



PRINCIPAL PARTNER



POLICY



MEMBER DISCIPLINARY POLICY

Creation Date: January 2020	Approved by CEO on: 31 March 2022
Version: 2.2	Approved by Board on: 28 March 2022
Policy Type: Strategic	Scheduled review date: March 2023
Responsible Person: General Manager Community Netball	Reviewed Date: 28 March 2022

1. Purpose

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

2. Applicability

This Policy applies to all the following people & organisations, whether they are operating in a paid or unpaid/voluntary capacity:

- NWA and its Members;
- the NWA Board;
- Member Entities and their Members;
- All employees, volunteers, independent contractors, spectators and other participants of NWA activities;
- Non-Members i.e., parents, guardians, spectators and sponsors and any other person or organisation to the fullest extent possible;
- Any other person who has agreed to be bound by this Policy.

This Policy applies:

- At any NWA or Member Entity competition or event;
- During any paid or volunteer activities of NWA;
- During all netball related activities of NWA, including competitions, training events and camps;
- At all times when providing services on behalf of NWA or a Member Entity, and;
- At all times when acting in any capacity, whether voluntary, paid or unpaid, on behalf of NWA or a Member Entity.



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 NWA 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.

Where possible, any grievance or disciplinary matter in the first instance should be dealt with through the NWA Grievance Policy.

This Policy does not impose any contractual obligations on NWA, is not incorporated into, and does not form part of, any contract between NWA 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 NWA Board.

CEO means the Chief Executive Officer of NWA.

Constitution means the NWA Rules of Association.

Executive means the Executive management team of NWA as determined by the CEO from time to time.

Member means any Member of NWA under the Constitution.

Member Entity means all Associations, Clubs, Associate Members and other approved Members of NWA, excluding Individual and Life Members.

Non-Member means any individual at a NWA competition or event that is not a Member of NWA under its constitution.

Policy means this Disciplinary Policy.

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

Tribunal Panel means the people appointed by the NWA Executive under **Rule 5.1.3** of this Policy.





4. Responsibilities

The NWA Executive 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 Where the Executive is advised or considers that a Member or Non-Member has allegedly:
 - 5.1.1.1 Breached, failed, refused, or neglected to comply with a provision of the Constitution, policies or any resolution or determination of NWA; or
 - 5.1.1.2 Acted in a manner prejudicial to the objects and interests of NWA and/or the sport of netball; or
 - 5.1.1.3 Brought NWA or the sport of netball into disrepute; the Executive may commence, or cause to be commenced, disciplinary proceedings against that Member or Non-Member in accordance with this Policy.
- 5.1.2 If the Executive determines that disciplinary proceedings are to be commenced against a Member or Non-Member, the Executive may take the steps it considers necessary to:
 - 5.1.2.1 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;
 - 5.1.2.2 Provide the Respondent with an opportunity to respond to the allegations that are the subject of the disciplinary process;
 - 5.1.2.3 Determine whether or not the alleged conduct the subject of the disciplinary process occurred; and
 - 5.1.2.4 Determine what, if any, disciplinary action to take against the Respondent.
- 5.1.3 The Executive may delegate to a Tribunal Panel the purpose of carrying out **Rule 5.1.2** of this Policy.
 - 5.1.3.1 The Tribunal Panel shall consist of people appointed by the Executive.
 - 5.1.3.2 The Disciplinary Hearing chairperson shall be appointed by the Executive out of the members of the Tribunal Panel.
 - 5.1.3.3 Tribunal Panel members may hold another position within NWA and/or its Member Entities.
 - 5.1.3.4 As far as is possible, Tribunal Panel members should not have a conflict of interest in the matter to be considered by appeal.
- 5.1.4 **Rule 5.2** must be followed by the Tribunal Panel if **Rule 5.1.2** is actioned by the Tribunal Panel or the Executive. **Rule 5.2** is not exhaustive and the Executive or the Tribunal Panel may take further steps as are considered necessary and/or appropriate in the circumstances.



- 5.1.5 The Executive or the Tribunal Panel may implement any interim administrative or other arrangements, within reason, that will apply until the disciplinary process is completed.
- 5.1.6 Any person may make a report under this Policy.
- 5.1.7 Where a report is to be made under this Policy by a person who is not a member of the NWA Executive, the report should be made to the Tribunal Panel.

5.2 Decision Making Procedures

- 5.2.1 The Tribunal Panel shall serve on the Respondent a notice in writing:
 - 5.2.1.1 Setting out the alleged conduct of the person that has given rise to the disciplinary process;
 - 5.2.1.2 Stating that the Respondent may address the Tribunal Panel at a Disciplinary Hearing to be held in relation to the matter;
 - 5.2.1.3 Stating the date, place and time of that Disciplinary Hearing, 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 Hearing;
 - 5.2.1.4.2. Give the Tribunal Panel, before the date of the Disciplinary Hearing, a written statement regarding the alleged conduct.
- 5.2.2 At the Disciplinary Hearing, the Tribunal Panel shall give the Respondent an opportunity to respond to the alleged conduct that is the subject of the disciplinary process.
- 5.2.3 NWA and the Respondent shall not be entitled to legal representation at the meeting.
- 5.2.4 The Hearing shall be conducted in whatever manner the Tribunal Panel 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 Hearing, the Tribunal Panel shall:
 - 5.2.5.1 Give consideration, to the Respondent's response and any written statement submitted;
 - 5.2.5.2 Determine whether the alleged breach occurred; and
Notify the Respondent and the **Executive** 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 Tribunal Panel may proceed to determine whether the alleged breach occurred in the absence of the Respondent's response.



- 5.2.7 If the Tribunal Panel 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 Tribunal Panel considers that the alleged breach did not occur then the matter shall be dismissed, and the Tribunal Panel shall notify the Executive of the decision.
- 5.2.9 The Tribunal Panel is empowered to alter or add to the initial charge or to substitute an entirely new charge based on facts reported in the initial charge.
- 5.2.10 The Respondent, Member, or Non-member should then be given the opportunity of answering that charge. An adjournment of the proceedings, if sought, may be granted if necessary.
- 5.2.11 Each party shall be responsible for their own costs associated with the meeting. The Tribunal Panel has no power to award costs to a party.

5.3 Improper Reports and Victimisation

- 5.3.1 NWA 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 Tribunal Panel when a report, or part of a report, is substantiated under **5.2** of this Policy.
- 5.4.2 The Tribunal Panel must communicate the penalties, if any, in writing to the Respondent and the Executive.
- 5.4.3 If the Executive or the Tribunal Panel 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 or Non-member;
 - 5.4.3.3 Where there has been damage to property, direct that the Member or Non-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 or Non-member by NWA from a specified date;
 - 5.4.3.5 Suspend the Member or Non-member for a specified period and/or terminate any rights, privileges and benefits provided to that Member or Non-member by NWA;



- 5.4.3.6 Cease to sanction events held by or under the auspices of that Member or Non-member;
 - 5.4.3.7 Reprimand or direct that the Member or Non-member attend counselling or training to address the conduct;
 - 5.4.3.8 Suspend the Member from membership of NWA, or suspend the Member or Non-member from their employment or engagement by NWA, for a specified period;
 - 5.4.3.9 Expel the Member from membership of NWA or terminate the employment or engagement of the Member or Non-member with NWA;
 - 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 Tribunal Panel or Executive 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 NWA Executive shall appoint an officer ('the Appeals Officer') to be responsible for the receipt of appeals arising from a decision of the Executive or the Tribunal Panel and to carry out the duties in connection with any such appeals.
 - 5.5.1.1 The Appeals Officer may hold another position within NWA 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 Tribunal Panel or the NWA Executive 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 Tribunal Panel or the NWA **Executive** and should use any form prescribed by NWA 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 Executive or the Tribunal Panel shall be suspended until the appeal hearing is held.

5.5.7 An Appeals Tribunal shall consist of 3 people appointed by NWA from time to time to hear appeals as required by NWA.

5.5.8 NWA 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 NWA.
- 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 or Non-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 Tribunal Panel 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 Tribunal Panel shall have regard to the need of ensuring the ongoing safety of players, umpires, coaches and other persons involved in NWA and related Member Entities.



6. Changes to This Policy

This Policy may be cancelled, amended or supplemented by the NWA CEO as and when they see 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](#)

[Netball WA Grievance Policy](#)

[Netball Australia Member Protection Policy](#)

8. Authorisation

A handwritten signature in blue ink, appearing to read "Simone Hansen".

Simone Hansen
Chief Executive Officer
Netball WA

Date: 31 March 2022





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