

# Memo

**To** Association Executives and Life Members  
**From** Shantel Cogno, Manager Policy and Member Protection  
**CC** Lauren Woods, General Manager Communities  
Darren Simpson, Executive General Manager Community & Pathways  
**Date** Wednesday, 15 September 2021  
**Re** Australia High Court Ruling 8 September 2021 re: Social Media (Facebook) and defamation

---

## Social Media (Facebook) and Defamation

### Australia High Court Ruling 8 September 2021

Netball NSW would like to alert its Affiliates to a ruling of the High Court of Australia dated 8 September 2021 which is of significance for Affiliate Associations and Clubs maintaining public social media pages (e.g. a Club or Association Facebook page).

In this case, the High Court was asked to determine whether the owner/administrator of a public Facebook page could be found liable for the publication of allegedly defamatory “comments” posted by third-party Facebook users in response to the content appearing on the relevant Facebook page. The High Court found that owners of public social media pages are ‘publishers’ of any third-party comments that are publicly visible on a social media page they own or administer given the page owner facilitates and encourages third-parties to engage and comment on the content appearing on the relevant social media page.

What this means for Netball NSW Affiliates is that Clubs or Associations may be liable for any defamatory comments made on their public Club/Association social media page, even where those defamatory comments were made by third parties, and also where the comments were made without the knowledge or permission of the Affiliate. In essence, Clubs and Associations will be responsible for all content posted on their social media pages, even where that content is posted by persons unrelated to your Association or Club.

Netball NSW does not intend to regulate the administration of Affiliate social media pages. However, there are several proactive steps Affiliates can take to ensure the appropriate administration of social media pages;

- Appoint dedicated portfolio holder/s within each Affiliate to coordinate and monitor social media page/s
- Ensure the portfolio holder/s regularly monitor all posts and comments made on Affiliate social media pages so that all content complies with the [Netball NSW Social Media Policy](#)

- Take appropriate action if inappropriate or potentially defamatory content is discovered on your social media page/s by hiding the relevant comments and taking the appropriate action prescribed in the [Netball NSW Social Media Policy](#)
- Consider disabling comments on posts that do not require member/community engagement or which you consider may elicit controversial comments
- Disabling the ability of third-parties to make new posts on your social media pages (i.e. limiting third-party engagement to comments on posts you make)

Should you have any questions relating to the above information you may wish to obtain independent legal advice or, in the first instance, contact the Policy and Member Protection team at [policy@netballnsw.com](mailto:policy@netballnsw.com).