



POLICY – Member Protection Policy

Member Protection Policy - *Part G- Complaint Handling Policy*

Document Control

Version Control

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Approval

Delegation required for approval: Chairperson

Approving officer:

Name: Sharon Casablanca

Position: Chairperson

Signature:

Date: 01/10/2018

Purpose and Background

Brisbane Netball Association Inc. will deal with all complaints in a fair, timely and transparent manner. All complaints will be treated seriously. **Brisbane Netball Association Inc.** will provide individuals with an informal and formal process to resolve the matter, along with access to an external complaint handling body, dependent on the nature of the complaint.

Brisbane Netball Association Inc. will provide an appeals process for matters where it is required. **Brisbane Netball Association Inc.** will maintain confidentiality as far as possible and ensure that no individual is victimised for making, supporting or providing information about a complaint.

Policy Statement

Brisbane Netball Association Inc. is committed to effective and efficient resolution of complaints at all levels of our organisation. **Brisbane Netball Association Inc.** endeavours to finalise all complaints within 21 working days and to undertake the following steps in the complaint handling process within the specified timeframes:

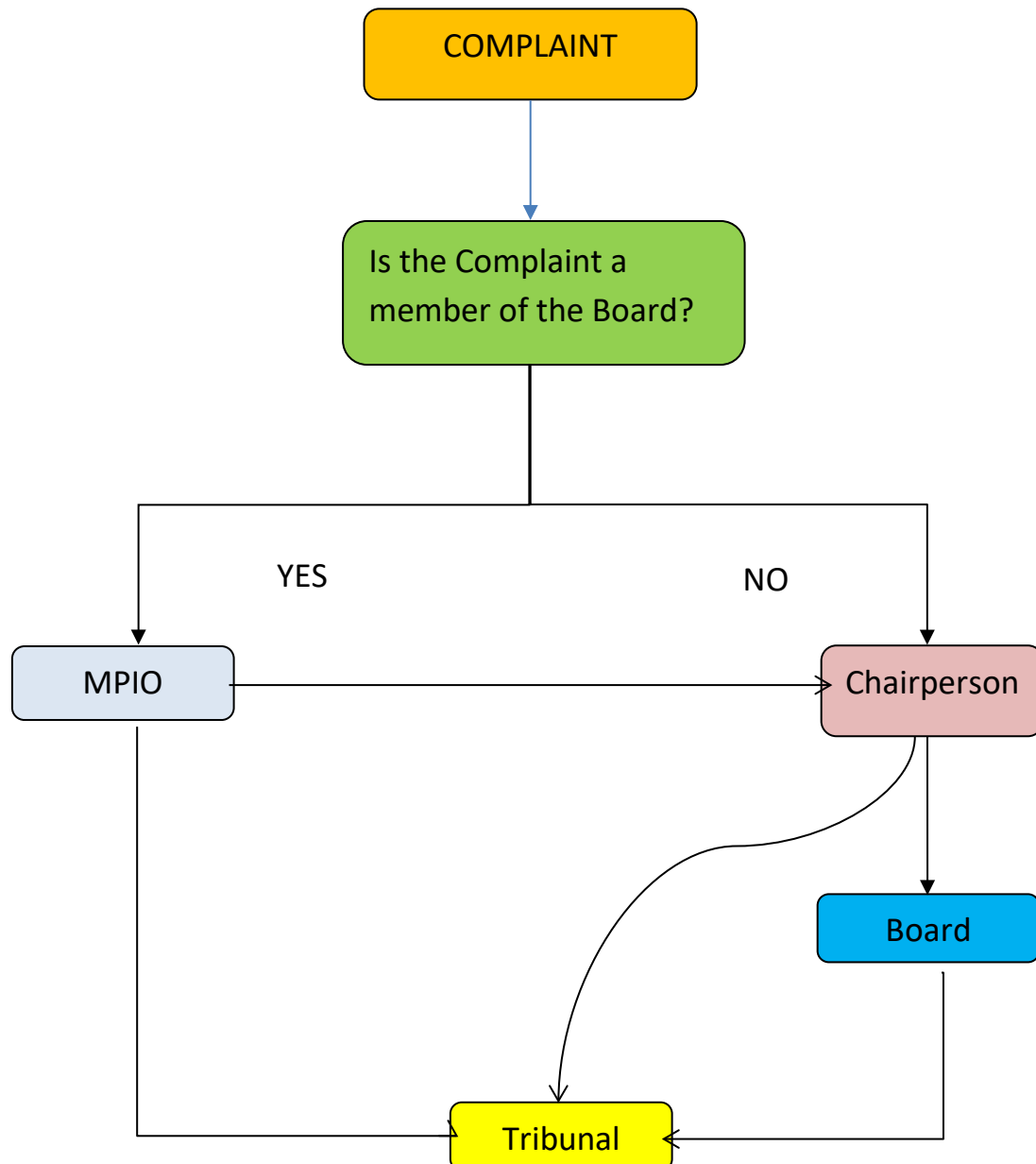
- Record – same working day
- Acknowledge – within 2 working days

- Complaints handled by the Board (only) – will be finalized within 21 working days.
- Complaints sent to the Tribunal - are restricted to the availability of all parties involved.

To ensure consistency in actions, follow due process and ensure the principles of natural justice are followed in all aspects of handling or conducting complaints, allegations, investigations, tribunals and disciplinary measures, **Brisbane Netball Association Inc.** will follow and implement the following procedures as outlined in the below flow chart: and attached

PROCEDURES:

- C1** *Complaints Procedure*
- C2** *Mediation Procedure*
- C3** *Investigation Procedure*
- C4** *Procedure for Allegations of Child Abuse*
- C5** *Hearings and Appeals Tribunal Procedure*
- C6** *Disciplinary Measures*



ATTACHMENT C1: Complaints Procedure

Brisbane Netball Association Inc. aims to support people associated with our sport to make and resolve any complaints they may have in a fair, timely and effective way.

A complaint can be about an act, behaviour, omission, situation or decision that someone thinks is unfair, unjustified, unlawful and/or a breach of this Policy. Complaints will always vary. They may be about individual or group behaviour; they may be extremely serious or relatively minor; they may be about a single incident or a series of incidents; and the person about who the allegation is made may admit to the allegations or emphatically deny them.

Given all of the variables that can arise, **Brisbane Netball Association Inc.** provides a step-by-step complaint procedure that people may use or enter at any stage. Individuals and organisations to which this Policy applies may also pursue their complaint externally under anti-discrimination, child-protection or other relevant legislation.

If at any point in the complaint process a Member Protection Information Officer (MPIO) considers that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the Hearings Tribunal for appropriate action. All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent, except where law requires disclosure or when disclosure is necessary to effectively deal with the complaint.

To ensure fairness for everyone involved **Brisbane Netball Association Inc.** will provide full details of the complaint to the person or persons against whom the complaint has been made and ask for their response. As a result, it may be difficult for **Brisbane Netball Association Inc.** to resolve complaints made anonymously.

A complaint that is referred to the Hearings Tribunal will follow a similar process to the one that is handled by the Board. All people named in this complaint, including all named eye witnesses, will be contacted by the Chairperson of the Association before the matter is elevated to the Tribunal process.

Any reasonable costs relating to the complaint process set out in this Policy (e.g. investigation and/or mediation and/or Hearings Tribunal and/or procedure for handling allegations of child abuse) are to be met by the party that the complaint relates to either **Brisbane Netball Association Inc.** and/or its Affiliates.

INFORMAL APPROACHES

Step 1: Talk with the other person (if safe, reasonable and appropriate)

1. As a first step you (the complainant) should try to sort out the problem with the person or people involved if you feel confident to do so.

Step 2: Contact a Member Protection Information Officer (MPIO) or similar

1. Where first step is not possible or reasonable; if you are not sure how to handle the problem by yourself; if you want to talk confidentially with someone and find out what options are available to resolve the problem; or the problem continues after you approached the other person, **Brisbane Netball Association Inc.** encourages you to contact:
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- a. a Member Protection Information Officer (MPIO) admin@brisbanenetball.org.au
 - b. The Chairperson of the Board (hereafter referred to as the Chairperson)
 - c. Another appropriate person within the organisation (eg administrator, team manager, coach etc).
2. If the person approached is a MPIO they may:
- a. take notes about your complaint (which will keep in a secure and confidential place);
 - b. try to find out the facts of your complaint;
 - c. ask what outcome you would like, how you want the problem resolved and if you need support;
 - d. explain how our complaints procedure works;
 - e. provide possible options for you to resolve the problem;
 - f. refer you to an appropriate person to help you resolve the problem, if necessary;
 - g. inform the relevant government authorities and/or police if required by law to do so; and
 - h. Maintain strict confidentiality.

Step 3: Outcomes from Initial Contact

1. After talking with the MPIO you may decide:
 - a. there is no problem and no further action is required;
 - b. the problem is minor and you do not wish to take the matter forward;
 - c. to try and resolve the problem on your own, with or without a support person;
 - d. to resolve the problem with the help of someone impartial, such as a mediator; or
 - e. resolve the matter through a formal process.
2. If you wish to remain anonymous **Brisbane Netball Association Inc.** cannot assist you to resolve your complaint. **Brisbane Netball Association Inc.** must follow the principles of natural justice and be fair to both sides. This means that **Brisbane Netball Association Inc.** may be required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond to all the allegations.

FORMAL APPROACHES

Step 4: Making a Formal Complaint

1. If your complaint is not resolved to your satisfaction through the informal process you may make a formal complaint in writing to the relevant body, or approach a relevant external agency such as an anti-discrimination or equal opportunity commission, for advice.
 2. To avoid any doubt, any complaint relating to:
 - a. a **Brisbane Netball Association Inc.** program or event, shall be referred to the Chairperson of **Brisbane Netball Association Inc.**;
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- b. an Affiliate program or event shall be referred to the Board of the Affiliate.

Step 5: Making a Formal Complaint: Chairperson Process

1. If you decide to make a formal complaint in writing under Step 4 the Chairperson will, on receiving the formal complaint and based on the material you have provided, decide whether:
 - a. they are the most appropriate body to receive and handle the complaint;
 - b. the nature and seriousness of the complaint requires a formal resolution procedure. Some complaints may be of a minor and/or purely personal nature with no connection to the activities of *Brisbane Netball Association Inc.* In these cases, the Chairperson may determine that the complaint does not warrant a formal resolution procedure;
 - c. to appoint a person to investigate the complaint;
 - d. to refer the complaint to an informal or formal mediation session;
 - e. to refer the complaint to a Hearings Tribunal;
 - f. to refer the matter to the police or other appropriate authority; and/or
 - g. implement any interim administrative or other arrangements that will apply until the complaint process set out in the Complaint Handling Regulation is completed.
 2. In making the decision(s) outlined above, the Chairperson will take into account:
 - a. whether they have had any personal involvement in the circumstances giving rise to the complaint and if so, whether their ability to impartially manage the complaint is compromised or may appear to be compromised;
 - b. whether due to the nature of the complaint specific expertise or experience may be required to manage the complaint;
 - c. your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;
 - d. Whether due to the nature of the complaint, the relationship between you and the respondent and any other relevant factors, the complaint should or should not be referred to informal or formal mediation or to a Hearings Tribunal. Relevant factors may include an actual or perceived power imbalance between you and the respondent, the nature of any ongoing working relationship between you and the respondent, and the personal attributes of you and the respondent (for example, if one party does not speak English fluently some of the possible complaints resolution mechanisms may not be appropriate);
 - e. the nature and sensitivity of any information or material that must be provided by you, the respondent, and any of the other people involved in the complaint;
 - f. whether the facts of the complaint are in dispute; and
 - g. the urgency of the complaint including the likelihood and the consequences (if the complaint is ultimately proven) that you will be subject to further unacceptable behaviour while the complaint process set out in these procedures is being conducted.
 - h. If the Hearings Tribunal is the appropriate panel to handle the complaint they will, to the extent that these steps are necessary:
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- 1) get full information from you (the complainant) about your complaint and how you want it resolved;
- 2) put the information they have received from you to the person/people you are complaining about and ask them to provide their side of the story;
- 3) decide whether they have enough information to determine whether the matter alleged in your complaint is substantiated; and/or
- 4) determine what, if any, further action to take. This action may include disciplinary action in accordance with Attachment C6, appointing a person to investigate the complaint, referring the complaint to an informal or a formal mediation session or a Hearings Tribunal and/or referring the complaint to the police or other appropriate authority.

Step 6: Resolution Process

1. In some cases, an investigation may be required to determine the facts surrounding the complaint.
2. If a person is appointed to investigate the complaint under Step 5 the investigator will conduct the investigation and provide a written report to the Chairperson who will determine what, if any, further action to take. This action may include a direction to the investigator to make further enquiries and obtain additional information, disciplinary action, referring the complaint to an informal or a formal mediation session, and/or the police or other appropriate authority.
3. If the complaint is referred to an informal or a formal mediation session under Step 5 the mediation session will be conducted in accordance with Attachment C2 or as otherwise agreed by you and the respondent.
4. If the complaint is referred to a Hearings Tribunal under Step 5 the hearing will be conducted in accordance with Attachment C5.
5. If the complaint is referred to the police or other appropriate authority under Step 5 **Brisbane Netball Association Inc.** will use its best endeavours to provide all reasonable assistance lawfully required by the police or other appropriate authority.
6. If interim administrative or other arrangements are implemented under Step 5 **Brisbane Netball Association Inc.** will periodically review these arrangements to ensure that they are effective.

Step 7: Reconsideration of initial outcome, investigation or appeal

1. If, under Step 6, an informal or formal mediation session is conducted and you and the respondent(s) cannot reach a mutually acceptable mediated solution to the complaint, you may request that the Chairperson reconsider the complaint in accordance with Step 5 within 14 days of the initial decision.
 2. You or the respondent(s) may be entitled to appeal where:
 - a. under Step 5 a decision was made by the Board of Directors or Chairperson:
 - i. not to take any action; or
 - ii. to take disciplinary action; or
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- b. under Step 6 a decision was made by the Board of Directors or the Chairperson or a Hearings Tribunal:
 - i. not to take any action; or
 - ii. to take disciplinary action.
3. The grounds for appeal and the process for appeals under this Policy are set out in Attachment C5.
4. If the internal complaints processes set out in this Policy do not achieve a satisfactory resolution/outcome for you, or if you believe it would be impossible to get an impartial resolution within **Brisbane Netball Association Inc.**, you may choose to approach an external agency such as an equal opportunity commission to assist with a resolution.

Step 8: Documenting the Resolution

1. The Chairperson will document the complaint, the process followed and the outcome. This document will be stored in a confidential and secure place.
2. All documentation related to the complaint will be confidentially stored by the relevant body (the group that handled the complaint process).
3. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the state level, the original document will be stored at the state office with a copy stored at the association office.

External Procedure

If you feel that you have been harassed or discriminated against you can seek advice from your State or Territory anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

Once a complaint is received by the commission they will investigate the matter. If it appears that unlawful harassment or discrimination has occurred the commission will attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken. This could include an apology or financial compensation for distress, lost earnings or medical and counselling expenses incurred.

If you do lodge a complaint with the commission an appropriate person from our organisation (e.g. an MPIO) may be available to support you during the process. It is also common to have a legal representation, particularly if the complaint goes to a formal hearing.

Contact details for the state and territory anti-discrimination and equal opportunity commissions are available on the Play by the Rules website: <http://www.playbytherules.net.au/resources/quick-reference-guide>.

Serious incidents, such as assault or sexual assault, should be reported to the police.

ATTACHMENT C2: MEDIATION

Mediation is a process that allows all people involved in a complaint to talk through the issues with an impartial person – the mediator – and work out a mutual solution.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved talk through the issues making sure that the process is as fair as possible for all concerned.

This attachment outlines the general procedure of mediation that will be followed by **Brisbane Netball Association Inc.**

1. The people involved in a formal complaint (complainant and respondent(s)) may work out their own resolution of the complaint or seek the assistance of a neutral third person or a mediator. Mediation may occur either before or after an investigation of the complaint.
 2. Mediation will only be recommended:
 - a. after the complainant and respondent have had their chance to tell their version of events to the MPIO or Chairperson on their own; and
 - b. the Chairperson does not believe that any of the allegations warrant any form of disciplinary action - proven serious allegations will not be mediated, no matter what the complainant desires; and
 - c. mediation looks like it will work (i.e. the versions given by the complainant and respondent tally or almost tally and/or at the very least, it looks as though it will be possible for each party to understand the other party's point of view).
 3. Mediation will **not** be recommended if:
 - a. the respondent has a completely different version of the events and they won't deviate from these;
 - b. the complainant or respondent are unwilling to attempt mediation;
 - c. when the issues raised are sensitive in nature;
 - d. when there is a real or perceived power imbalance between the people involved;
 - e. matters that involve serious, proven allegations;
 - f. the complaint is not suitable for mediation due to the nature of the complaint, the relationship between you and the respondents and any other relevant factors.
 4. If mediation is chosen to try and resolve the complaint the MPIO will, under the direction of **Brisbane Netball Association Inc.** and in consultation with the complainant and the respondent(s), arrange for a mediator to mediate the complaint.
 5. The Chairperson or MPIO will notify the respondent(s) that a formal complaint has been made, provide them with details of the complaint, and notify **Brisbane Netball Association Inc.** that it has decided to refer the matter to mediation.
 6. The mediator's role is to assist the complainant and respondent(s) reach an agreement on how to resolve the problem. The mediator, in consultation with the complainant and respondent(s), will choose the procedures to be followed during the mediation. At a minimum, an agenda of issues for discussion will be prepared by the mediator.
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7. The mediation will be conducted confidentially and without prejudice. The rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved will be preserved.
 8. At the end of a successful mediation the mediator will prepare a document that sets out the agreement reached between the complainant and respondent(s) and it will be signed by them as their agreement.
 9. If the formal complaint is not resolved by mediation, the complainant may:
 - a. Write to the Chairperson within 14 days of the mediation to request that they reconsider the complaint in accordance with Step 5; or
 - b. Approach an external agency such as an anti-discrimination or equal opportunity commission to resolve the matter.
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ATTACHMENT C3: INVESTIGATION PROCESS

There will be times when a complaint will need to be investigated and evidence gathered. An investigation helps determine the facts relating to the incident, as well as produce findings and recommendations. Any investigation that **Brisbane Netball Association Inc.** conducts will be fair to all people involved.

If **Brisbane Netball Association Inc.** decides that a complaint should be investigated the following steps are to be followed:

1. A written brief will be provided to the investigator to ensure the terms of engagement and scope of the investigator's role and responsibilities are clear.
 2. The complainant will be interviewed by the investigator and the complaint documented in writing.
 3. The details of the complaint will be conveyed to the person/people complained about (respondent(s)) in full. The respondent(s) will be given sufficient information to enable them to properly respond to the complaint.
 4. The respondent(s) will be interviewed by the investigator and given the opportunity to respond. The respondent's response to the complaint will be documented in writing.
 5. If there is a dispute over the facts, statements from witnesses and other relevant evidence will be obtained to assist in a determination.
 6. The investigator will make a finding as to whether the complaint is:
 - a. substantiated (there is sufficient evidence to support the complaint);
 - b. inconclusive (there is insufficient evidence either way);
 - c. unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
 - d. Mischievous, vexatious or knowingly untrue.
 7. A report documenting the complaint, investigation process, evidence, and finding and, if requested, recommendations will be given to the Chairperson.
 8. A report documenting the complaint and summarizing the investigation process and key points that were found to be substantiated, inconclusive, unsubstantiated and/or mischievous will be provided to the complainant and the respondent(s).
 9. Both the complainant and the respondent(s) are entitled to support throughout this process from their chosen support person/adviser (e.g. MPIO or another person).
 10. The complainant and the respondent(s) may have the right to appeal against any decision based on the investigation. Information on our appeals process is in Attachment C5.
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ATTACHMENT C4: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE

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

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

Brisbane Netball Association Inc. will treat any allegation of child abuse or neglect promptly, seriously and with a high degree of sensitivity.

All people working with **Brisbane Netball Association Inc.** in a paid or unpaid capacity have a duty to report any concerns to the appropriate authorities, following the steps outlined below.

Step 1: Receive the allegation

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

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

Step 2: Report the allegation

- Immediately report any allegation of child abuse or neglect, or any situation involving a child at risk of harm, to the police and/or the relevant child protection agency. You may need to make a report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the allegation should be reported.
- If the allegation involves a person to whom this policy applies, then also report the allegation to the **Brisbane Netball Association Inc.** so that she/he can manage the situation.

Step 3: Protect the child and manage the situation

- The appropriate person from **Brisbane Netball Association Inc.** will assess the immediate risks to the child and take interim steps to ensure the child's safety and the safety of any other children. This may include redeploying the alleged offender to a position where there is no unsupervised contact with children, supervising the alleged offender or removing/suspending
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him or her until any investigations have been concluded. Legal advice should be sought before any interim steps are made if the person is in paid employment with **Brisbane Netball Association Inc.**

- The appropriate person from **Brisbane Netball Association Inc.** will consider which services may be most appropriate to support the child and his or her parent/s or guardian/s.
- The appropriate person from **Brisbane Netball Association Inc.** will consider which support services may be appropriate for the alleged offender.
- The appropriate person from **Brisbane Netball Association Inc.** will put in place measures to protect the child and the alleged offender from possible victimisation and gossip.

Step 4: Take internal action

- Up to three different investigations can be undertaken to examine allegations that are made against a person to whom this policy applies, including:
 - a criminal investigation (conducted by the police);
 - a child protection investigation (conducted by the relevant child protection agency); and
 - a disciplinary or misconduct inquiry/investigation (conducted by **Brisbane Netball Association Inc.** or its Affiliates).
- Regardless of the findings of the police and/or child protection agency investigations the appropriate person from **Brisbane Netball Association Inc.** will assess the allegations to decide whether the alleged offender should return to his or her position, be dismissed, be banned or face any other disciplinary action.
- The appropriate person from **Brisbane Netball Association Inc.** will consider all information relevant to the matter – including any findings made by the police, the child protection authority and/or court – and then set out a finding, recommend actions and the rationale for those actions.
- If disciplinary action is recommended the appropriate person from **Brisbane Netball Association Inc.** will follow the procedures set out in the Member Protection Policy.
- The appropriate person from **Brisbane Netball Association Inc.** will provide the relevant government agency with a report of any disciplinary action taken, where this is required.
- **Contact details for advice or to report an allegation of child abuse**

Queensland	
Queensland Police Non-urgent police assistance Ph: 131 444 www.police.qld.gov.au	Department of Communities www.communities.qld.gov.au/childsafety Ph: 1800 811 810

ATTACHMENT C5: HEARINGS & APPEALS TRIBUNAL PROCEDURE

The following hearing procedure will be followed by the Hearings Tribunal established by **Brisbane Netball Association Inc.**

HEARINGS

Where the Chairperson at **Brisbane Netball Association Inc.** receives a Complaint referred to it under this Policy he or she shall follow the procedures set out below.

1. Upon receipt of the Complaint the Chairperson shall, as soon as possible, do the following:
 - a. determine the composition of the Hearings Tribunal, as detailed in clause 3;
 - b. send to the respondent:
 - i. a notice setting out the alleged breach including details of when/where it is alleged to have occurred; and
 - ii. a notice setting out the date, time and place for the hearing of the alleged breach which shall be as soon as reasonably practicable after receipt of the Complaint or information; and
 - iii. a copy of the Complaint; (“referred to as Notice of Alleged Breach”);
 - c. send a copy of the Notice of Alleged Breach to the chairperson of the Hearings Tribunal.
 2. The Hearings Tribunal for each year shall be appointed at the AGM of **Brisbane Netball Association Inc.** by the members. The Tribunal will be comprised of the following persons:
 - a. A person with considerable previous experience within a similar Disciplinary/ Hearings Tribunal.
 - b. a person with a thorough knowledge of the sport; and
 - c. a person of experience and skills suitable to the function of the hearings Tribunal, provided that such persons do not include:
 - i. a person who is a member of the board (however described) of the organisation which appoints the Hearings Tribunal; or
 - ii. a person, who would, by reason of their relationship with the complainant or the respondent, be reasonably considered to be other than impartial.
 3. The powers of the Hearings Tribunal are:
 - i) enforce policies and procedures of the **Brisbane Netball Association Inc**
 - ii) Apply penalties for breaches of the policies and procedures of **Brisbane Netball Association Inc**
 - iii) Where appropriate, provide recommendations to **Brisbane Netball Association Inc**
 4. Frivolous, vexatious or malicious Complaints. If within 48 hours of sending the Notice of Alleged Breach the respondent alleges in writing to the Chairperson or Chair of the Hearings Tribunal that the Complaint is frivolous, vexatious or malicious, the chairperson shall as a preliminary issue, determine whether or not such Complaint is frivolous, vexatious or malicious and advise the parties of his or her determination.
 - a. The Chairperson shall provide to the other parties to the hearing (see clause 6) a copy of the written allegation made by the respondent that the complaint is frivolous, vexatious or malicious.
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- b. The chairperson shall determine such preliminary issue as soon as practicable and in whatever manner the chairperson considers appropriate in the circumstances provided that he or she does so in accordance with the principles of natural justice.
 - c. The decision of the chairperson under this clause 4 may be appealed within 48 hours of the determination to the relevant appeal body under clause 2.
 5. The Hearings Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the respondent has committed a breach of the Policy. If the Hearings Tribunal considers that the respondent has committed a breach of this Policy, it may impose any one or more of the penalties set out in Attachment C6.
 6. The parties to the hearing shall include the complainant, the respondent, the relevant organisation being **Brisbane Netball Association Inc.** and any witnesses which the Hearings Tribunal considers necessary.
 7. If upon receipt of the Notice of Alleged Breach the Hearings Tribunal considers that pending the determination of the matter the respondent may put at risk the safety and welfare of the complainant or others it may order that the respondent be:
 - a. suspended from any role they hold with **Brisbane Netball Association Inc.;**
 - b. banned from any event or activities held by or sanctioned by **Brisbane Netball Association Inc.;** and/or
 - c. required not to contact or in any way associate with the complainant or other person about whom the alleged breach relates, pending the determination of the hearing.
 8. There is no right of appeal of the decision by a Hearings Tribunal under clause 7.
 9. No party to the hearing may be represented by a barrister or solicitor. However, the chairperson of the tribunal may grant leave for a party to the hearing to be represented by a barrister or solicitor where their livelihood or proprietary is at risk. A party may be represented by an advocate who is not a barrister or solicitor at the hearing.
 10. Each party to the hearing shall bear their own costs in relation to the hearing.
 11. The Hearings Tribunal shall give its decision as soon as practicable after the hearing and the Chairperson will deliver to the following a statement of the written reasons:
 - a. the complainant;
 - b. the respondent; and
 - c. any other party represented in the hearing.
 12. Each member of each Hearings Tribunal established under this Policy shall be indemnified by the organisation which appointed them from any claim or action for loss, damages, or costs made against them arising out of, or in connection with, their function as a member of the hearings Tribunal under this Policy.
 13. Except as otherwise provided in this Policy all members of the Hearings Tribunal shall keep all matters relating to the hearing (including but not limited to the nature of the complaint, information obtained before and during the hearing, and the decision of the Hearings Tribunal) confidential.
 14. To the extent of any inconsistency between the hearing procedure set out in the constitution of **Brisbane Netball Association Inc.** and the hearing procedure set out in this Policy, this Policy shall prevail in relation to all Complaints under this Policy.
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APPEALS

The party represented at a Hearings Tribunal may appeal a decision of a Hearings Tribunal, in so far as it is appropriate and relevant, on the grounds that natural justice has not been provided.

1. An appeal shall be made to the following appeal body:
 - a. an appeal against a decision of a Hearings Tribunal established by **Brisbane Netball Association Inc.**, shall be made to the Hearings Tribunal of **Brisbane Netball Association Inc.** Subject to the discretion of the chairperson of the Hearings Tribunal all appeals to **Brisbane Netball Association Inc.** shall be heard at the principal place of business of **Brisbane Netball Association Inc.**; or
 - b. an appeal against a decision of a Hearings Tribunal established by **Brisbane Netball Association Inc.**, shall be made to the appeal division of the Court of Arbitration for Sport (Oceania Registry) ("CAS") (referred to as the "appeal body").
2. There is only one right of appeal following the decision of the initial Hearings Tribunal. Any appeal must be solely and exclusively resolved by the appeal body and the decision of such appeal body is final and binding on the parties. It is agreed that no party to such appeal may institute or maintain proceedings in any court or tribunal other than the relevant appeal body. Note: This provision does not prevent any person or organisation taking action under State or Federal legislation.
3. The process for such appeal is as follows:
 - a. The party wishing to appeal ("the Appellant") shall within 72 hours of the hearings Tribunal delivering its decision:
 - i. advise, in writing, the Chairperson of **Brisbane Netball Association Inc.** of their intention to appeal ("Notice of Intention to Appeal"); or
 - ii. in the case of an appeal to CAS from a decision of a hearings tribunal established by **Brisbane Netball Association Inc.**, complete and file an application to appeal with CAS in accordance with the Code of Sports Related Arbitration; and
 - iii. for an appeal to **Brisbane Netball Association Inc.**, as soon as possible after receipt of the Notice of Intention to Appeal, the Chairperson of **Brisbane Netball Association Inc.** shall appoint a hearings tribunal to hear and determine the appeal (which shall comprise of persons in accordance with clause 3); and
 - iv. within 5 days of lodging the Notice of Intention to Appeal, (or such shorter time as determined by the appeal body if there is urgency) the Appellant shall:
 - a. pay the non-refundable appeal fee of \$550.00 (including GST) to the Hearings Tribunal of **Brisbane Netball Association Inc.** or its Affiliates, or in the case of an appeal to CAS, the fee as per the Code of Sports-Related Arbitration applicable to CAS; and
 - b. submit to the Chairperson of **Brisbane Netball Association Inc.**, four written copies of the grounds of appeal. The Chairperson of **Brisbane Netball Association Inc.** shall provide a copy of the grounds of appeal to the other party, to the hearings Tribunal who made the decision which is the subject of the appeal and the chairperson of the appeal body. If either of the

requirements in this sub-clause are not met by the due time the appeal shall be deemed to be withdrawn;

- b. On completion of the procedures in (i) to (iv), the Chairperson of **Brisbane Netball Association Inc.** (as the case may be) shall determine a place, time and date for the hearing of the appeal and as soon as possible thereafter notify all parties to the appeal in writing of such details; and
 - c. The procedure for the appeal shall be the same as the procedure for the hearings tribunal set out in clause 1 except where the appeal body is CAS, in which case the Code of Sports-Related Arbitration shall apply.
4. The appeal body may reject an appeal on the basis that the grounds of appeal are not satisfied.
 5. Upon hearing the appeal, the appeal body may do any one or more of the following:
 - a. dismiss the appeal;
 - b. uphold the appeal;
 - c. impose any of the penalties set out in Attachment C6; and/or
 - d. reduce, increase or otherwise vary any penalty imposed by the initial hearings tribunal.
 6. If the penalty imposed by the appeal body affects other organisations required to comply with this Policy, the Chairperson of **Brisbane Netball Association Inc.** shall as soon as possible notify in writing the relevant organisation of the penalty. Notification of such penalty to a Member Organisation shall be deemed to be notification to all Affiliates which are members of the Member Organisation and notification of such penalty to an Affiliate shall be deemed to be notification to all members of the Affiliate. Every organisation to which this Policy applies shall recognise and enforce any decision and penalty imposed by an appeal body under this Policy.
 7. The appeal body has no power to award costs and each party shall bear their own costs in relation to any appeal.
 8. To the extent of any inconsistency between the hearing appeal procedures set out in the constitution of **Brisbane Netball Association Inc.** and the hearing appeal procedure set out in this Policy, this Policy shall prevail in relation to all Complaints under this Policy.
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ATTACHMENT C6: DISCIPLINARY MEASURES

1. Any disciplinary measure imposed, in so far as it is relevant/appropriate, by **Brisbane Netball Association Inc.** under this Policy must:
 - a. observe any contractual and employment rules and requirements;
 - b. conform to the principles of natural justice;
 - c. be fair and reasonable;
 - d. be based on the evidence and information presented; and
 - e. be within the powers of the Hearings Tribunal and appeals body to impose the disciplinary measure.

WHAT PENALTIES MAY BE IMPOSED?

1. If the Hearings Tribunal considers that a person or organisation, to whom this Policy applies, has breached this Policy, it may impose any one or more of the following penalties:
 - a. For breaches committed by organisations: If the Hearings Tribunal considers that **Brisbane Netball Association Inc.**, any other organisation has breached this Policy, it may impose any one or more of the following penalties on such organisation:
 - i. direct that any funding granted or given to it by **Brisbane Netball Association Inc.** cease from a specified date;
 - ii. impose a monetary fine for an amount determined by the Hearings Tribunal;
 - iii. impose a warning;
 - iv. recommend to **Brisbane Netball Association Inc.** that its membership of such organisation be suspended or terminated in accordance with their applicable constitution;
 - v. direct that any rights, privileges and benefits provided to that organisation by **Brisbane Netball Association Inc.** be suspended for a specified period and/or terminated;
 - vi. direct that **Brisbane Netball Association Inc.** cease to sanction events held by or under the auspices of that organisation;
 - vii. any other such penalty as the Hearings Tribunal considers appropriate.
 - b. For breaches committed by individual persons: If the Hearings Tribunal considers that an individual person to whom this Policy applies has breached this Policy, it may impose any one or more of the following penalties on such person:
 - i. direct that the offender attend counselling to address their conduct;
 - ii. recommend that **Brisbane Netball Association Inc.** terminate the appointment of the role which the offender holds with such organisation;
 - iii. (where there has been damage to property) direct that the offender pay compensation to the relevant organisation which controls or has possession of the damaged property;
 - iv. impose a monetary fine for an amount determined by the hearings tribunal;
 - v. impose a warning;
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- vi. (in the case of a coach) direct the relevant organisation to de-register the accreditation of the coach for a period or indefinitely;
 - vii. withdraw any awards, placing, records won in any tournaments, activities or events held or sanctioned by ***Brisbane Netball Association Inc.***;
 - viii. direct the offender to repay all or part of any financial assistance (excluding any fee for service, wages or expenses) given to them by any Federal or State funding agency, ***Brisbane Netball Association Inc.***, or any other organisation which has provided funding;
 - ix. any other such penalty as the Hearings Tribunal considers appropriate.
2. If an organisation or individual commits a second or subsequent breach under this Policy the hearings tribunal shall have regard to the previous breach, the penalty imposed and any other relevant factors, in imposing a penalty for the second or subsequent breach.
 3. If the penalty imposed by the Hearings Tribunal affects other organisations required to comply with this Policy the Chairperson of the organisation from which the Hearings Tribunal is established shall as soon as possible notify the relevant organisations of the penalty. Notification of such penalty to a Member Organisation shall be deemed to be notification to all Affiliates which are members of the Member Organisation and notification of such penalty to an Affiliate shall be deemed to be notification to all members of the Affiliate.
 4. Every organisation to which this Policy applies shall recognise and enforce any decision and penalty imposed by a hearings tribunal under this Policy.
 5. When imposing any form of discipline, it will be accompanied by a warning that a similar breach of policy by that individual in the future may result in the imposition of a more serious form of discipline.

Factors to Consider When Imposing Discipline

1. The form of discipline to be imposed on an individual or organisation will depend on factors such as:
 - a. jurisdiction over the individual or organisation;
 - b. nature and seriousness of the behaviour or incidents;
 - c. in a case where action is taken concurrently with or in lieu of a resolution of a formal complaint, the wishes of the complainant;
 - d. if the individual concerned knew or should have known that the behaviour was a breach of the Policy;
 - e. level of contrition of the respondent(s);
 - f. the effect of the proposed disciplinary measures on the respondent(s) including any personal, professional or financial consequences;
 - g. if there have been relevant prior warnings or disciplinary action; and/or
 - h. if there are any mitigating circumstances such that the respondent(s) shouldn't be disciplined at all or not disciplined so seriously?
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