



# Netball NSW

## Disciplinary Policy

Adopted by New South Wales Netball Association Ltd at its Board Meeting and effective as at 2 January 2019

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## 1 Introduction

The Netball NSW Disciplinary Policy outlines, for Netball, the foundation of how unacceptable conduct is managed within the sport. It illustrates our member's responsibilities, emphasises the significance of our dedicated staff and volunteers, and helps members to deal with unacceptable behaviour.

While all care has been taken in the preparation of this publication, no responsibility is accepted by Netball NSW for any errors, omissions or inaccuracies. This publication is of a general nature only and is not intended to be relied upon, nor as a substitute for, professional advice. No responsibility can or will be accepted by Netball NSW for loss occasioned to any person doing anything as a result of any material in this publication or any person relying on any material in this publication.

### ***Important***

The following points should be borne in mind at all times:

1. Netball NSW is the controlling authority for Netball in NSW and all affiliated clubs/associations are insured under Netball Australia's Risk Protection Program
2. It is essential that you comply with all relevant policies. You and your Affiliate must take all due and reasonable precautions to prevent or mitigate losses. Failure to do so may prejudice your rights and entitlements under Netball Australia's Risk Protection Program. Please do not hesitate to contact Netball NSW should any assistance be required.
3. The preparation of this document is in no way a commitment from Netball NSW to provide funds or make any other contribution now or in the future.
4. Netball NSW policies are living documents which reflect progress in administrative requirements and industry standards. As such, to maintain currency, policies are periodically reviewed and updated. It is important readers ensure they are reading and using the most up to date version. To confirm the current version, please contact Netball NSW at [www.nsw.netball.com.au/inside-netball-nsw/library/policies-forms/](http://www.nsw.netball.com.au/inside-netball-nsw/library/policies-forms/)
5. Netball NSW also welcomes suggestions or improvements to our policies and procedures.

## 2 Definitions

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

**Constitution** means the Constitution of Netball NSW.

**Days** Any reference to days in this Policy is to calendar days, being any day of the week including weekends.

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

**Netball** means the sport or game played under the Rules of Netball determined or adopted from time to time by Netball NSW.

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

**Netball NSW Member Protection Policy** means the Policy adopted by Netball NSW on 2 January 2019, as amended from time to time, which deals with member protection issues. Examples of member protection issues dealt with by the Policy include issues relating to:

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

**Objects** mean the Objects of Netball NSW in clause 3 of the Constitution.

**Participant** means a person who participates, including but not only as officials, coaches, players or umpires, parents, guardians and spectators in a Netball competition organised, controlled or sanctioned by Netball NSW or an Affiliate.

**Rules of Netball** means that the competition will be conducted with reference to the International Netball Federation Official Rules of Netball and International Netball Federation Regulations (INF Rules) as published by the INF from time to time, unless where modified in Netball NSW or its Affiliate's Competition Rules.

**State Act** means the legislation governing the incorporation of associations in NSW, by whatever name called.

### **3 Affiliation and the Disciplinary Policy**

Our primary aim in assisting Affiliates is to provide them with the tools to guide them towards a position of self-sustainability in conjunction with our relevant partners. Along this path we provide Affiliates with information, resources, competition assistance and training opportunities. We are entrusted with ensuring that our volunteers are provided with the most up to date education, training and resources to allow for continued development and retention.

Netball NSW is responsible for providing leadership for our Affiliates; as well as sustainability for the sport in NSW. Our staff are the face of Netball NSW as they are tasked with assisting our Affiliates, implementing development and training programs, assisting in promotion and growth, and liaising with Affiliates.

In supporting all of the Affiliates and Members within NSW, Netball NSW manages, and controls the Disciplinary Policy (and all other policies).

Through this process, Affiliates have the security and understanding that Netball NSW will ensure they have guidance in managing inappropriate behaviour. This helps to provide a safe environment for individuals who participate, the officials that control the game, the administrators and committee members who conduct competitions and all the volunteers who work at varying levels within the structure of the sport.

Affiliates receive many benefits from being part of the structure of state and regional bodies. The support of this structure, when something goes wrong, is the most valuable asset an Affiliate has on its side. The many benefits of affiliation include the protection offered through the Netball Australia Risk Protection Program.

In return for this level of comfort, each Affiliate shall comply with the Constitution and all relevant policies of Netball NSW including this Policy.

#### **3.1 Using the Disciplinary Policy**

The Disciplinary Policy is the formal framework that is provided to members to assist them to deal with unacceptable on-court behaviour. As member entities of Netball NSW, we require Affiliates also to implement and regularly update policies that assist sports to comply with the law and improve the sporting environment.

There may be some overlap between this Policy and the Netball NSW Member Protection Policy, for example a member protection issue may be identified in the on-court behavior which is the subject of the complaint, or in any defence raised to a complaint. In the event this occurs, any Disciplinary Tribunal constituted under this Policy is empowered to also deal with the member protection issue as if it were a tribunal constituted under the Netball NSW Member Protection Policy.

The potential for overlap between this Policy and the Netball NSW Member Protection Policy is recognised in the Netball NSW Complaints, Grievances and Disputes Decision Tree, which is attached to this Policy.

For incidents that are serious in nature, such as fights, brawls and serious intimidation, the first response should be to contact the police for immediate assistance. If the incident leads to criminal charges being brought against a person involved, it may be appropriate for Netball NSW and/or the Affiliate to defer any further disciplinary action until the completion of the criminal proceedings. While the sport has the ability to deal with disciplinary incidents, where laws are broken, the safety of officials, administrators and other competitors is paramount. The police should be allowed to deal with these incidents as they deem appropriate.

In managing these situations proactively here are some hints and tips:

- Clearly communicate expectations around behaviour before a competition occurs
- Ensure Conditions of Entry are in place for a competition, which provides links to the relevant Netball NSW policies
- Outline how issues will be managed and create positive relationships with team contacts or managers
- Using team contacts or managers to influence and manage their people
- Regularly communicate the Codes of Conduct
- Address minor issues immediately so they do not escalate

### **3.2 Engaging Suitably Qualified or Experienced People**

To assist the process of using the Disciplinary Policy, it helps to engage suitably qualified or experienced adults as the Hearings Officer, the Appeals Officer, the Disciplinary Tribunal chairperson, and the Appeal Tribunal Chairperson, and to sit on the Disciplinary Tribunal or Appeal Tribunal panel.

Netball NSW and/or its Affiliate must appoint a Hearings Officer who will carry out the duties and administrative requirements of this Policy.

It is Netball NSW's intention that the disciplinary process be conducted without involving lawyers (and legal costs). Therefore, the Disciplinary Policy states that legal representation is not permitted as a right and only in exceptional circumstances, as determined by the tribunal chairperson.

The chairperson of a tribunal should, if possible, have a form of legal background or be a lawyer or be experienced in chairing tribunals. This Policy contains important processes which need to be followed. Typically, people with this background will be able to readily interpret and implement the Policy.

In terms of other skills sets for tribunal members, people with knowledge of the sport of Netball (or other sports) that can bring insight into how the sport is played, would be helpful but not essential.

Examples of people that may be appropriate to sit on Disciplinary Tribunals are lawyers, barristers, judicial members, paralegals, law students, police officers, teachers and players.

In your local area there may be a number of sports, or nearby Affiliates that could pool their panel members for tribunals. It is essential that the people sitting on the tribunal are independent and do not bring any conflict of interest.

In regard to recruitment of people for tribunals, we suggest that you advertise within your Affiliate, and ask the NSW Law Society and/or Bar Council whether they are aware of any lawyers who may be willing to provide their time free of charge to chair the tribunal. You should provide an estimate of the number of matters and time required to be contributed by tribunal panel members.

As a final word, you must ensure that a person appearing before a Disciplinary Tribunal is given a fair process and fair hearing – or, in other words, "natural justice".

### **3.3 Applying Natural Justice**

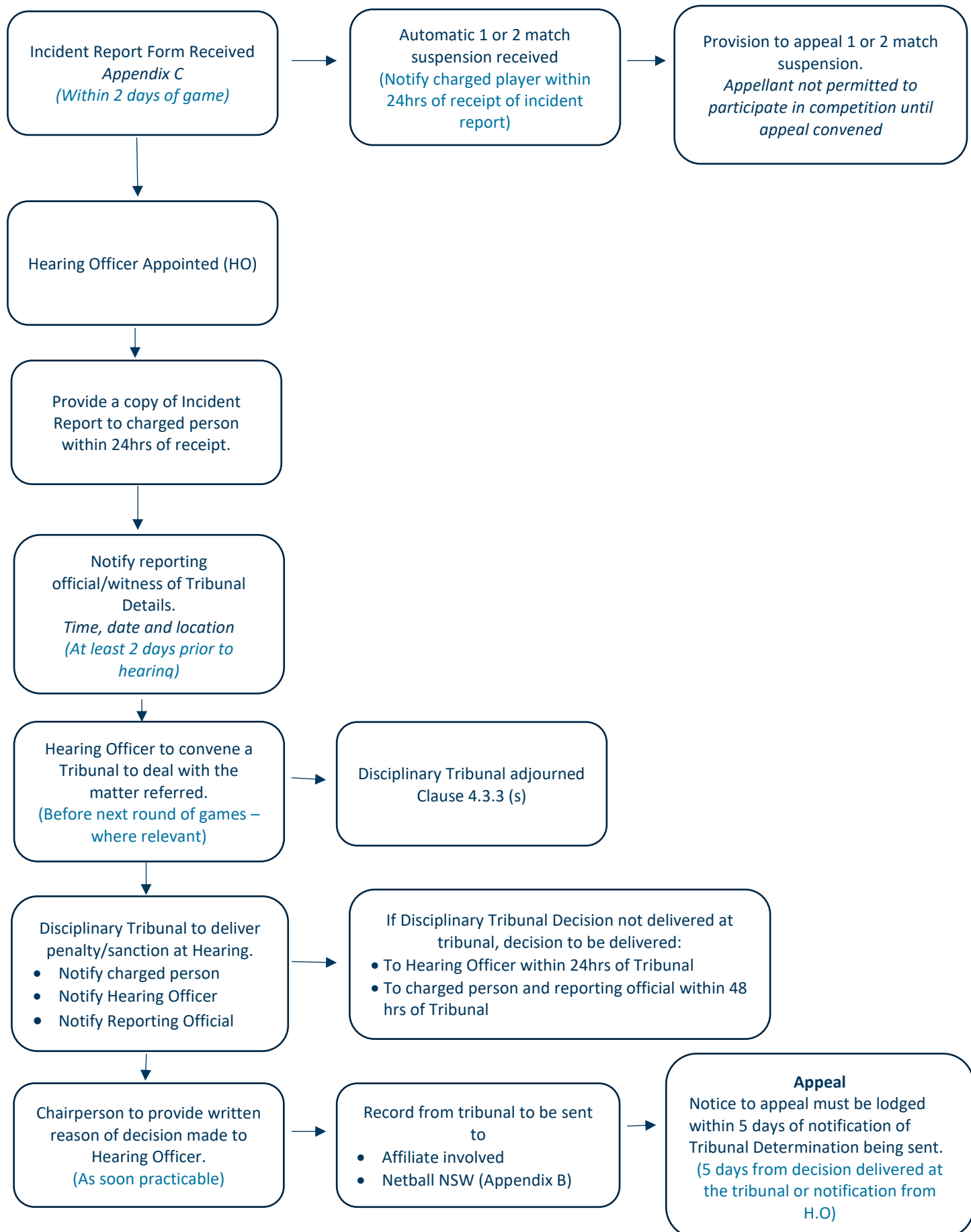
Natural justice, also known as procedural fairness, is a requirement of a fair disciplinary process. Failure to provide natural justice may provide the person who is the subject of the disciplinary proceedings with a reason to challenge the findings of a tribunal.

Natural justice (or procedural fairness), involves three rules or principles:

- ensuring that the person has the right to be heard and that they are provided with and have the right to respond to, any information presented or considered in reaching a decision
- ensuring that any decision made is free from bias, and
- ensuring that any decision is made after a reasonable investigation into the issue has been conducted and relevant evidence considered

By following this Policy, the requirement to apply natural justice should be satisfied.

## Disciplinary Process Decision Tree





## **4 Netball NSW Disciplinary Policy**

### **4.1 Jurisdiction and Establishment of Tribunal**

#### **4.1.1 Introduction**

- a) This Disciplinary Policy deals with offences which may arise in the conduct of Netball competitions and/or events organised, controlled or sanctioned by Netball NSW and /or its Affiliates (“Netball activity”). This includes any offences which may have occurred before, during or after the Netball Activity, in the confines of the court or venue on which the Netball Activity is conducted or its immediate surrounds or elsewhere if directly related to the relevant Netball Activity (“On-court Offences”).
- b) This Disciplinary Policy applies to all Affiliates, Individual Members of Netball NSW and Participants.
- c) Any and all policies previously made by Netball NSW and /or its Affiliates concerning disciplinary or judiciary tribunals are expressly withdrawn.
- d) Words and phrases in the Constitution of Netball NSW have the same meaning in this Disciplinary Policy and this Disciplinary Policy is to be read in conjunction with (and subject to) the Constitution.

#### **4.1.2 Authority of a Disciplinary Tribunal**

- a) Netball NSW and/or its Affiliates have the right to delegate the power of investigating or determining charges against a Participant for On-court Offences to its Disciplinary Tribunal which is established by this Disciplinary Policy.
- b) It is an offence for any person to:
  - i. breach, fail, refuse or neglect to comply with a provision of:
    - a. the Constitution (as amended from time to time);
    - b. this Policy (as amended from time to time);
    - c. the Netball NSW Codes of Conduct (as amended from time to time);
    - d. the Rules of Netball (as amended from time to time) including any Competition Rules of Netball NSW and/or its Affiliates
    - e. any other resolution or determination of the Board or duly authorised commission or committee;
  - ii. act in a manner unbecoming of a Member or prejudicial to the Objects or the interests of Netball NSW and/or Affiliates; or
  - iii. prejudice Netball NSW and/or Affiliates or bring any of them into disrepute.
- c) Where a person is alleged to have committed an offence as set out in clause (b) above which is to be regarded as an On-court Offence an:

- i. Affiliate and/or
- ii. Netball NSW

may commence or cause to be commenced investigatory and/or disciplinary proceedings against that person, and that person will be subject to and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms set out in this Disciplinary Policy.

All actions taken in this regard are to remain confidential and privacy should be maintained, unless otherwise specified in this Policy.

- d) Where a matter arises for determination by a Disciplinary Tribunal it shall be dealt with at first instance by the Disciplinary Tribunal of the relevant Affiliate in which the alleged offence occurred. Where an Affiliate has not convened a Disciplinary Tribunal in accordance with this Disciplinary Policy, the matter may be considered by Netball NSW which may choose to deal with the matter itself or refer it back to the Affiliate (including any relevant Association of the Affiliate) for action.
- e) A Disciplinary Tribunal shall have power to suspend, disqualify, reprimand, bond, ban, deduct competition points or otherwise deal with any Participant (including, but not limited to, teams, clubs, players, coaches, parents, guardians, spectators, team/club officials and association officials) in accordance with this Disciplinary Policy, regarding any On-court Offence.
- f) A Disciplinary Tribunal is also empowered to deal with any other matter arising out of the On-court Offence the subject of the Disciplinary Tribunal including any member protection issue under the Netball NSW Member Protection Policy.
- g) A Disciplinary Tribunal must at all times act independently and impartially in carrying out its duties in accordance with this Disciplinary Policy.

#### **4.1.3 Membership of Disciplinary Tribunal**

- a) A Disciplinary Tribunal shall be appointed by Netball NSW and/or its Affiliates from time to time and shall comprise the following persons:
  - i. A chairperson who shall be a person of experience and skills suitable to the function of chairing a Disciplinary Tribunal and discharging the responsibilities set out under clause 4.1.4; and
  - ii. Two additional Disciplinary Tribunal members.
- b) A Disciplinary Tribunal member may hold another position within Netball NSW and/or its Affiliates, or a club or team affiliated with Netball NSW and/or its Affiliates.

- c) No Disciplinary Tribunal decision shall be invalidated by any irregularity in the appointment of a Disciplinary Tribunal member.

#### **4.1.4 Responsibilities of Disciplinary Tribunal Chairperson**

Without limiting the duties of a Disciplinary Tribunal chairperson as set out under this Disciplinary Policy, a person appointed to the position of Disciplinary Tribunal chairperson shall have the following responsibilities to:

- a) consider and provide an initial assessment of progress within the disciplinary process;
- b) ensure accurate records are kept of all of the Disciplinary Tribunal's proceedings and decisions;
- c) communicate to the relevant person at Netball NSW or the Executive Committee of the relevant Affiliate the results of hearings of the Disciplinary Tribunal and provide a copy of the record to Netball NSW and the Affiliate within 3 days of the hearing; (Appendix B)
- d) chair hearings of the Disciplinary Tribunal; and
- e) raise with any proposed Disciplinary Tribunal member any potential or possible conflict of interest which may arise.

#### **4.1.5 Records of Disciplinary Tribunal Proceedings**

A Disciplinary Tribunal chairperson must use the form set out in Appendix B to keep a record of the Disciplinary Tribunal proceedings and decisions.

#### **4.1.6 Convening Disciplinary Tribunal Hearings**

The time frames set out in this clause below do not apply to alleged On-Court Offences occurring during Netball NSW Senior State Titles, Junior State Titles and Masters State Titles. While the procedure set out in this Policy will remain the same for these offences, a separate time frame will apply. This is set out in the Appendix I to this Policy.

## **4.2 Reports and Notifications**

### **4.2.1 Reports by Officials**

#### **4.2.1.1 Reports**

- a) Any official (who has been so empowered by Netball NSW and/or its Affiliates) shall be entitled to report any person, team or club which, in the opinion of the

official has committed an On-court Offence. This report should be in the form of the Incident Report Form which is Appendix C to this Policy. The Incident Report Form should be provided to the Hearings Officer or relevant person as soon as possible after the game and within 2 days at most. Where the report is provided to a relevant person, it is to be provided to the Hearings Officer as soon as possible. Upon receipt of the report, the Hearings Officer must identify whether the alleged offence is a level 1, 2, 3, 4 or 5 offence as set out in Appendix J to this Policy

- b) The officials empowered by Netball NSW and/or its Affiliates in clause 4.2.1.1 include, but are not limited to, the umpires and association officials.
- c) Where any other person makes a report regarding the conduct of another person at a relevant Netball Activity covered by this Disciplinary Policy, clause 4.2.2 shall apply. Such reports must be set out in writing and submitted to Netball NSW and/or its Affiliate.

#### 4.2.1.2 One/Two Match Suspension

- a) As per Clause 13.1 of the INF Rules of Netball, umpires may, in addition to the normal sanctions, use the following:
  - i. Caution a player: a player is advised that the behaviours specified must change
  - ii. Issue a warning to a player: a player is warned that suspension will follow if the behaviour specified continues
  - iii. Suspend a player: a player who is suspended takes no part in play for 2 minutes
  - iv. Order a player off: a player who is ordered off takes no further part in the match
- b) Where a player has been ordered off for the remainder of the game by an umpire, the umpire must report the ordering-off to Netball NSW and/or its Affiliate by completing the Incident Report Form which is Appendix C to this Policy and providing it to the Hearings Officer as soon as possible after the game and within 2 days at most. As in clause 4.2.1.1 above, upon receipt of the report, the Hearings Officer must identify whether the alleged offence is a level 1, 2, 3, 4 or 5 offence as set out in Appendix J to this Policy.

A player who has been ordered off for the remainder of the game for an alleged level 1 offence will receive an automatic 1 game suspension from all games conducted by Netball NSW and/or its Affiliates in the competition in which the ordering off occurred and no Disciplinary Tribunal will occur.

A player who has been ordered off for the remainder of the game for an alleged level 2 offence will receive an automatic 2 game suspension from all games conducted by Netball NSW and/or its Affiliates in the competition in which the ordering off occurred and no Disciplinary Tribunal will occur.

Where the player has been ordered off for an alleged level 3, 4 or 5 offence, or for a subsequent level 2 offence, the matter will proceed directly to a

Disciplinary Tribunal. Clause 4.2.4 below will not apply and the player will be suspended until such time as a decision has been made by the Disciplinary Tribunal.

- c) The term "one (1) or two (2) match suspension" refers to the period of time it takes for one/two games to be completed in the division in that competition from which the player was sent off. A bye does not count as a game completed.
- d) Where a report is received by Netball NSW and/or its Affiliate under this clause and an automatic 1 or 2 game suspension occurs the Hearings Officer must inform the player of this consequence within 24 hours of receiving the Incident Report Form.
- e) A player who has received a 1 or 2 game suspension under this clause has the right to appeal against this suspension as though it was a decision of a Disciplinary Tribunal.

#### **4.2.2 Investigations**

- a) Where:
  - i. Netball NSW and/or its Affiliates;
  - ii. a person empowered to make a report under this Disciplinary Policy, or
  - iii. any other person.

believes an offence under this Disciplinary Policy may have been committed, or Netball NSW and/or its Affiliates receives a letter of complaint about an incident, where no Incident Report Form has been received, Netball NSW and/or its Affiliates may investigate, or appoint a person to investigate, the alleged offence.

- b) Following an investigation, Netball NSW and/or its Affiliate or person appointed to investigate may make a report if he/she considers it appropriate to do so. Alternatively, he/she may issue a warning or take other similar action in relation to the alleged offence. A report arising out of an investigation conducted under this clause should be made, if possible, within 7 business days of the date on which the alleged offence took place.
- c) Netball NSW and/or its Affiliate or a person conducting an investigation shall have all powers reasonably required for the purposes of the investigation, including but not limited to calling and viewing any evidence, inspecting documents or questioning witnesses.

#### **4.2.3 Duties of Netball NSW and/or Affiliate upon receiving a Report**

- a) Netball NSW and/or its Affiliates shall appoint an officer to be responsible for the receipt of reports made under this Disciplinary Policy (this includes Incident Report Forms and other reports under clause 4.2.2 above) and to carry out the

duties in connection with such reports ("Hearings Officer"). The Hearings Officer may hold another position within Netball NSW and/or its Affiliate. Unless another person is appointed to this role, the Hearings Officer shall be a relevant person of Netball NSW and/or its Affiliate.

b) The Hearings Officer shall have the following duties:

- i. schedule the venue, time and date to be set aside for a hearing of a Disciplinary Tribunal;
- ii. convene a hearing of a Disciplinary Tribunal to deal with matters referred to it as soon as possible and before the next round of games (where relevant);
- iii. ensure that 3 members of a Disciplinary Tribunal are present to deal with any matters referred to it for determination;
- iv. receive and refer to a Disciplinary Tribunal all material relating to any reports made under this Disciplinary Policy;
- v. ensure the availability of all forms required to be used in any proceedings of a Disciplinary Tribunal;
- vi. notify the charged person, team or club of the report, as well as any other person involved in the report and all other officials as soon as possible after the report is made and at least 2 days before the hearing;
- vii. notify the charged person, team or club of the date, time and place of a Disciplinary Tribunal hearing if the notification under clause 4.2.3(b)vi is made by telephone, the Hearings Officer giving the notification shall immediately make a written record of the date, time and details of the telephone conversation;
- viii. if the charged person is under the age of 18 years, or otherwise unable to represent him or herself, he/she is to be advised that he/she has the right to have an adult (not acting as a legal practitioner) with him/her at a Disciplinary Tribunal hearing as an adviser and that the adviser shall be allowed to ask questions;

all other persons are entitled to bring a support person with them to the hearing but that person is not entitled to act as an adviser or as a legal practitioner;

- ix. provide the charged person, team or club with a copy of the Incident Report form or other report. In carrying out this function the Hearings Officer shall:
  - a. provide a copy of the report to the charged person (or a representative of a charged team or club) within 24 hours of receipt; or
  - b. if Netball NSW and/or its Affiliate does not have contact details for the charged person, team or club, make a copy of the report available for collection by the charged person, team or club and notify the team manager of the requirement to collect the report;
- x. notify the reporting official and any other officials or witnesses required to be in attendance, of the date, time and place of a Disciplinary Tribunal hearing. Where such reporting official is under 18 years of age, he/she is to be advised that he/she has the right to have an adult with him/her at a Disciplinary Tribunal hearing (not acting as a legal practitioner) as an adviser and that the adviser shall be allowed to ask questions;
- xi. notify each of the above persons of the consequences of non-attendance at a Disciplinary Tribunal Hearing, and the procedure to be followed in each case;
- xii. notify the chairperson (or his/her delegate) of a Disciplinary Tribunal that a report has been received, and to deliver to the chairperson (or his/her delegate) of a Disciplinary Tribunal the report and any other information relevant to the case; and
- xiii. ensure sufficient Incident Report forms are available to officials at competitions conducted by Netball NSW and/or its Affiliates and that officials are aware of the availability of such forms.

#### **4.2.4 Period between Report and Disciplinary Tribunal Hearing**

- a) A charged person, team or club shall be entitled to participate in any Netball Activity conducted by Netball NSW and its Affiliates until such time as a Disciplinary Tribunal has heard and determined the matter.
- b) For the avoidance of doubt, a person who has incurred an automatic 1 or 2 match suspension is not entitled to participate in Netball competitions during the suspension period, even where that person has appealed the suspension under clause 4.2.1.2.

## 4.3 Conduct of Tribunal Hearing

### 4.3.1 Attendance at Disciplinary Tribunal Hearings

- a) The following persons shall be required to attend a Disciplinary Tribunal hearing conducted under this Disciplinary Policy:
  - i. the charged person or the president, secretary, manager or other delegate representing a charged team or club;
  - ii. the reporting official(s);
  - iii. any other person involved in the report;
  - iv. witnesses as indicated by the reporting official or charged person and as notified by the Hearings Officer; and
  - v. any other witness required by a Disciplinary Tribunal.
  
- b) The following persons shall be entitled to attend a Disciplinary Tribunal hearing as conducted under this Disciplinary Policy:
  - i. where a team or club has been charged with an offence, any player of that charged team or club;
  - ii. witnesses called to give evidence by a charged person, team or club;
  - iii. witnesses called to give evidence by the reporting official(s); and
  - iv. where the charged person or reporting official is under the age of 18 years, an adult adviser; and
  - v. a support person as referred to in clause 4.2.3 (b) viii above.

Any witnesses attending the Hearing shall not be permitted to attend until after they have given evidence before the Tribunal.

- c) The following persons shall be entitled to attend a Disciplinary Tribunal hearing with the permission of a Disciplinary Tribunal and/or the chairperson of the tribunal:
  - i. representatives of Netball NSW and/or its Affiliates;
  - ii. and any other person.
  
- d) Legal representatives or legal advocates are not permitted to appear before a Disciplinary Tribunal unless in exceptional circumstances and where leave to appear has been granted by a Disciplinary Tribunal chairperson.
  
- e) The chairperson may invite any other person he/she believes will assist a Disciplinary Tribunal.

### 4.3.2 Non- Attendance at Disciplinary Tribunal Hearings

- a) If any charged person (or representative of a charged team or club) fails to attend a Disciplinary Tribunal hearing without reasonable cause, the hearing



may proceed and a determination may be made by the Disciplinary Tribunal in the absence of the charged person, team or club, provided that the Disciplinary Tribunal is satisfied that all notification procedures under this Disciplinary Policy have been carried out.

- b) A charged person, team, club or reporting official may apply to the Hearings Officer to have a Disciplinary Tribunal hearing:
  - i. adjourned; or
  - ii. convened in another way (e.g. teleconference)

if there are compelling circumstances which the applicant considers warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club. This decision will be solely at the discretion of the Hearings Officer (or the Disciplinary Tribunal chairperson if already convened).

- c) A charged person who is unable to attend a Disciplinary Tribunal hearing shall be entitled to appoint a representative (who is not acting as a legal practitioner) to appear in his/her place if that charged person does not intend to contest the charge, subject to a Disciplinary Tribunal receiving a letter of consent from the charged person containing the person's intention not to contest the charges contained in the report and any statement that person would have given to a Disciplinary Tribunal had he or she attended the hearing.

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- d) If any witness fails to attend a Disciplinary Tribunal hearing, the hearing may continue in his/her absence at the discretion of the Disciplinary Tribunal. However, if such witness has been notified by the Hearings Officer as being a required person at a Disciplinary Tribunal hearing, such witness may be liable to penalty by a Disciplinary Tribunal for obstructing the Disciplinary Tribunal process.
- e) If a reporting official fails to attend a Disciplinary Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Disciplinary Tribunal in the absence of the reporting official, provided that the Disciplinary Tribunal is satisfied that all notification procedures under this Disciplinary Policy have been carried out.
- f) If a reporting official or any other official of Netball NSW and/or its Affiliate inadvertently fails to carry out any duties listed above, the charges shall not be dismissed for this reason, but may be adjourned to allow the omission to be rectified. Where appropriate, a Disciplinary Tribunal shall take the failure into account and make suitable allowance.

#### **4.3.3 Procedures of Disciplinary Tribunal**

- a) For the purpose of this clause 4.3.3, a reference to a charged person includes a reference to the representative(s) of a charged team or club.
- b) In the event of a team or club being reported, one (1) member of the team or club shall act as spokesperson for the team or club provided that an individual member of that team or club may elect to speak on his/he own behalf.
- c) At the commencement of a hearing, the chairperson shall identify the members of the Disciplinary Tribunal and determine whether the charged person is present to answer the charge(s) set out in the report.
- d) The charged person and the reporting official(s) shall be notified of their right to remain in the hearing until all evidence is presented but not to be present whilst the Disciplinary Tribunal considers its findings and determines an appropriate penalty (if any).
- e) The charge(s) as contained in the report shall be read out in the presence of all persons eligible to be present.
- f) The charged person shall be asked whether the charge is understood and the reporting official asked whether the charge correctly represents his/her intention.
- g) The charged person shall be asked whether or not they intend to contest the charge(s).
- h) If the charged person does not contest the charge(s), the chairperson may read a short summary of the facts, admit the reporting official's evidence (written/verbal) and no witnesses need be called to give evidence unless the Disciplinary Tribunal requires it.
- i) If the charged person contests the charge(s), then the chairperson shall ask all witnesses except the reporting official(s) and the charged person (and their advisers if appointed in accordance with this Policy and any support persons) to leave the room and to wait to be called to give their evidence.
- j) The reporting official (or the adviser to a reporting official who is a minor) shall proceed to give evidence and the witnesses of the reporting official(s) shall be called upon to give his/her evidence in turn, subject to the approval of the number of witnesses to be called by the Disciplinary Tribunal in its discretion. The charged person or his/her adviser may ask questions of the reporting official or any witness called.
- k) Each witness shall be entitled to leave the Disciplinary Tribunal hearing after giving evidence unless otherwise directed by the Disciplinary Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence in accordance with clause 4.3.1(b) above.

- l) The charged person shall then be entitled to present their defence. Witnesses may be called subject to the approval of the number of witnesses to be called by the Disciplinary Tribunal in its discretion. Reporting officials or the adviser to a reporting official who is a minor may ask questions of the charged person or any witness called.
- m) The Disciplinary Tribunal is empowered to question any person giving evidence. If the Disciplinary Tribunal determines that any witness is giving deliberately false or misleading evidence, the Disciplinary Tribunal may:
  - i. make such finding at the original hearing; or
  - ii. require such person to attend a further Disciplinary Tribunal hearing to respond to the allegations, and such person is liable to penalty by the Disciplinary Tribunal for obstructing the Disciplinary Tribunal process.
- n) Where a person under the age of 18 exercises his/her right to have an adult observer or adviser present in accordance with this Disciplinary Policy, a reasonable opportunity for consultation between the minor person and the observer/adviser shall be provided by the Disciplinary Tribunal.
- o) Where the charged person makes video evidence available to the Disciplinary Tribunal, it may, at the discretion of the Disciplinary Tribunal, be presented. The onus of providing suitable viewing equipment such as a DVD player or television set shall lie with the person requesting that the evidence be presented before the hearing.
- p) At the conclusion of all of the evidence and submissions the chairperson shall ask the charged person, the reporting official and all other persons present to leave the hearing room while the Disciplinary Tribunal considers its findings.
- q) If the Disciplinary Tribunal is not satisfied that the particular charge has been proved, but is satisfied that a lesser charge has been established, then the Disciplinary Tribunal may find such lesser charge established and shall apply the penalty applicable to the lesser charge.
- r) Subject to clause 4.3.3 (s), where it appears to the Disciplinary Tribunal that the reporting official has made an error which has resulted in laying the wrong charge or omitted charges that should have been laid, the Disciplinary Tribunal may amend the charge(s) and proceed to make a finding. Further, the Disciplinary Tribunal has the right to direct that a person other than the charged person be charged with an offence under this Policy on the basis of evidence presented before it during the course of conducting a hearing.
- s) Where charges have been amended or another person is charged under clause 4.3.3 (r) above, the Disciplinary Tribunal shall adjourn the hearing unless the charged person consents to it proceeding at that time.

- t) Subject to clause 4.3.3 (q) above, if the Disciplinary Tribunal is satisfied that a charge has been established on the balance of probabilities (i.e. more probable than not) it shall find the charge proved. Otherwise the charge shall be dismissed.
- u) If a charge has been admitted or found proven by the Disciplinary Tribunal the charged person shall be informed of the finding. Any previous offences against the charged person should then be laid before the Disciplinary Tribunal.
- v) The charged person should then be given the right to make a final statement in relation to previous offences or other mitigating circumstances before being asked to leave the room (again).
- w) The Disciplinary Tribunal shall then determine the penalty to be imposed (if any) and shall recall the charged person and reporting official to advise him/her of the penalty. The chairperson shall also notify the Hearings Officer of the decision of the Disciplinary Tribunal.
- x) The decision of the Disciplinary Tribunal shall be given in the presence of all, by the Disciplinary Tribunal chairperson, unless otherwise determined by the chairperson (but only in exceptional circumstances). Where the chairperson determines it is not appropriate for the decision to be delivered at the hearing in the presence of all, the:
  - i. chairperson must inform the Hearings Officer of the Disciplinary Tribunal's decision within 24 hours; and
  - ii. the Hearings Officer must inform the charged person and any reporting official of the Disciplinary Tribunal's decision within a further 24 hours.
- y) The Disciplinary Tribunal must give written reasons for any decision made by it under this Disciplinary Policy.
- z) A record of the hearing will be provided by the chairperson to Netball NSW and the relevant Affiliate in accordance with clause 4.1.4 above in the form set out in Appendix B and it will be retained accordingly.

## **4.4 Offences and Penalties**

### **4.4.1 Penalty**

- a) As noted in clause 4.1.2(e) a Disciplinary Tribunal shall have the power to suspend, disqualify, reprimand, bond, ban, deduct competition points or otherwise deal with any Participant found to have committed an offence under this Disciplinary Policy. Appendix A sets out penalties which represent the appropriate sanction to impose where a charge has been admitted to or proven by a Disciplinary Tribunal.

- b) A penalty handed down under this Policy shall commence from the date of a Disciplinary Tribunal decision unless otherwise expressly directed by a Disciplinary Tribunal. Subject to clause 4.2.1.2, penalties should wherever possible be expressed to be in calendar weeks as opposed to a number of games. A Disciplinary Tribunal has the discretion to rule that a penalty will be suspended for the number of weeks which fall between seasons or during any season break.
- c) Where a Disciplinary Tribunal imposes more than one period of suspension, it may impose them to be served concurrently or cumulatively at the discretion of the Tribunal.
- d) Disciplinary Tribunal may take into account a charged person's prior offences or any other matter it considers relevant in determining a penalty to be handed down.
- e) A charged person who has been proved to have committed an offence and received a penalty under this Disciplinary Policy shall not play, coach, referee, officiate or otherwise take part in any Netball Activity as directed by the Disciplinary Tribunal until the penalty has been served to the satisfaction of Netball NSW and/or its Affiliates.

## 4.5 Appeals

### 4.5.1 Right of Appeal

- a) There shall be two levels of appeal which may be available to a person who has been proved to have committed an offence and received a penalty under this Disciplinary Policy. No other person may appeal a decision. The first level of appeal shall be an Appeal Tribunal convened by the same organisation which conducted the Disciplinary Tribunal. The second level of appeal shall be a Netball NSW Appeal Tribunal convened by Netball NSW. A person must first exercise his/her rights to a hearing by an Appeal Tribunal (at the first level of appeal) before appealing to the Netball NSW Appeal Tribunal (at the second level of appeal). The decision of the Netball NSW Appeal Tribunal (the second level of appeal) shall be final and not subject to further appeal.

#### *First Level of Appeal*

- a) There shall be no appeal from a decision of a Disciplinary Tribunal unless the person seeking to appeal ("Appellant") satisfies the chairperson of the Appeal Tribunal (appointed in accordance with clause 4.1.3 (a) (i)), in the chairperson's sole discretion, that:
  - i. significant new or additional evidence has become available; or
  - ii. He/she/it is challenging the severity of the sanction;
  - iii. There is a significant failure of natural justice.
- b) Netball NSW and/or its Affiliate shall appoint an officer to be responsible for the receipt of appeals arising from a decision of a Disciplinary Tribunal and to carry out the duties in connection with such appeals ("Appeals Officer"). The Appeals

Officer may hold another position within Netball NSW and/or its Affiliate and may also be the Hearings Officer. Unless another person is appointed to the role, the Appeals Officer shall be a relevant person of Netball NSW and/or its Affiliate.

- c) An Affiliate may request Netball NSW to conduct, hear and determine the first level of appeal. Where Netball NSW agrees to conduct, hear and determine the first level of appeal, all obligations and powers relating to the first level of appeal as set out in this Disciplinary Policy will apply and bind Netball NSW. Netball NSW may choose (but is not obliged) to agree to conduct, hear and determine the first level of appeal.

### ***Second Level of Appeal***

- a) There shall be no appeal from a decision of an Appeal Tribunal (first level of appeal) unless the person seeking to appeal ("Appellant") satisfies the chairperson of the Netball NSW Appeal Tribunal (second level of appeal) (appointed in accordance with clause 4.5.3), in the chairperson's sole discretion, that significant new or additional evidence has become available.
- b) Netball NSW shall appoint an officer to be responsible for the receipt of appeals arising from a decision of an Appeal Tribunal and to carry out the duties in connection with such appeals ("Appeals Officer"). The Appeals Officer may hold another position within Netball NSW and may also be the Hearings Officer.
- c) All appeals heard by the Netball NSW Appeal Tribunal (second level of appeal) shall, with any necessary or incidental amendment follow the procedures for an Appeal Tribunal held by Netball NSW and/or Affiliates, as outlined in clause 4.5.2 to 4.5.4 below.

#### **4.5.2 Notice of Appeal**

- a) The Appellant must:
  - i. lodge a notice stating full details of charges and results thereof and stating in full the grounds of appeal with the Appeals Officer within 5 days of the notification of a determination of a Disciplinary Tribunal hearing using the Notice of Appeal form ("Notice of Appeal"); and
  - ii. in the case of an appeal to the Netball NSW Appeal Tribunal (second level of appeal), pay the appeal fee to the Appeals Officer when lodging the Notice of Appeal, which shall be \$500.

The appeal fee may not apply in the case of appeals by minors and may be waived (in any other case) in the discretion of the Appeals Officer.

- b) An Appellant shall be notified by the Appeals Officer within 3 days of receipt of the Notice of Appeal as to whether an appeal hearing is to be granted (under clause 4.5.1) and the time, date and place of the appeal hearing, in the event that it is granted.

#### **4.5.3 Appeal Tribunal**

- a) If an appeal hearing is granted under clause 4.5.1, the Appeals Officer shall convene an Appeal Tribunal to hear and determine the appeal in accordance with this Disciplinary Policy. Subject to clause 4.5.3(b), any such appeal hearing must be held within 7 days of receipt of the Notice of Appeal.
- b) Where an appeal hearing is not held within 7 days of receipt of the Notice of Appeal, any sanction imposed by the Disciplinary Tribunal shall be suspended and the Appellant may participate in any relevant competition until the appeal hearing is held.
- c) An Appeal Tribunal shall consist of three (3) persons appointed by Netball NSW and/or its Affiliate from time to time to hear appeals as required by Netball NSW and/or its Affiliate.
- d) Netball NSW and/or its Affiliate may not appoint any of the Disciplinary Tribunal members who were involved in the original hearing of a matter which is the subject of an appeal.
- e) The Appeal Tribunal chairperson shall be nominated by the Appeals Officer.

#### **4.5.4 Serving of Disciplinary Tribunal Penalties**

- a) Subject to clause 4.5.4(b) (ii) and 4.5.3(b), where a Disciplinary Tribunal imposes a penalty that prevents the Appellant from participating in a game, the Appellant shall serve that penalty pending the determination of the appeal.
- b) Subject to clause 4.5.4(c), the Appeal Tribunal may of its own motion or upon application of any party to the appeal, order:
  - i. that an appeal be adjourned; or
  - ii. a suspension of the penalty imposed by the Disciplinary Tribunal pending the determination of the appeal.
- c) The Appeal Tribunal shall make an order under clause 4.5.4(b) at its sole discretion where it is satisfied that there are exceptional and compelling circumstances. In determining that question, the Appeal Tribunal shall without limitation have regard to the:
  - i. merits of the appeal and the Appellant's prospects of success;

- ii. interests of other teams, clubs and players; and
- iii. effect on the results of the competition.

#### **4.5.5 Proceedings of Appeals Tribunal**

- a) The Appeal Tribunal and persons appearing before it are bound by the same procedures under this Disciplinary Policy as if the Appeal Tribunal was a Disciplinary Tribunal hearing a matter at first instance.
- b) The Appeals Officer shall forward records of the Disciplinary Tribunal hearing in which the matter the subject of the appeal was heard at first instance to the chairperson of the Appeal Tribunal.
- c) The Appeal 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 under clause 4.5.1(b) or 4.5.1(e) (as applicable).
- d) An Appeal Tribunal shall have the power to:
  - i. Dismiss the appeal;
  - ii. Uphold the appeal
  - iii. Impose any of the penalties set out in this Disciplinary Policy; or
  - iv. Reduce, increase or otherwise vary any penalty imposed by the initial Disciplinary Tribunal, in such a manner as it thinks fit.
- e) The Appeal Tribunal is obliged to give written reasons for its decision.
- f) At the conclusion of the appeal, the chairperson of the Appeal Tribunal shall ensure that the Appellant and the reporting official are correctly informed of the determinations of the Appeal Tribunal. The chairperson shall also notify the Appeals Officer of the decision of the Appeal Tribunal. The Appeals Officer shall also advise Netball NSW and the Affiliate.

#### **4.5.6 Refund of Appeal Fee**

The Appeal Tribunal shall refund the appeal fee payable where the appeal results in the charge being dismissed.

#### **4.5.7 Costs**

Each party to an appeal shall bear their own costs

#### **4.5.8 Limited Rights of Appeal**



There are only two rights (or levels) of appeal following the decision of the initial Disciplinary Tribunal. Any appeal must first be made to the Appeal Tribunal and, if the charged person elects to do so, then to the Netball NSW Appeal Tribunal. The decision of the Netball NSW Appeal Tribunal is final and binding on the parties.

#### **4.5.9 Exhaust Internal Appeal**

Subject to clause 4.5.10 below, a person shall exercise his right of appeal under this Disciplinary Policy and have any appeal heard and determined by the Appeal Tribunal (first level of appeal) and Netball NSW Appeal Tribunal (second level of appeal) before commencing any proceedings or becoming a party to any proceedings in a court of law or the Court of Arbitration for Sport.

#### **4.5.10 Relationship with Criminal Matters**

- a) If, during a Disciplinary or Appeal Tribunal hearing or an investigation under this Disciplinary Policy, it becomes known that a criminal charge has been brought (as opposed to merely the subject of police investigation) arising out of the actions the subject of the hearing, appeal or investigation, the Disciplinary or Appeals Tribunal and/or Netball NSW and/or its Affiliates may rule that further action be deferred until completion of the criminal charge.
  
- b) In making a determination under clause 4.5.10 (a), the Disciplinary or Appeals Tribunal and/or Netball NSW and/or its Affiliates shall have regard to the need to ensure the ongoing safety of players, umpires and other persons Involved in Netball NSW and/or its Affiliates.

## Appendix A – Schedule of Disciplinary Penalties

Please note for penalties of 52 weeks or more handed down under Schedule 2 of the Disciplinary Penalties, these penalties will carry across all competitions included in Schedule 1 and 2. For suspensions not fully served during the relevant competition under Schedule 2, the penalty will carry over to any subsequent competition under Schedule 1.

Level of Offence	<u>Schedule 1</u>		<u>Schedule 2</u>	
	<b>Minimum Penalties for Netball NSW and affiliated Association competitions including but not limited to NID, Metro league, Fast 5, Premier League, Development League, Affiliates Weekend/Night competitions.</b>		<b>Minimum Penalties for all events including but not limited to Junior and Senior State Titles, State cup, State Masters, Regional League and affiliated Association carnivals (gala, Invitation and Representative)</b>	
<b>Level 1</b>	1 <sup>st</sup> Offence	1 week suspension	1 <sup>st</sup> Offence	1 game suspension
	Subsequent Offence	Elevation to a level 2 Offence	Subsequent Offence	Elevation to a level 2 Offence
<b>Level 2</b>	1 <sup>st</sup> Offence	2 week suspension	1 <sup>st</sup> Offence	2 game suspension
	Subsequent Offence	6 week suspension	Subsequent Offence	6 game suspension
<b>Level 3</b>	1 <sup>st</sup> Offence	12 week suspension	1 <sup>st</sup> Offence	12 game suspension
	Subsequent Offence	16 week suspension	Subsequent Offence	16 game suspension
<b>Level 4</b>	1 <sup>st</sup> Offence	28 week suspension	1 <sup>st</sup> Offence	28 game suspension
	Subsequent Offence	52 week suspension	Subsequent Offence	52 weeks suspension
<b>Level 5</b>	1 <sup>st</sup> Offence	52 week suspension	1 <sup>st</sup> Offence	52 weeks suspension
	Subsequent Offence	104 week suspension	Subsequent Offence	104 weeks suspension

## Appendix B – Record of Hearing

### Record of Disciplinary/Appeals Tribunal

Held on the 00/00/0000

#### Present:

*Provide details of all those present and how they are represented, include initials of each person.*

#### Persons Charged:

*Particular details of the individual(s) participant, team or club*

#### Committing an offence of:

*As per Disciplinary clause 4.1.2 - Authority of a Disciplinary Tribunal – identify whether the alleged breach is (i), (ii) or (iii) below (delete if not applicable).*

It is alleged that the person charged has committed an offence as set out below:

- i. Breached, failed, refused or neglected to comply with a provision of the Constitution, Regulations, Netball NSW Codes of Conduct, Rules of Netball including the Competition Rules of Netball NSW and/or its Affiliates or other resolution or determination of the Netball NSW board or duly authorised commission or committee; or
- ii. Acted in a manner unbecoming of a Member or prejudicial to the Objects or the interests of Netball NSW or Netball; or
- iii. Prejudiced Netball NSW or Affiliates or brought Netball NSW or Affiliates into disrepute.

#### Statement of the incident:

*Set out a statement of the incident and refer (if relevant) to the infringements listed in the suggested penalty table.*

#### Summary Record of Proceedings:

*It is recommended that a written record of the proceedings is kept – this record can be a summary and is not required to be a detailed record of each statement during hearing.*

#### Tribunal Decision:

*Set out clear and concise decision of the Tribunal.*

#### Penalty Imposed:

*Remember each proceeding needs to be judged on its own merits. Set out penalty imposed by Disciplinary Tribunal*

#### Chairperson's Signature:

Date: 00/00/0000

#### Notification Requirements

Within 3 business days of the hearing being conducted, provide records of hearing to Netball NSW Authority committee members. Please email minutes to Netball NSW's Disciplinary Register at [policy@netballnsw.com](mailto:policy@netballnsw.com)

## Appendix C – Incident Report

### Incident Report

Please complete immediately following the incident, supplementary information can be submitted within 48 hours.

Netball NSW Disciplinary Policy available at <https://nsw.netball.com.au/inside-netball-nsw/library/policies-forms/>

#### Incident Details

VS

*Team name (a)*

*Team name (b)*

*Venue*

*Division*

*Court Number*

*Match Date*

*Time*

*Incident occurred outside of*

#### Person Cited

*First name*

*Team Name*

*Surname*

*Position*

## **Alleged Incident (this Part to be completed by Hearing Officer)**

### **Level 1**

- Abuse netball equipment, ground equipment or fixtures and fittings.
- Show dissent at an umpire's decision by action or verbal abuse.
- Use language that is obscene, offensive or insulting and/or the making of an obscene gesture.

### **Level 2**

- Show serious dissent at an umpire's decision by action or verbal abuse.
- Engage in inappropriate and deliberate physical contact with other players or umpires during the course of play.
- Charge or advance towards an umpire in an aggressive manner.
- Deliberately and maliciously distract or interfere with another player or umpire during the course of play.
- Throw the ball at or near a player or official in an inappropriate and/or dangerous manner.
- Use language that is obscene, offensive or of a seriously insulting nature to another player, official or spectator.

### **Level 3**

- Intimidate an umpire or official whether by language or conduct.
- Threaten to assault another player, Team official or spectator.
- Use language or gestures that offend, insult, humiliate, intimidate, threaten, disparage or vilify another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.

### **Level 4**

- Threaten to assault an umpire or official.
- Use language or gestures that seriously offends, insults, humiliates, intimidates, threatens, disparages or vilifies another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.

### **Level 5**

- Physically assault another player, umpire, coach, official or spectator.
- Engage in rough play in the field of play.

**Person Completing Report**

*First Name*

(Affiliate – Association)

*Surname*

*Position*

*Date*

*Time*

(am/pm)

*Signature*

**Statement of Facts Surrounding Incident**

Add further details if needed on the back or separate piece of paper.

**On-court action taken (if any)**

- None       Cautioned a player       Issued a warning       Suspend a player       Ordered a player off

Witness 1	Witness 2
<input type="text"/>	<input type="text"/>
<i>First Name</i>	<i>First Name</i>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<i>Surname</i>	<i>Surname</i>
<input type="text"/>	<input type="text"/>
<i>Phone Number</i>	<i>Phone Number</i>

**Office Use Only**

Report received by (Netball NSW Authority)

*Signature*

*Date*

**Hearing Officer Summary**

*First Name*

*Surname*

*Protection Incident*

**Assessment of Report**

- Noted
- Actioned
- Disciplinary Tribunal
- Warning
- Member

**Action Taken**

*Signature*

*Date*

## Appendix D – Notification of Suspension

### Notification of Suspension

*Insert Date as [Day, Date Month Year]*

To: *Insert participant details and membership number.*

*By E Mail - Hand Delivered*

Of: *Team name.*

Dear *Insert name,*

We refer to the incident on insert date in a Netball game between *team name and team name at the venue and event, field number at the time recorded.*

As a member and participant within a competition operated by an organisation affiliated with Netball NSW, *insert affiliate name*, you are subject to the Netball NSW Constitution and Disciplinary Policy. A copy of all related documentation can be viewed at the Netball NSW website *<insert web address>*.

#### Suspension

You were sent off for the remainder of the game by an umpire and an Incident report form has subsequently been provided identifying an offence in the range of level 1 or 2 of the Table of Offences set out in the Disciplinary Policy.

The chairperson has considered this report and has applied a one (1) / two (2) match suspension without the matter being heard by a Disciplinary Tribunal. This suspension is effective for the next game/s, in the division from which you have been suspended (excluding any round in which you have a bye).

#### Right to Appeal

At this time, we have considered the report lodged, and feel that no further hearing is required. If you wish to appeal the suspension, an Appeals Tribunal hearing will be held.

Please be advised that if you wish to appeal your Notice of Appeal must be lodged within 5 days.

Please find attached a Notice of Appeal, which is the form that must be used to request an appeal hearing.

Yours sincerely,

Insert name

Hearings Officer

*Netball NSW Authority (adjust to be the affiliate name)*

P: *insert phone number*

E: *insert email*



## Appendix F - Notification of Disciplinary Tribunal Hearing

### Notification of Disciplinary Tribunal Hearing

*Insert Date as [Day, Date Month Year]*

To: *Insert participant details and membership number.*

*By E Mail - Hand Delivered*

Of: *Team name.*

Dear *Insert name,*

We refer to the alleged incident on *insert date* in a Netball game *between team name and team name at the venue and event, field number at the time recorded.*

As a member and participant within a competition operated by an organisation affiliated with Netball NSW, *insert affiliate name*, you are subject to the Netball NSW Constitution and Disciplinary Policy. A copy of all related documentation can be viewed at the Netball NSW website *<insert web address>* and you are encouraged to read this information and the Disciplinary Policy.

#### Attendance at Tribunal Hearing

Your attendance at this hearing is required to hear the charges alleged and respond. If you are under 18, you should bring an adult representative (not acting as a legal practitioner) who may advise you or ask questions. Otherwise you are entitled to bring a support person.

#### Details of Hearing

**Time:** *Insert Time*

**Date:** *Insert Day and Date*

**Location:** *Insert Location*

**Alleged Charge:** As per the Disciplinary clause 4.1.2 - Authority of a Disciplinary Tribunal

It is alleged that you have:

*Delete sections which are not relevant.*

- i. Breached, failed, refused or neglected to comply with a provision of the Constitution, Policy, Netball NSW Codes of Conduct, Rules of Netball including the Competition Rules of Netball NSW and/or its Affiliates or other relevant document - *[insert title of document]*; or
- ii. Acted in a manner unbecoming of a Member or prejudicial to the Objects or the interests of Netball NSW and or Netball; or
- iii. Prejudiced Netball NSW or Affiliates or brought Netball NSW or Affiliates into disrepute.

Attached is a copy of the Incident Report Form/Report lodged in respect of the incident referred to above.

#### Confirmation of Attendance

Please confirm your attendance with Hearings Officer, *insert name and contact details*. You are entitled to bring a support person.

#### Non-attendance at Disciplinary Tribunal Hearings

If a charged person (or representative of a charged team or club) fails to attend a Disciplinary Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Disciplinary Tribunal in the absence of the charged person, team or club, provided that the Disciplinary Tribunal is satisfied that all notification procedures under the Disciplinary Regulations have been carried out.

A charged person, team, club or reporting official may apply to the Hearings Officer to have a Disciplinary Tribunal hearing:

adjourned; or

convened in another way (e.g. teleconference)

if there are compelling circumstances which the applicant considers warrant such steps being taken to avoid costs, hardship or significant inconvenience to the charged person, team or club. This decision will be solely at the discretion of the Hearings Officer (or a Disciplinary Tribunal if already convened).

A charged person who is unable to attend a Disciplinary Tribunal hearing shall be entitled to appoint a representative (who is not acting as a legal practitioner) to appear in his/her place if that charged person does not intend to contest the charge, subject to a Disciplinary Tribunal receiving a letter of consent from the charged person containing the person's intention not to contest the charges contained in the report and any statement that person would have given to a Disciplinary Tribunal had he or she attended the hearing.

If any witness fails to attend a Disciplinary Tribunal hearing, the hearing may continue in his/her absence at the discretion of the Disciplinary Tribunal. However, if such witness has been notified by the Hearings Officer as being a required person at a Disciplinary Tribunal hearing, such witness may be liable to penalty by a Disciplinary Tribunal for obstructing the Disciplinary Tribunal procedures.

If a reporting official fails to attend a Disciplinary Tribunal hearing without reasonable cause, the hearing may proceed and a determination made by the Disciplinary Tribunal in the absence of the reporting official, provided that the Disciplinary Tribunal is satisfied that all notification procedures under these Disciplinary Regulations have been carried out.

### **Supporting Evidence and Attendance**

The following persons shall be required to attend a Disciplinary Tribunal hearing conducted under the Disciplinary Policy. These include the charged person or the president, secretary, manager or other delegate representing a charged team or club, the reporting official(s), any other person involved in the report, witnesses as indicated by the reporting official or charged person and as notified by the Hearings Officer, and any other witness required by a Disciplinary Tribunal.

Legal representatives or legal advocates are not permitted to appear before a Disciplinary Tribunal unless in exceptional circumstances and where leave to appear has been granted by a Disciplinary Tribunal chairperson.

The chairperson may invite any other person he/she believes will assist a Disciplinary Tribunal.

### **Right to Appeal**

There shall be no appeal from a decision of a Disciplinary Tribunal unless the person seeking to appeal ("Appellant") satisfies the chairperson of the Appeal Tribunal, in the chairperson's sole discretion, that significant new or additional evidence has become available.

If prior to your attendance at the hearing you have any questions, you are encouraged to contact the Hearings Officer, insert name who will assist you as far as practicable. Again, the Disciplinary Policy can be accessed in full at the Netball NSW website <insert web address>. This Policy outlines the procedures to be followed during the hearing.

We look forward to receiving your confirmed attendance at the above hearing.

Yours sincerely,

*Insert name*

Hearings Officer

Netball NSW Authority *(adjust to be the affiliate name)*

P: *insert phone number*

E: *insert email*

## Appendix G - Notification of Appeal Tribunal Hearing

### Notification of Appeal Tribunal Hearing

*Insert Date as [Day, Date Month Year]*

To: *Insert Name and Address*

*By E Mail – Hand delivered*

Of: *Insert Team Name*

Dear *Insert Name,*

#### Attendance at an Appeal Tribunal Hearing

As a member and participant within a competition operated by an organisation affiliated with Netball NSW, *insert affiliate name*, you are subject to the Netball NSW Constitution and Disciplinary Regulations. A copy of all related documentation can be viewed at the Netball NSW website *<insert web address>* and you are encouraged to read this information and the Disciplinary Regulations.

You have been granted the right to be heard by an Appeal Tribunal in relation to the findings of the Disciplinary Tribunal (*held on insert date*) and your notice of appeal dated *insert date*. Attendance at this Appeal Tribunal hearing is required. If you are under 18, you should bring an adult representative (not being a legal practitioner) who may advise you or ask questions.

#### Details of Hearing

**Time:** *Insert Time*

**Date:** *Insert Day and Date*

**Location:** *Insert Location*

#### Statement of Appeal

The Appeal Tribunal shall either conduct a complete re-hearing or the appeal may be limited to the consideration of the grounds of the appeal – this will need to be determined by the chairperson prior to this notice being issued.

#### Confirmation of Attendance

Please confirm your attendance with the Appeals Officer, *insert name and contact details*.

If an Appellant (or representative of a team or club) fails to attend an Appeal Tribunal hearing without reasonable cause, the hearing may proceed and a determination may be made by the Appeal Tribunal in the absence of the Appellant provided that the Appeal Tribunal is satisfied that all notification procedures under the Disciplinary Regulations have been carried out. You are entitled to bring a support person.

#### Right of Appeal

There are two levels of appeal following the decision of the Disciplinary Tribunal. Any appeal will be solely and exclusively resolved by the Appeal Tribunal at the first level appeal. *The second level appeal is to Netball NSW and the decision of the Appeal Tribunal is final and binding on the parties.*

We look forward to receiving your confirmed attendance at the above hearing.

Yours sincerely,

*Insert name*

Appeals Officer

Netball NSW Authority (*adjust to be the affiliate name*)

P: *insert phone number*

E: *insert email*

## Appendix H - Notification of Findings

### Notification of Findings by Disciplinary/Appeals Tribunal

Insert date as [Day, Date Month Year]

To: insert name, and address and membership number

By Hand Delivered /Emailed

Of: insert team name

Dear name,

#### Tribunal Findings and/or Decision

As a member and participant in a competition operated by an organisation affiliated with Netball NSW insert affiliate name, you are subject to the Netball NSW Constitution and Disciplinary Policy. A copy of all related documentation can be viewed at the Netball NSW website <insert web address>.

We refer to the Tribunal Hearing on insert date, time and venue. The tribunal found you guilty/not guilty and therefore you are suspended from playing for games.

If the tribunal imposed a lower sentence due to mitigating circumstances (such as remorse and/or apology), the reasons should be set out here and the reduction (e.g. lesser amount of weeks suspension) explained.

This penalty will be taken into account in any subsequent Disciplinary Tribunal in which you are convicted of an offence.

A person who has been convicted of an offence and received a penalty under the Disciplinary Policy shall not play, coach, referee, officiate or otherwise take part in Netball activities as directed by the Disciplinary Tribunal until the penalty has been served to the satisfaction of Netball NSW and/or its Affiliate insert name of affiliate).

#### Further Recommendations

Netball NSW will communicate with regional, state and national association to make nearby affiliates aware of the penalty imposed against you. You are not permitted to compete or participate in any competition conducted by Netball NSW and/or its Affiliates during the suspension period.

#### Right to Appeal

Please be advised that if you wish to appeal your Notice of Appeal must be lodged within 5 days.

Please find attached a Notice of Appeal, which is the form that must be used to request an appeal hearing.

#### Names of Individuals who sat on this Tribunal

Insert name – Chairperson

Insert name – Panel Member

Insert name – Panel Member

Yours sincerely,

Insert name

Hearings Officer

Netball NSW Authority (adjust to be the affiliate name)

P: insert phone number

E: insert email

## **Appendix I - Netball NSW Senior State Titles, Junior State Titles and Masters State Titles Disciplinary Tribunal**

The Disciplinary Tribunal will follow the outlines process within the Disciplinary Policy, Clause 4.1.6 and will be conducted in the following timeframes:

- i. If an alleged incident occurs before 2.00pm on any day except the final day of the event the Disciplinary Tribunal shall be conducted no earlier than 5.00pm on the same day at the venue where the alleged incident occurred.
- ii. If an alleged incident occurs after 2.00pm on any day except the final day of the event the Disciplinary Tribunal shall be conducted no earlier than 7.00am on the following day at the venue where the alleged incident occurred.
- iii. If an alleged incident occurs on the final day of the Competition the Disciplinary Tribunal will occur within five days of the alleged incident

For any appeals against Netball NSW Disciplinary Tribunal decision for Senior State Titles, Junior State Titles and Masters State Titles where possible within 4 hours of the conclusion of the completion of the hearing tribunal.

Any Incident Report Form or report submitted in connection with any alleged offence at Netball NSW Senior State Titles, Junior State Titles and Masters State Titles will be provided to the Hearing Officer immediately after the game and any notice of the Disciplinary Tribunal will be provided to the charged person as soon as possible.

## Appendix J - Offences

### 1 Level 1 Offences

The offences set out at 1.1 to 1.3 below are Level 1 offences. The range of penalties which shall be imposed for a Level 1 Offence is set out under the Schedule of Disciplinary Penalties section below. Financial members must not:

<b>No</b>	<b>Rule</b>	<b>Standard</b>
1.1	Abuse netball equipment, ground equipment or fixtures and fittings	Includes actions which intentionally or negligently result in damage to the advertising boards, boundary fences, dressing room doors, mirrors, windows and other fixtures and fittings.
1.2	Show dissent at an umpire's decision by action or verbal abuse.	<p>Includes excessive, obvious disappointment with an umpire's decision or with an umpire making the decision and/or obvious delay in resuming play.</p> <p>This rule does not prohibit the team captain or coach from asking an umpire to provide an explanation for a decision, or a Team official from making a formal complaint to the affiliated Association official, against the performance of an umpire.</p>
1.3	Use language that is obscene, offensive or insulting and/or the making of an obscene gesture.	<p>This includes swearing and offensive gestures which are not directed at another person such as swearing in frustration at one's own poor play or fortune.</p> <p>This offence is not intended to penalise trivial behaviour. The extent to which such behaviour is likely to give offence shall be taken into account when assessing the seriousness of the breach.</p>

## 2 Level 2 Offences

The offences set out at 2.1 to 2.6 below are Level 2 offences. The range of penalties which shall be imposed for a Level 2 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
2.1	Show serious dissent at an umpire's decision by action or verbal abuse.	<p>Dissent is classified as serious when the dissent is expressed by a specific action such as displays of anger or abusive language directed at the umpire and/or excessive delay in resuming play or leaving the court.</p> <p>This rule does not prohibit the team captain or coach from asking an umpire to provide an explanation for a decision, or a Team official from making a formal complaint to the affiliated Association official, against the performance of an umpire.</p>
2.2	Engage in inappropriate and deliberate physical contact with other players or umpires during the course of play.	Without limitation, players will breach this rule if they deliberately walk or run into or shoulder another player, umpire or match official.
2.3	Charge or advance towards an umpire in an aggressive manner.	
2.4	Deliberately and maliciously distract or interfere with another player or umpire during the course of play.	Without limitation, players will breach this rule if they deliberately attempt to distract an opponent or umpire by words or gestures.
2.5	Throw the ball at or near a player or official in an inappropriate and/or dangerous manner.	This rule will not prohibit a player from returning the ball in the normal fashion.
2.6	Use language that is obscene, offensive or of a seriously insulting nature to another player, official or spectator.	This is language or gestures which are directed at another person. Refer to the comments under rule 1.3 above in relation to the seriousness of the breach.



### 3 Level 3 Offences

The offences set out at 3.1 to 3.3 below are Level 3 offences. The range of penalties which shall be imposed for a Level 3 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
3.1	Intimidate an umpire or official whether by language or conduct.	Includes appealing in an aggressive or threatening manner.
3.2	Threaten to assault another player, Team official or spectator.	Team officials are recognised as, but not limited to; coach, assistant coach, manager, support personnel.
3.3	Use language or gestures that offend, insult, humiliate, intimidate, threaten, disparage or vilify another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.	Self-explanatory.

### 4 Level 4 Offences

The offences set out at 4.1 to 4.2 below are Level 4 offences. The range of penalties which shall be imposed for a Level 4 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
4.1	Threaten to assault an umpire or official.	Gestures and/or words used to imply causing physical harm to an umpire or official.
4.2	Use language or gestures that <b>seriously</b> offends, insults, humiliates, intimidates, threatens, disparages or vilifies another person on the basis of that person's race, religion, colour, descent or national or ethnic origin.	Abusively disparaging speech

### 5 Level 5 Offences

The offences set out at 5.1 to 5.2 below are Level 5 offences. The range of penalties which shall be imposed for a Level 5 Offence is set out in Schedule of Disciplinary Penalties section below. Financial members must not:

<b>No</b>	<b>Rule</b>	<b>Guidelines</b>
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5.1	Physically assault another player, umpire, coach, official or spectator.	This includes fighting and/or striking with a clenched/open fist and striking using a ball or another object.
5.2	Engage in rough play in the field of play.	This includes undue rough play and an attempt to strike with a clenched or open fist. This also includes kicking or attempting to kick, deliberately tripping an opponent and/or deliberately elbowing an opponent.

## Appendix K – Application to Appeal Form

### NOTICE OF APPEAL

Notice of appeal is to be lodged within 5 days of notification of determination. Any notice of appeal must comply with clause 4.5.2 of Netball NSW Disciplinary. All documentation relevant to appeal, including initial tribunal documentation and appeal bond should be included. Netball NSW Disciplinary Policy is available [www.netballnsw.com](http://www.netballnsw.com)

**FIRST LEVEL OF APPEAL**  
Netball NSW Appeals Officer

Refer to Netball NSW Affiliate

**SECOND LEVEL OF APPEAL**  
Netball NSW Appeals Officer

E: [policy@netballnsw.com](mailto:policy@netballnsw.com)  
Post: PO Box 369, Lidcombe, NSW 1825  
Fax: 02 9951 5099

I hereby appeal against the findings and/or decisions of the disciplinary tribunal made on the following date:

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dd			mm			yyyy	

#### Applicant

PLEASE USE CAPITAL LETTERS

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SURNAME

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CLUB / TEAM

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AFFILIATES NAME

I understand there are only two rights (or levels) of appeal following the decision of the initial Disciplinary Tribunal. Any appeal must first be made to Netball NSW and/or Affiliate Appeal Tribunal and then to the Netball NSW Appeal Tribunal. The decision of the Netball NSW Appeal Tribunal is final and binding on the parties.

<input type="text"/>
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SIGNATURE

#### ACTION SOUGHT (FIRST LEVEL OF APPEAL)

APPEAL TO NETBALL NSW AFFILIATE APPEAL TRIBUNAL

- Significant new evidence
- Variation of penalty imposed by Disciplinary Tribunal
- Natural Justice

#### ACTION SOUGHT (SECOND LEVEL OF APPEAL)

APPEAL TO NETBALL NSW APPEAL TRIBUNAL

- Significant new evidence
- Variation of penalty imposed by Appeals Tribunal
- Both

#### Grounds of Appeal

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**Evidence Called/ Submitted**

<b>Office Use Only</b>																							
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