding the alleged conduct.

5.2.2 At the meeting, the Reviewer shall give the Respondent an opportunity to respond to the alleged conduct that is the subject of the disciplinary process.

5.2.3 Netball WA and the Respondent shall not be entitled to legal representation at the meeting.

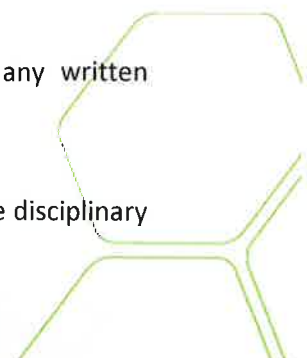
5.2.4 The meeting shall be conducted in whatever manner the Reviewer considers appropriate in the circumstances (including by way of teleconference, video conference, in person meeting or otherwise) provided that they do so in accordance with the principles of natural justice.

5.2.5 Following the meeting, the Reviewer shall:

5.2.5.1 Give consideration, to the Respondent's response and any written statement submitted by the Member;

5.2.5.2 Determine whether the alleged breach occurred; and

5.2.5.3 Notify the Respondent and the Board of the outcome of the disciplinary process.





- 5.2.6 If the Respondent refuses or fails to respond to the allegations in writing and refuses or fails to attend the meeting, the Reviewer may proceed to determine whether the alleged breach occurred in the absence of the Respondent's response.
- 5.2.7 If the Reviewer considers that the alleged breach occurred, they may impose any one or more of the penalties set out in Rule 5.4 of this Policy.
- 5.2.8 If the Reviewer considers that the alleged breach did not occur then the matter shall be dismissed, and the Reviewer shall notify the Board of the decision.
- 5.2.9 Each party shall be responsible for their own costs associated with the meeting. The Reviewer has no power to award costs to a party.

5.3 Improper Reports and Victimisation

- 5.3.1 Netball WA recognises the importance of a procedure that has integrity and is free from unfair repercussions or victimisation against those who are making or supporting a report under the Policy.
- 5.3.2 Disciplinary measures may be imposed on anyone who victimises another person for making a report or supporting another person's report.
- 5.3.3 Any person covered by this Policy who is found to have knowingly made an untrue report, vexatious or malicious report may be subject to disciplinary action.

5.4 Penalties

- 5.4.1 A penalty may be issued by the Reviewer when a report, or part of a report, is substantiated under 5.2 of this Policy.
- 5.4.2 The Reviewer must communicate the penalties, if any, in writing to the Respondent and the Board.
- 5.4.3 If the Board or the Reviewer considers that the alleged breach occurred, any one or more of the following penalties may be imposed:
 - 5.4.3.1 A warning;
 - 5.4.3.2 A fine against the Member;
 - 5.4.3.3 Where there has been damage to property, direct that the Member pay the compensation to the relevant organisation which controls or has possession of the property.
 - 5.4.3.4 Cease funding granted or given to the Member by Netball WA from a specified date;
 - 5.4.3.5 Suspend the Member for a specified period and/or terminate any rights, privileges and benefits provided to that Member by Netball WA;
 - 5.4.3.6 Cease to sanction events held by or under the auspices of that Member;
 - 5.4.3.7 Reprimand the Member or direct that the Member attend counselling or training to address the conduct;



- 5.4.3.8 Suspend the Member from membership of Netball WA, or from their employment or engagement by Netball WA, for a specified period;
- 5.4.3.9 Expel the Member from membership of Netball WA or terminate the employment or engagement of the Member with Netball WA;
- 5.4.3.10 Where it is determined that a significant issue of management that is the subject of the disciplinary proceedings cannot be resolved immediately or in the short term, direct the operations of the Member Entity for a defined period of time; or
- 5.4.3.11 Any other such penalty as the Reviewer or Board considers appropriate.
- 5.4.4 The penalty to be imposed on the Respondent may depend on factors such as:
 - 5.4.4.1 The nature and seriousness of the breach;
 - 5.4.4.2 If the person knew, or should have known, that the behaviour was a breach of this Policy;
 - 5.4.4.3 The person's level of contrition;
 - 5.4.4.4 The effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences;
 - 5.4.4.5 If there have been any relevant prior warnings or disciplinary action;
 - 5.4.4.6 Any other mitigating circumstances.

5.5 Appeals

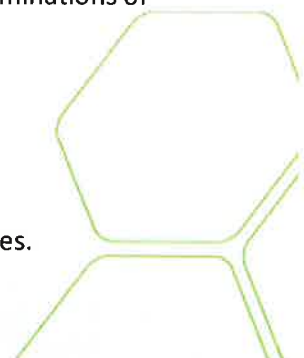
- 5.5.1 The Netball WA Board shall appoint an officer ('the Appeals Officer') to be responsible for the receipt of appeals arising from a decision of the Board or the Reviewer and to carry out the duties in connection with any such appeals.
 - 5.5.1.1 The Appeals Officer may hold another position within Netball WA and/or its Member Entities.
 - 5.5.1.2 As far as is possible, the Appeals Officer should not have a conflict of interest in the matter to be considered by appeal.
- 5.5.2 There shall be no appeal from a decision of the Reviewer or the Netball WA Board unless the person seeking to appeal ('the Appellant') satisfies the Appeals Officer, in the Appeals Officer's sole discretion, that:
 - 5.5.2.1 Significant new or additional evidence has become available; or
 - 5.5.2.2 The severity of the sanction can be demonstrated to be excessive; or
 - 5.5.2.3 There has been a failure of natural justice.
- 5.5.3 The Appellant must:
 - 5.5.3.1 Lodge with the Appeals Officer a notice stating the full details of the charges and results thereof and stating, in full, the grounds of appeal ('Notice of Appeal'). This lodgement should be within 5 days of the notification of a determination made by the Reviewer or the Netball WA Board and should use any form prescribed by Netball WA for this purpose.



- 5.5.4 The Appellant shall be notified by the Appeals Officer within 3 days of the receipt of the Notice of Appeal whether an appeal hearing is to be granted and, if an appeal hearing is granted, the time, date and location of the appeal hearing.
- 5.5.5 If an appeal is granted, the Appeals Officer shall convene an Appeals Tribunal to hear and determine the appeal, with the appeals hearing to be held within 14 days of the receipt of the Notice of Appeal.
- 5.5.6 Where a granted appeals hearing is not held within 14 days of the receipt of the Notice of Appeal, any sanction imposed by the Netball WA Board or the Reviewer shall be suspended until the appeal hearing is held.
- 5.5.7 An Appeals Tribunal shall consist of 3 people appointed by Netball WA from time to time to hear appeals as required by Netball WA.
- 5.5.8 Netball WA must not appoint any people who were involved in the original hearing of the matter which is the subject of the appeal.
- 5.5.9 The Appeals Tribunal chairperson shall be nominated by the Appeals Officer.

5.6 Proceedings of Appeals Tribunal

- 5.6.1 The Appeal Tribunal and persons appearing before it, are bound by the same procedures under this Policy in **Rule 5.2** as if the Appeals Tribunal was hearing a matter at first instance.
- 5.6.2 The Appeals Officer shall forward records of any meetings or decision-making processes in which the matter the subject of the appeal was heard at first instance to the chairperson of the Appeals Tribunal.
- 5.6.3 The Appeals Tribunal shall have the discretion to conduct the hearing as a complete re-hearing or to limit the hearing to consideration of the ground(s) of appeal relied upon by the Appellant according to their Notice of Appeal.
- 5.6.4 An Appeals Tribunal shall have the power to:
 - 5.6.4.1 Dismiss the appeal;
 - 5.6.4.2 Uphold the appeal;
 - 5.6.4.3 Impose any of the penalties set out in this Policy; or
 - 5.6.4.4 Reduce, increase or otherwise vary any penalty imposed by the initial decision, in such a manner as it thinks fit.
- 5.6.5 The Appeals Tribunal is obligated to give written reasons for its decision.
- 5.6.6 At the conclusion of the appeal, the chairperson of the Appeals Tribunal shall ensure that the following people are correctly informed of the determinations of the Appeals Tribunal:
 - 5.6.6.1 The Appellant;
 - 5.6.6.2 The Appeals Officer; and
 - 5.6.6.3 Netball WA.
- 5.6.7 The decision of the Appeals Tribunal is final and binding on the parties.





5.7 Costs

Each party to a proceeding under this Policy shall bear their own costs.

5.8 Exhaust Internal Appeal

A Member must exercise their right of appeal under this Disciplinary Policy and have any appeal heard and determined by the Appeals Tribunal before commencing any proceedings or becoming a party to any proceedings in a court of law, the State Administrative Tribunal, the Court of Arbitration for Sport, or other external organisation.

5.9 Relationship with Criminal Matters

5.9.1 If, during a Disciplinary or Appeals Tribunal hearing or an investigation under this Policy, it becomes known that a criminal charge has been brought (as opposed to just the subject of police investigation) arising out of the actions that are the subject of the hearing, appeal, or investigation, then the Disciplinary or Appeals Tribunal or Reviewer may rule that further action be deferred until the completion of the criminal charge.

5.9.2 In making a determination under **Rule 5.8**, the Disciplinary or Appeals Tribunal or Reviewer shall have regard to the need of ensuring the ongoing safety of players, umpires, coaches and other persons involved in Netball WA and related Member Entities.

6. Changes to This Policy

This Policy may be cancelled, amended or supplemented by the NWA CEO as and when it sees fit. Any variation or amendment will be given in writing by the CEO of NWA. This Policy will be reviewed annually as per the Netball in WA Policy Development Guidelines.

7. Related Documents

Netball WA Membership Policy

8. Authorisation


Chief Executive Officer
Netball WA

Date: 9 November 202





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