

MEMBER PROTECTION POLICY

**Adopted by NSW Netball Association Ltd Board Meeting on
15th April 2008**

**Amended by NSW Netball Association Ltd Board Meeting on
20th April 2010**

Netball NSW

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1. Preface

Netball is enjoyed by thousands of participants throughout New South Wales every week. Participants enjoy a range of experiences from five to ten year olds learning basic skills in NetSetGO! Progressing to juniors, seniors and masters playing at various levels of competition.

The sport caters for females and males of all ages and abilities, from the social netballer to the elite athlete. They participate in netball for many reasons including the competitive challenge, to be with friends, health and fitness, the satisfaction of volunteering and most importantly to have fun.

Netball is not immune to acts of discrimination, harassment and abuse and in fact shares the common features of most sporting environments where close physical and emotional relationships can develop and inappropriate or unlawful behaviour can take place.

Netball NSW is both ethically and legally responsible to prevent discrimination and more specifically harassment from occurring in netball. The adoption of the Netball NSW Member Protection Policy reflects Netball NSW's commitment to serving and protecting its members throughout all levels of the sport.

This Policy is only one component of the overall strategy and the implementation and enforcement of this Policy will require ongoing commitment from all levels of the sport.

The Policy also compliments a range of other organisational policies including junior netball, umpire and coach development, governance, finance, information technology and privacy policies.

Through working together, the netball community can prevent discrimination and harassment and create a safe and supportive environment for all participants at all levels.

Carolyn Campbell
General Manager
Netball NSW
20 April 2010

2. Netball NSW Core Values

Netball NSW is committed to treating all people with respect, dignity and fairness. These values, along with the basic right of all netball members to participate in an environment that is enjoyable, safe and healthy, has resulted in Netball NSW developing specific objectives to create a safer and more tolerant sporting environment.

3. Purpose of this Policy

This Policy aims to ensure Netball NSW's core values, good reputation and positive behaviours and attitudes are maintained. It assists Netball NSW to ensure that every person involved in netball is treated with respect and dignity, and is safe and protected from abuse. This Policy also ensures that everyone involved in netball is aware of his or her legal and ethical rights and responsibilities. This Policy reflects Netball NSW's support and implementation of the sport industry principles and values outlined in *The Essence of Australian Sport – principles of fairness, respect, responsibility and safety*.

This Policy is accompanied by a Complaints Handling Policy, NSW Child Protection Regulations, Codes of Behaviour and various reporting, educational and support documents. These resources provide the procedures that support Netball NSW's commitment to eliminating discrimination, harassment, child abuse and other forms of inappropriate behaviour from our sport. As part of this commitment, Netball NSW can take disciplinary action against any person or organisation bound by this Policy if they breach it.

The Netball NSW Board of Directors ("Board") has adopted this Policy in accordance with Clause (6) of the NSW Netball Association Limited Constitution.

The Policy is effective from **15 April 2008** and will operate until replaced. This Policy may be amended from time to time by resolution of the Netball NSW Board.

Copies of the Policy and its accompanying documents can be obtained from the Netball NSW website www.netballnsw.com or by contacting Netball NSW.

4. Who this Policy Applies To

This Policy applies to the following, whether they are in a paid or unpaid/voluntary capacity:

- District/League Associations; and
- Any other person or organisation that is a financial member of, Netball NSW;

This Policy will continue to apply to a person even after they have stopped their association or employment with Netball NSW if disciplinary action, relating to an allegation of child abuse against that person, has commenced.

5. Organisational Responsibilities

Netball NSW and District/League Associations must:

- Adopt, implement and comply with this Policy and its regulations;
- Publish, distribute and otherwise promote this Policy and the consequences for breaching it;

- Promote appropriate standards of conduct at all times;
- Promptly deal with any breaches of, or complaints made, under this Policy in an impartial, sensitive, fair, timely and confidential manner;
- Apply this Policy consistently without fear or favour;
- Recognise and enforce any penalty imposed under this Policy;
- Ensure that a copy of this Policy is available or accessible to the persons to whom this Policy applies;
- Appoint or have access to appropriately trained people to receive and handle complaints and allegations (i.e. Member Protection Information Officers [MPIO's]) and display the names and contact details in a way that is readily accessible; and
- Monitor and review this Policy at least annually.

6. Individual Responsibilities

Individuals bound by this Policy are responsible for:

- Making themselves aware of the Policy and complying with the standards of conduct outlined in this Policy;
- Consenting to undergo screening as per the NSW Child Protection Regulation and/or NSW State legislation if the individual holds or applies for a role that involves direct and unsupervised contact with people under the age of 18 years;
- Complying with all other requirements of this Policy;
- Co-operating in providing a discrimination, child abuse and harassment free sporting environment;
- Understanding the possible consequences of breaching this Policy.

7. Policy Position Statements

7.1 Child Protection Policy

As part of Netball NSW's commitment to protecting the safety and welfare of children and young people involved in netball activities, Netball NSW will ensure that all State legislative requirements are met and followed according to the processes described in the Netball NSW MPP – Part B (Child Protection Policy).

7.2 Anti-Discrimination and Harassment Policy

Netball NSW aims to provide a sporting environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination. Further information relating to anti-discrimination and harassment procedures are outlined in the Netball NSW MPP – Anti-Discrimination and Harassment Policy.

7.3 Sexual Relationships Policy

Netball NSW takes the view that intimate relationships (whether or not of a sexual nature) between coaches and players, while not necessarily constituting Harassment, can have harmful effects on the individual player involved, on other players and on the sport's public image. Further information relating to this issue is outlined in the Netball NSW MPP – Sexual Relationships Policy.

7.4 *Pregnancy Policy*

Netball NSW is committed to providing an inclusive sporting environment for pregnant women involved in netball. Netball NSW expects everyone who is bound by this Policy to treat pregnant women with dignity and respect and to remove any unreasonable barriers to participation in our sport that disadvantage them. Further information regarding pregnancy and participation in netball can be found in the Netball NSW MPP – Pregnancy Policy.

7.5 *Gender Identity Policy*

Netball NSW is committed to providing an inclusive sporting environment where transgender or transsexual people involved in netball activities are able to contribute and participate. Information regarding gender identity issues can be found in the Netball NSW MPP – Gender Identity Policy.

7.6 *Anti-Doping Policy*

Netball NSW is committed to providing an inclusive sporting environment free from the use of prohibited substances and methods. Information regarding anti-doping issues can be found in the Netball NSW MPP – Anti-Doping Policy.

7.7 *Other relevant policies*

Other Netball NSW relevant policies can be found at www.netballnsw.com. Some of the policies that contribute to the welfare of all those involved in our activities include:

- Privacy Policy
- Risk Management Policy
- Junior Netball Policy

8. Complaints Procedures

8.1 *Complaints*

Netball NSW aims to provide an easy to use, confidential and trustworthy procedure for complaints based on the principles of natural justice. Any person may report a complaint (Complainant) about a person/s or organisation bound by this Policy if they reasonably believe that a person/s or a sporting organisation has breached this Policy. A complaint should be reported in the first instance to a Member Protection Information Officer (MPIO) or a District/League Association President/Secretary.

A complaint may be reported as an informal or formal complaint. The Complainant decides whether the complaint will be dealt with informally or formally unless the MPIO of the relevant organisation (Netball NSW or District/League Association) considers that the complaint falls outside the parameters of this Policy and would be better dealt with another way.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. The complaint procedures are outlined in the Netball NSW MPP – Part C (Complaint Handling Policy).

8.2 *Vexatious Complaints & Victimisation*

Netball NSW will provide a complaints procedure that has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process the MPIO considers that a Complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to a Hearings Tribunal for appropriate action which may include disciplinary action against the Complainant.

Netball NSW will also take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with a complaint or for helping to sort it out. Disciplinary measures can be imposed on anyone who victimises another person for making a complaint.

8.3 *Mediation*

Netball NSW will resolve complaints in a timely and efficient manner wherever possible. In many cases, complaints can be sorted out by agreement between the people involved with no need for disciplinary action. The people involved in a formal complaint - the Complainant and the person complained about (Respondent) - may also seek the assistance of a neutral third person or a mediator. Lawyers are not able to negotiate on behalf of the Complainant and/or Respondent.

Mediation may occur either before or after an investigation of a complaint. If a Complainant wishes to try and resolve the complaint with the assistance of a mediator, Netball NSW or the relevant District/League Association will, in consultation with the Complainant, arrange for a mediator to mediate the complaint. More information on the mediation process is outlined in the Netball NSW MPP - Part C (Complaint Handling Policy).

8.4 *Hearings Tribunal*

A Hearings Tribunal may be formed to hear a formal complaint that has been referred by the Complainant for an alleged breach of the Policy. Netball NSW's Hearings Tribunal procedure is outlined in the Netball NSW MPP – Part C (Complaint Handling Policy).

A respondent may lodge one appeal only to the Appeals Tribunal in respect of a decision of a Hearings Tribunal. The decision of the appeal is final and binding on the people involved in the appeal. Netball NSW's appeals process, including criteria for appeals is outlined in the Netball NSW MPP – Part C (Complaint Handling Policy).

Every organisation bound by this Policy will recognise and enforce any decision made, and form of discipline imposed, by an appeals tribunal under this Policy.

Members of hearing and appeal tribunals will be indemnified by the organisation that appointed them against any claim for loss, compensation or damages, and for costs incurred defending a claim made against them, because of their function as a member of a hearings or appeals tribunal.

9. **What is a Breach of this Policy**

It is a breach of this Policy for any person or organisation to which this Policy applies, to have been found to have:

- 9.1 Acted in a manner contrary to this Policy;
- 9.2 Failed to follow Netball NSW policies and procedures for the protection, safety and welfare of children;
- 9.3 Appointed or continued to appoint a person to a role that involves working with children and young people contrary to this Policy;
- 9.4 Discriminated against or harassed any person;
- 9.5 Victimised another person for reporting a complaint;

- 9.6 Engaged in a sexually inappropriate relationship with a person that the person supervises, or has influence, authority or power over;
- 9.7 Disclosed to any unauthorised person or organisation any information that is of a private, confidential or privileged nature;
- 9.8 Made a complaint they knew to be untrue, vexatious, malicious or improper.

10. Forms of Discipline

If an individual or organisation to which this Policy applies breaches this Policy, one or more forms of discipline may be imposed. These may include making a verbal or written apology, paying a fine, being suspended or de-registered or having a person's appointment or employment terminated. More information on the range of disciplinary measures and the factors that will be considered before imposing discipline is in the Netball NSW MPP - Part C (Complaint Handling Policy).

11. Definitions

These definitions set out the meaning of words used in this Policy and its attachments without limiting the ordinary and natural meaning of the words. NSW specific definitions and more detail on some of the words in this dictionary can be sourced from the NSW Department of Community Services (DOCS), the Anti-Discrimination Board (as part of the NSW Attorney General's Department) and/or the Human Rights and Equal Opportunities Commission.

Abuse is a form of harassment and includes physical abuse, emotional abuse, sexual abuse, neglect, and abuse of power. Examples of abusive behaviour include bullying, humiliation, verbal abuse and insults.

Child means a person who is under the age of 18 years (see also definition of young person).

Child Abuse relates to children at risk of harm, usually by adults, sometimes by other children and often by those they know and trust. It can take many forms. Children may be harmed by both verbal and physical actions and by people failing to provide them with basic care. Child abuse may include:

- Physical abuse by hurting a child or a child's development (e.g. hitting, shaking or other physical harm; giving a child alcohol or drugs; or training that exceeds the child's development or maturity).
- Sexual abuse by adults or other children where a child is encouraged or forced to watch or engage in sexual activity or where a child is subject to any other inappropriate conduct of a sexual nature (e.g. sexual intercourse, masturbation, oral sex, pornography including child pornography or inappropriate touching or conversations).
- Emotional abuse by ill-treating a child (e.g. humiliation, taunting, sarcasm, yelling, negative criticism, name calling, ignoring or placing unrealistic expectations on a child).
- Neglect (e.g. failing to give food, water, shelter or clothing or to protect a child from danger or foreseeable risk of harm or injury).

Child-related employment is any work (paid or unpaid) that involves direct and unsupervised contact with children in several types of areas such as sporting and recreation clubs and associations that have a significant child membership or involvement.

Complaint means a complaint made under clause 8.1 of this Policy.

Complaint Resolution Procedure means the Netball NSW complaints, tribunal, investigation and mediation processes which must be followed by all District/League Associations.

Complainant means the person making a complaint.

Discrimination means treating or proposing to treat someone less favourably than someone else because of a particular characteristic in the same or similar circumstances in certain areas of public life (this is Direct Discrimination). The law also covers **Indirect Discrimination**. This is imposing or intending to impose an unreasonable requirement, condition or practice that is the same for everyone, but which has an unequal or disproportionate effect on individuals or groups with particular characteristics. The characteristics covered by discrimination law across Australia are:

- Age;
- Disability;
- Family/carer responsibilities;
- Gender identity/transgender status;
- Homosexuality and sexual orientation;
- Irrelevant medical record;
- Irrelevant criminal record;
- Political belief/activity;
- Pregnancy and breastfeeding;
- Race;
- Religious belief/activity;
- Sex or gender;
- Social origin;
- Trade union membership/activity.

NSW also includes additional characteristics such as marital status and association with, or related to, a person with one or more of the characteristics listed above.

Examples of Discrimination

- **Age:** A club refuses to allow an older person to coach a team simply because of their age.
- **Breastfeeding:** A member of the club who is breastfeeding her baby in the club rooms is asked to leave.
- **Disability:** A junior player is overlooked because of his/her mild epilepsy.
- **Family responsibilities:** A club decides not to promote an employee because he/she has a child with a disability even though the employee is the best person for the job.
- **Gender Identity:** A transgender player is harassed when his/her coach refuses to call them by their preferred name.
- **Homosexuality:** An athlete is ostracised from his/her team after they tell a team mate that they are homosexual.

- **Marital Status:** A player is deliberately excluded from team activities and social functions because he/she is single.
- **Pregnancy:** A woman is dropped from her squad when she becomes pregnant.
- **Race:** An umpire is not permitted to umpire games with a high proportion of Italian players on one team because of his/her race.
- **Sex:** Specialist coaching is only offered to female players in a mixed team.

Harassment is any type of behaviour that the other person does not want and does not return and that is offensive, abusive, belittling or threatening. The behaviour is unwelcome and of a type that a reasonable person would recognise as being unwelcome and likely to cause the recipient to feel offended, humiliated or intimidated.

Unlawful harassment includes the above but is either sexual or targets a person because of their race, sex, pregnancy, marital status, sexual orientation or other characteristic (see characteristic list under discrimination).

It does not matter whether the harassment was intended: the focus is on the impact of the behaviour. The basic rule is if someone else finds it harassing then it could be harassment. Harassment may be a single incident or repeated. It may be explicit or implicit, verbal or non-verbal.

Under this Policy discrimination and harassment are not permitted in employment (including volunteer and unpaid employment); when providing sporting goods and services including access to sporting facilities; when providing education and accommodation; the selection or otherwise of any person for competition or a team (domestic or international); the entry or otherwise of any player or other person to any competition and the obtaining or retaining membership of clubs and organisations (including the rights and privileges of membership).

Some exceptions to State and Federal anti-discrimination law apply. Examples include:

- holding a competitive sporting activity for females only who are 12 years of age or over where strength, stamina or physique is relevant; or
- not selecting a participant if the person's disability means he or she is not reasonably capable of performing the actions reasonably required for that sporting activity.

Requesting, assisting, instructing, inducing or encouraging another person to engage in discrimination or harassment may also be against the law.

It is also unlawful to victimise a person who is involved in making a complaint of discrimination or harassment. Example: a player is ostracised by his/her male coach for complaining about his sexist behaviour to another club official or for supporting another player who has made such a complaint.

Public acts of racial hatred which are reasonably likely in the circumstances to offend, insult, humiliate or intimidate are also prohibited. This applies to spectators, participants or any other person who engages in such an act in public. NSW also prohibits public acts that vilify on other grounds such as homosexuality, gender identity, HIV/AIDS, religion and disability (see vilification).

Hearings Officer means a person appointed by an organisation who is responsible for the administration of hearings by the Hearings Tribunal.

Individual Member means a registered financial individual member of Netball NSW or a District/League Association (as the case may be).

Junior means a person under the age of eighteen (18) years who is participating in an activity of Netball NSW.

Mediator means a person appointed to mediate complaints made under this Policy. It is preferable that the mediator has relevant skills, qualifications and/or training in mediation.

Member means a member for the time being of Netball NSW under Part 3 of the Netball NSW Constitution and includes District/League Associations, Individual Members and Life Members.

Member Protection is a term used by the Australian sport industry to describe the practices and procedures that protect members – both individual members such as players, coaches and officials, and the member organisations such as District/League Associations, clubs and other affiliated bodies. Member protection involves:

- protecting those that are involved in sport activities from harassment, abuse, discrimination and other forms of inappropriate behaviour;
- adopting appropriate measures to ensure the right people are involved in an organisation, particularly in relation to those involved with juniors; and
- providing education.

Member Protection Information Officer (MPIO) means a person trained to be the first point of contact for a person reporting a complaint under, or a breach of, this Policy. The MPIO provides confidential information and moral support to the person with the concern or who is alleging harassment or a breach of this Policy. They help the Complainant deal with any emotions they may have about what has happened and operate as a sounding board as the Complainant decides what they want to do. The MPIO may accompany the Complainant in anything they decide to do, if it feels appropriate and they are happy to do it.

Netball Australia means the All Australia Netball Association Limited trading as Netball Australia.

Netball NSW means the New South Wales Netball Association Limited trading as Netball NSW.

Natural Justice incorporates the following principles:

- a person who is the subject of a complaint must be fully informed of the allegations against them;
- a person who is the subject of a complaint must be given full opportunity to respond to the allegations and raise any matters in their own defence;
- all parties need to be heard and all relevant submissions considered;
- irrelevant matters should not be taken into account;
- no person may judge their own case;
- the decision maker/s must be unbiased, fair and just;
- the penalties imposed must not outweigh the 'crime'.

NSW Child Protection Regulation means the specific requirements and/or processes that must be followed in New South Wales in regards to child protection requirements. Where specific state legislation does not exist the national requirements must be followed.

Police check means a national criminal history record check conducted as a prudent pre-employment or pre-engagement background check on a person.

Policy and **This Policy** mean this Member Protection Policy.

Respondent means the person who is being complained about.

Role-Specific Codes of Conduct means standards of conduct required of certain roles (e.g. coaches).

Sexual Harassment means unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, display of pornographic or offensive material or other behaviour that creates a sexually hostile environment.

Sexual harassment is not behaviour based on mutual attraction, friendship and respect. If the interaction is between consenting adults, it is not sexual harassment.

Sexual Offence means a criminal offence involving sexual activity or acts of indecency including but not limited to (due to differences under State/Territory legislation):

- Rape;
- Indecent assault;
- Sexual assault;
- Assault with intent to have sexual intercourse;
- Incest;
- Sexual penetration of child under the age of 16;
- Indecent act with child under the age of 16;
- Sexual relationship with child under the age of 16;
- Sexual offences against people with impaired mental functioning;
- Abduction and detention;
- Procuring sexual penetration by threats or fraud;
- Procuring sexual penetration of a child under the age of 16;
- Bestiality;
- Soliciting acts of sexual penetration or indecent acts;
- Promoting or engaging in acts of child prostitution;
- Obtaining benefits from child prostitution;
- Possession of child pornography;
- Publishing child pornography and indecent articles.

Victimisation means subjecting a person or threatening to subject a person to any detriment or unfair treatment because that person has or intends to pursue their rights to make a complaint under government legislation (e.g. anti-discrimination) or under this Policy, or for supporting another person to make a complaint.

Vilification involves a person or organisation doing public acts to incite hatred towards, serious contempt for, or severe ridicule of a person or group of persons having any of the attributes or characteristics within the meaning of discrimination. Public acts that may amount to vilification include any form of communication to the public and any conduct observable by the public.

Young People/Person means people in the 13-18 year age group.