

# Netball Victoria

NETBALL  
VICTORIA



## Child Safety in Netball Policy

15 May 2017

## **Notes:**

### **Interaction of this Policy with the Netball Australia Member Protection Policy as adopted by Netball Victoria**

Where a complaint, incident or matter arises which may be dealt with under this Child Safety in Netball Policy (Policy), then it is to be resolved in accordance with the processes in this Policy, to the exclusion of all other NV disciplinary or grievance policies or processes.

For the avoidance of doubt, this means that where a complaint relates to Child Safety and falls within the scope of this Policy, this Policy will prevail and any such complaint shall be dealt with in accordance with this Policy and not the NV Member Protection Policy (or any other NV policy).

### **Revision of Transitional Period for Working with Children Check**

The Policy and Code enters into force and applies to NV and its Affiliates and Members as of **1 January 2017**. However, from that date the regulation will allow a transitional period for the Working with Children Check provisions only. Originally, the transition period was for one year. However, due to the Working with Children Amendment Act 2016 (Vic) the transition period has been amended to **31 July 2017** to align with the new legislation. This means that NV, its Affiliates and Members will be permitted a transition period until **31 July 2017** to comply with the regulation as detailed in the Policy and referenced in the Code.

This transitional period for the Working with Children Check provisions now expires on **31 July 2017**. Therefore, the Working with Children Check provisions will be mandatory to NV, its Affiliates and Members by **1 August 2017** and failure to be in compliance by that date will be a breach of the Policy. Breaches of the Policy may lead to disciplinary sanctions in accordance with the processes provided in Part 3 of the Policy.

## TABLE OF CONTENTS

1.	PART 1 – INTRODUCTION AND FRAMEWORK .....	4
1.1	Introduction .....	4
1.2	Framework of this Policy .....	4
1.3	Who is bound by the Policy? .....	5
1.4	Safe in Netball commitment .....	5
1.5	Football/Netball Clubs .....	6
2.	PART 2 - CHILD PROTECTION COMMITMENT STATEMENT .....	7
2.1	Child Protection Commitment Statement.....	7
2.2	How does this Child Protection Commitment Statement apply to Persons in Positions of Responsibility and Authority? .....	7
2.3	Who is responsible for implementing the Child Protection Commitment Statement? .....	9
2.4	Who is required to hold a Working With Children Check? .....	10
3.	PART 3 – COMPLAINTS PROCEDURE .....	12
3.1	Introduction .....	12
3.2	Commitment.....	12
3.3	Complaints Principles.....	13
3.4	Record Keeping and Sharing .....	13
3.5	Complaints regarding Children and Young People .....	13
3.6	Who can make Complaints? .....	13
3.7	What can Complaints be about? .....	13
3.8	Complaints from Other Organisations .....	14
3.9	Initial stages of a complaint .....	14
3.10	Summary of Steps to Resolve Complaints - involving Child Abuse and allegations of Sexual Misconduct or Serious Criminal Conduct .....	14
3.11	Summary of Steps to Resolve Complaints - not involving Child Abuse and allegations of Sexual Misconduct or Serious Criminal Conduct .....	15
3.12	Guidelines for each Step - in Complaints involving Child Abuse and allegations of Sexual Misconduct or Serious Criminal Conduct .....	17
3.13	Guidelines for each Step - Complaints not involving Child Abuse and allegations of Sexual Misconduct or Serious Criminal Conduct .....	27
3.14	Disciplinary Measures .....	34
4.	PART 4 – DICTIONARY .....	36

**ATTACHMENT A - INDEPENDENT INVESTIGATION PROCEDURE**

**ATTACHMENT B - HEARING TRIBUNAL PROCEDURE**

**ATTACHMENT C- MEDIATION PROCEDURE**

# Child Safety in Netball Policy

## 1. Part 1 – Introduction and Framework

### 1.1 Introduction

Netball Victoria (**NV**) and its Affiliates are committed to the health and wellbeing of all of its members and others who participate in NV's activities. NV wants netball to be fun, enjoyable and safe for all involved and is dedicated to providing a safe environment for everyone.

As part of that dedication to health and wellbeing, NV is committed to ensuring the safety of all of its members, particularly Children and Young People.

### 1.2 Framework of this Policy

This Child Safety in Netball policy (**Policy**) aims to assist NV in creating a safe and positive environment for everyone participating in NV's activities. The Policy sets out NV's commitment to the protection of Children and Young People, as well as outlining the types of behaviour expected from those bound by the Policy.

The Policy consists of the following Parts:

- (a) Part 1: Introduction and Framework;
- (b) Part 2: NV's Child Protection Commitment Statement;
- (c) Part 3: NV's Complaint Procedures; and
- (d) Part 4: Definitions.

In addition to the Policy, NV also has enacted a Safe Environments for Children in Netball Code of Conduct (**Code**).

NV and all of its Members and Participants will promote and monitor this Policy to the fullest extent possible. NV recognises that the responsibility for safeguarding Children and Young People in Netball in Victoria lies with all of those who are involved in Netball and is not the sole responsibility of any one person at any one Affiliate.

This Policy was endorsed by NV's board of directors (**Board**) on 27 October 2016 and is effective from 1 January 2017. The Policy takes effect from 1 January 2017 and will operate until replaced. NV may amend or update the Policy or Code from time to time and such amendments will be effective from the time from which they are communicated to be effective by NV. Copies of the current Policy can be obtained from the NV website at <http://vic.netball.com.au/>

This Policy aims to create safe environments for Children and Young People in Netball and relates to and guides complaints about their safety and well-being. All such complaints must be dealt with under this Policy (notwithstanding any statement in the NV Member Protection Policy).

### 1.3 Who is bound by the Policy?

This Policy binds everyone who is involved in NV's activities including but not only:

- (a) all of those participating in NV's activities including players, coaches, officials, referees, parents and spectators within NV or any Affiliate;
- (b) all Members, including Affiliates and Individual Members, life members and members of Members;
- (c) persons appointed or elected to NV boards, committees and sub-committees;
- (d) volunteers;
- (e) support personnel; and
- (f) any other person including but not limited to Participants, parents, guardians, spectators and sponsors to the full extent possible.

Failure to comply with this Policy may result in disciplinary action in accordance with this Policy and/or other NV regulations.

This Policy will continue to apply to a person, even after they have stopped their association or employment with NV or an Affiliate, if disciplinary action against that person has commenced.

### 1.4 Safe in Netball commitment

NV and its Affiliates aim to:

- (a) provide a safe environment for everyone involved in Netball;
- (b) take an inclusive approach in NV's activities; and
- (c) ensure the safety and wellbeing of Children and Young People.

NV is dedicated to emphasising its commitment to the health and wellbeing of all its Participants. On that basis, NV makes the following "**Safe Netball Commitment**" to:

- (a) adopt, implement and comply with this Policy;
- (b) ensure that NV's Constitution, By-laws or other rules and policies include the necessary clauses for this Policy to be enforceable;
- (c) publish, distribute and promote this Policy and the consequences of breaches of the Policy;
- (d) promote and model appropriate standards of behaviour at all times;
- (e) deal with any breaches or complaints made under this Policy in a sensitive, fair, timely and confidential manner;
- (f) apply this Policy fairly and consistently;

- (g) recognise and enforce any penalty imposed under this Policy;
- (h) ensure that a copy of this Policy is available or accessible to the persons and associations to whom this Policy applies;
- (i) use appropriately trained people to receive and manage complaints and allegations; and
- (j) monitor and review this Policy at least annually.

### **1.5 Football/Netball Clubs**

- (a) Where a Club is a Football/Netball Club and, due to that arrangement, is subject to another policy relating to child protection (e.g. a policy enforced by AFL Victoria), then:
  - (i) the Football/Netball Club may determine whether to adhere to the processes in this Policy or the other applicable policy;
  - (ii) the Football/Netball Club must make it reasonably clear to all members which policy it considers itself bound by and will operate in accordance with; and
  - (iii) the Football/Netball Club will be bound by this Policy unless it makes it reasonably clear to all members that it considers itself bound by and is operating in accordance with the other applicable policy. In the absence of another applicable policy relating to child protection, the Football/Netball Club is bound by and must adhere with this Policy.

## **2. Part 2 - Child Protection Commitment Statement**

This statement is crucial to NV and its Affiliates commitment to providing a safe environment for children in netball and consists of principles and benchmarks NV has in place.

### **2.1 Child Protection Commitment Statement**

NV and its Affiliates make the following commitments:

- NV and its Affiliates are committed to the safety and wellbeing of all Children and Young People who access any netball activities, programs, events or services.
- NV and its Affiliates are committed to providing Children and Young People with positive and nurturing experiences for healthy development and wellbeing.
- NV and its Affiliates will listen to Children and Young People, address any concerns they raise and strive to ensure they are protected.
- NV and its Affiliates will ask for consent from Children, Young People and their parents/carers before we seek out or provide information about them to any other individuals or organisation. However, we may not ask for consent to disclose information to Police, regulatory authorities or relevant statutory child protection agencies in the event that we have concerns about the safety and wellbeing of a specific Child or Young Person.
- NV and its Affiliates will provide and communicate training opportunities to Persons in Positions of Responsibility and Authority where reasonably practicable to do so.
- NV and its Affiliates will make it clear to Persons in Positions of Responsibility and Authority what their obligations, duties and responsibilities are in relation to this Policy and the protection of Children and Young People in netball generally.

### **2.2 How does this Child Protection Commitment Statement apply to Persons in Positions of Responsibility and Authority?**

Persons in Positions of Responsibility and Authority are required to comply with this Policy and the Code. In summary, Persons in Positions of Responsibility and Authority are expected to:

- (a) understand the rights of Children and Young People, as appropriate to their role;
- (b) understand and acknowledge the significance of family relationships for the development of Children and Young People;

- (c) respect the cultural and religious practices of families who access netball services, programs or events;
- (d) understand and appropriately respond to the special needs of Children and Young People with developmental delays or disabilities;

This includes:

- acting in ways that communicate effectively with and are supportive of Children and Young People with developmental delays or disabilities; and
  - being proactive in recognising the additional vulnerability to exploitation and Harm that Children and Young People with developmental delays or disabilities experience;
- (e) be respectful of Children and Young People by:
    - facilitating opportunities for them to provide views and feedback;
    - treating children as individuals and respecting their unique abilities and vulnerabilities; and
    - expressing attitudes and engaging in behaviour that respect and support them;
  - (f) appropriately act on any concerns raised by Children, Young People and/or their parents/carers. Any complaints or allegations made against any Persons in Positions Responsibility and of Authority will be taken seriously and appropriately investigated. Any alleged crimes against Children, Young People or other family members will be reported to the Police. Persons in Positions Responsibility and of Authority are expected to follow the Complaints Procedure without hesitation in response to concerns raised by Children, Young People and/or their parents;
  - (g) understand the definitions, indicators and impact of Child Abuse, including Grooming. Persons in Positions Responsibility and of Authority must, wherever possible:
    - intervene to identify and prevent Child Abuse from occurring; and
    - take action to protect children from further Child Abuse;
  - (h) know and follow regulations in relation to the care of Children and Young People. Persons in Positions of Responsibility and Authority must understand and follow laws and regulations governing how we safeguard Children and Young People. They must take all reasonable steps to ensure that applicable laws and regulations are adhered to;.
  - (i) know and follow the relevant law(s) in relation to reporting Child Abuse and Grooming;
  - (j) co-operate with police and/or other formal investigations to the best of their ability to safeguard Children and Young People;



- (k) always follow the Codes implemented by NV and its Affiliates that set out the rules for behaviour with each other and around Children and Young People;
- (l) not Harm or exploit Children and Young People who access netball services, activities programs, or events, nor contravene any laws or regulations regarding the safety and wellbeing of Children and Young People; and
- (m) support Children, Young People and their families as directed by Senior Persons in the event that a Child or Young Person is or is suspected of being abused, bullied or exploited. Provide opportunities for formal debriefing and/or counselling to Children, Young People and their families who have experienced Child Abuse and any other Child, Young Person and family in the community who may be affected by the incident(s).

It is a serious breach of this Child Protection Commitment Statement and possibly the law, if any Persons in Positions of Responsibility and Authority, whether participating in a program, event, service or activity, or working in a paid or volunteer capacity, harm or exploit Children and Young People who are involved in any of NV's activities, services, events or programs. Breaches of this include, but are not limited to, any Persons in Positions of Responsibility and Authority who:

- (A) sexually assault Children and Young People;
- (B) physically assault Children and Young People;
- (C) verbally abuse, denigrate or bully Children and Young People;
- (D) sexually harass Children and Young People;
- (E) engage in Grooming behaviour of Children and Young People;
- (F) take, reproduce and/or distribute photos of Children and Young People without their consent or the consent of their guardians;
- (G) publish any material containing images of Children and Young People; and/or
- (H) access, download, store or distribute any form of child pornography.

### **2.3 Who is responsible for implementing the Child Protection Commitment Statement?**

The responsibilities of NV and Affiliates in fulfilling the Child Protection Commitment Statement are as follows:

#### *Netball Victoria and Affiliates*

- Promote the commitment to this Child Protection Commitment Statement and its expectations. Strive to ensure that all Persons in Positions of Responsibility and Authority understand their obligations in accordance with the Child Protection Commitment Statement and any relevant policy and procedural documentation.
- Strive to ensure that the Child Protection Commitment Statement is implemented and adhered to amongst Affiliates and their Members, staff and officials.
- Proactively share resources and experience in the development of child safe initiatives within NV as they are identified.

- Advocate and promote child rights, empowering and engaging Children and Young People in support of this Statement.
- Develop opportunities for regular discussion at all levels to support a culture of continuous improvement and accountability of child protection and member welfare. For example, in team meetings or regular forums, include Safe Netball as a regular agenda item.

#### *Further responsibilities of Netball Victoria*

- Promote policy review on an annual cycle as a minimum or at a time governed by legislation, regulations, Netball Australia or Australian Sports Commission directions or organisational learnings that promote a change to the Child Protection Commitment Statement and all relevant policy or procedural guidelines.
- Strive to ensure compliance via an inbuilt review mechanism.

#### **2.4 Who is required to hold a Working with Children Check?**

Under a NV Constitutional Regulation [and updated as a result of the Working with Children Amendment Act 2016 (Vic)] (applicable to all NV Members as of 1 January 2017, with full compliance due 1 August 2017 (**Regulation**), NV's Working with Children Check (**WWCC**) requirements are provided.

All Netball Victoria Affiliates must at all times:

1. ensure that each adult (18 years and older) who **seeks to hold, or currently holds,** a position of responsibility or authority with children (under 18 years of age) has **direct contact** with children or who is otherwise required by law to maintain a valid Working with Children Check must seek and maintain a valid Working with Children Check. "A person in a position of responsibility or authority" includes; directors or committee members of the Association/League, coaches, umpires, officials (whether accredited or not), team managers and other senior positions (paid or unpaid), appointed or ad hoc, whether supervised or not;
2. keep a register of all members or persons within the Association/League who hold a working with children check.

Where an adult **seeks, or** is in, a position of responsibility or authority with an Association/League:

- (a) and refuses to seek a working with children check; or
- (b) applies for, but is refused, a working with children check; then

that person is ineligible to assume or continue with the position of responsibility or authority. **For the avoidance of doubt a person must obtain a working with children check before they are eligible to assume the position of responsibility or authority within an Association/League."**

It is the responsibility of the Affiliate to determine all roles that fit within the Regulation and relevant legislation.

**Exemptions recognised under the Regulation include only:**

- (a) a teacher who is currently registered with the Victorian Institute of Teaching (VIT);
- (b) a current serving Victoria Police Officer; and
- (c) a current serving Australian Federal Police (AFP) officer; and
- (d) parents working/volunteering in an **ad hoc or fill in** position of responsibility or authority in an activity with their child; and
- (e) family members and people who are closely related to the child working/volunteering in an **ad hoc or fill in** position of responsibility or authority in an activity with the related child.

**Previous exemptions that will not be recognised by the Regulation are:**

- (a) student volunteers;
- (b) parents volunteering in an activity with their child;
- (c) family members and people who are closely related to the child; and
- (d) interstate visitors.

**Transitional Period - Revision**

NV originally allowed a one-year transitional period for the Working with Children Check provisions to be applied in full. However, the Working with Children Amendment Act 2016 (Vic) requires NV and its Affiliates to comply with all elements of the NV Working with Children Check requirements as detailed in the Code and Policy by **1 August 2017**.

This transitional period for the Working with Children Check provisions expires on **31 July 2017**. Therefore, the Working with Children Check provisions will be mandatory to all NV Members by **1 August 2017** and failure to be in compliance by that date will be a breach of the Policy. Breaches of the Policy may lead to disciplinary sanctions in accordance with the processes provided in Part 3 of the Policy.

### **3. Part 3 – Complaints Procedure**

As outlined in the Introduction to this Policy, all such complaints relating to the safety and well-being of Children and Young People must be dealt with in accordance with these complaints procedures (notwithstanding any statement in the NV Member Protection Policy).

#### **3.1 Introduction**

NV and its Affiliates encourages everyone who is involved in netball activities to voice their concerns regarding the safety and wellbeing of Members, particularly Children and Young People.

This complaint procedure (**Complaints Procedure**) sets out the steps involved to address Complaints, whether they relate to Children and Young People, Members, Participants or Persons in Positions of Responsibility and Authority. It also aims to provide advice and guidance to potential Complainants and Members and Persons in Positions in Responsibility and Authority when dealing with complaints.

#### **3.2 Commitment**

NV and its Affiliates are committed to:

- (a) addressing any Complaints brought to its attention regarding the welfare, health and safety of all Children and Young People, Members, Persons in Positions of Responsibility and Authority and/or Participants in Netball;
- (b) dealing with all Complaints in a fair, timely and transparent manner, as appropriate;
- (c) escalating Complaints as appropriate to ensure that appropriate Persons in Positions of Responsibility and Authority and Senior Persons are involved;
- (d) considering the wishes of the Complainant(s);
- (e) providing communication on a regular basis as to the progress of the Complaint;
- (f) clearly explaining the next steps and options to all parties involved in the Complaint at every step;
- (g) maintaining appropriate confidentiality regarding Complaints, subject always to legal requirements regarding disclosure or if disclosure is necessary to deal with the Complaint;
- (h) reporting any serious issues involving Children and Young People to relevant authorities, in accordance with applicable legislation;
- (i) ensuring that the principles of natural justice and procedural fairness are followed when dealing with Complaints; and
- (j) maintaining appropriate records of Complaints in a safe and confidential manner.

### **3.3 Complaints Principles**

The Complaints Procedures is guided by the overarching principles as set out below:

- (a) all matters involving either Child Abuse or Serious Criminal Conduct should immediately be referred to NV or the relevant Affiliate and Police;
- (b) where possible, complaints should be dealt with as soon as practical after they become known and at the most local level possible (i.e. Affiliate level); and
- (c) if there is uncertainty as to how to deal with a Complaint, always escalate it as appropriate or seek guidance from NV.

### **3.4 Record Keeping and Sharing**

NV and Affiliates must keep records of all Complaints for a minimum of three years. For all complaints of the nature referred to in clause 3.3(a), those records must be maintained for a minimum of seven years.

Records must be maintained in a secure and confidential place – preferably both in electronic and hard copy (if any) versions.

All Affiliates will share records with NV and provide those records upon request.

NV and Affiliates must keep a register of Complaints that is updated quarterly at a minimum.

### **3.5 Complaints regarding Children and Young People**

Complaints regarding the safety, health or wellbeing of Children and Young People will be treated by NV and Affiliates as a high priority. This is because Children and Young People are more vulnerable and need to be safeguarded and protected by all.

### **3.6 Who can make Complaints?**

Complaints may be made by:

- Children participating in an NV sanctioned competition or playing at an NV Affiliate;
- Members of NV, including parents, players, coaches officials and Affiliates;
- Persons in Positions of Responsibility and Authority;
- other organisations; or
- any person in the general community who has concerns about a person or their behaviour or conduct in Netball.

### **3.7 What can Complaints be about?**

Complaints may be about an act, behaviour, conduct, omission, situation or decision that may be in breach of this Policy. It may be about:

- a Child or Young Person or an adult;
- a group or organisation;
- a single incident or a series of incidents;
- a seemingly minor issue or a very serious issue;
- a breach of the Child Protection Commitment Statement; or
- a breach by a Member, player, coach or Person in a Position of Responsibility and Authority of this Policy or the Code.

### 3.8 Complaints from Other Organisations

NV and its Affiliates will work collaboratively, respectfully and ethically with all other sporting, community service and business organisations in respect of any Complaints made in regard to Netball or Members.

### 3.9 Initial stages of a complaint

All Complaints should be dealt with by the appropriate Affiliate (ie the level at which the conduct occurred). For example, where a Complaint relates to a Club matter, it should be resolved by that Club and where a Complaint relates to an Association or League matter, it should be resolved by the Association or League. Where a Complaint relates to allegations of Child Abuse and Sexual Misconduct or Serious Criminal Conduct, the Affiliate handling the Complaint must report it to NV's Member Services Team. NV will determine whether the Affiliate or NV should handle the Complaint. NV may escalate and respond to the Complaint if NV considers it appropriate. However, NV may also (at its discretion) refer Complaints back to Affiliates, should it consider it appropriate to do so. NV may take Provisional Action for Complaints involving allegations of Child Abuse and Sexual Misconduct or Serious Criminal Conduct.

### 3.10 Summary of Steps to Resolve Complaints - involving Child Abuse and Sexual Misconduct or Serious Criminal Conduct

The steps that should be taken to resolve a Complaint when a Member, Participant or Person in a Position of Responsibility and Authority has concerns about a breach of this Policy involving Child Abuse and Sexual Misconduct or Serious Criminal Conduct are listed below.

<i>Reporting Complaint</i>	
<b>Step 1</b>	Complainant tells a Person in a Position of Responsibility and Authority from the relevant Affiliate about their Complaint.
<b>Step 2</b>	Person in a Position of Responsibility and Authority talks to Complainant and identifies facts, records, explains next steps and reports to Senior Person.  If immediate threat of harm or mandatory reporting scenario, Person in a Position of Responsibility and Authority and/or Senior Person report to police and/or external agency.
<b>Step 3</b>	Senior Person documents Complaint.

	If Complaint not already reported to Police and/or external agency, Senior Person reports Complaint (if required).
<b>Step 4</b>	Senior Person reports Complaint to NV's Member Services Team.
<b>Step 5</b>	NV reports to relevant external authority as appropriate.
<i>Investigating Complaint</i>	
<b>Step 6</b>	NV determines whether Affiliate or NV appropriate to resolve Complaint. Provisional Action taken if required
<b>Step 7</b>	Affiliate (or NV if NV considers appropriate) conducts internal investigation of Complaint unless otherwise requested by external agency.
<b>Step 8</b>	Provisional Action taken (if required and not already taken).
<i>Determining Complaint</i>	
<b>Step 9</b>	Involved Organisation evaluates next steps and determines whether to: (a) make decision and impose disciplinary measures; (b) refer Complaint to Independent Investigation; or (c) refer Complaint to Hearing Tribunal. Relevant process selected by the Involved Organisation is undertaken.
<b>Step 10</b>	Decision made and disciplinary measures (if required) imposed as a result of the process chosen in Step 10.
<b>Step 11</b>	Record of Complaint finalised. NV and other Involved Organisation notified of outcome of Complaint. Complaint closed.

### 3.11 Summary of Steps to Resolve Complaints - not involving Child Abuse and Sexual Misconduct or Serious Criminal Conduct

<i>Reporting Complaint</i>	
<b>Step 1</b>	Complainant tells a Person in a Position of Responsibility and Authority from the relevant Affiliate about their Complaint.
<b>Step 2</b>	Person in a Position of Responsibility and Authority talks to Complainant and identifies facts, records, explains next steps and reports to Senior Person.
<b>Step 3</b>	Senior Person documents Complaint.
<i>Investigating Complaint</i>	
<b>Step 4</b>	Affiliate involved conducts internal investigation of Complaint unless otherwise requested by external agency.
<b>Step 5</b>	Provisional Action taken if required and deemed appropriate.
<i>Determining Complaint</i>	
<b>Step 6</b>	Involved Organisation evaluates next steps and determines whether to:

	<ul style="list-style-type: none"> <li>(a) make decision and impose disciplinary measures;</li> <li>(b) refer Complaint to Mediation;</li> <li>(c) refer Complaint to Independent Investigation; or</li> <li>(d) refer Complaint to Hearing Tribunal.</li> </ul> <p>Relevant process selected by the Involved Organisation is undertaken.</p>
<b>Step 7</b>	Decision made and disciplinary measures (if required) imposed as a result of the relevant Step 6 process.
<b>Step 8</b>	Record of Complaint finalised. NV and other organisations involved notified of outcome of Complaint. Complaint closed.



### **3.12 Guidelines for each Step - in Complaints involving Child Abuse and Sexual Misconduct or Serious Criminal Conduct**

This section contains guidelines for each step contained within a Complaint involving Child Abuse and Sexual Misconduct or Serious Criminal Conduct (**Case 1 Complaint**).

#### **Step 1 - Complainant tells Person in a Position of Responsibility and Authority**

If any person involved in Netball has concerns about a breach of this Policy, they are encouraged to seek out a Person in Position of Responsibility and Authority at the relevant Affiliate to tell them about their concerns. This may be a coach, official, volunteer or employee of an Affiliate. Wherever possible, please provide to that person details about:

- (a) who was involved (alleged perpetrator & victim, as well as witnesses, including any known contact details);
- (b) the details of the Child and Young Person's age and parent/guardian details;
- (c) what was observed or heard;
- (d) when the incident, behaviour or conduct occurred and when it was observed;
- (e) where the incident, behaviour or conduct occurred;
- (f) why the incident (i.e., injuries, others at risk of harm) is of concern and what are its potential impacts; and
- (g) if known, what outcomes are sought.

To help document a Complaint, think of this step as initial guidance to determine the "who, what, when, where, why, what next?" This is also helpful for those who are responding to the Complaint.

Depending on the nature of the Complaint, once the initial contact is made and the Complainant's preferred next step is known, there are two options:

- (h) talk to a Person in a Position of Responsibility and Authority at the Affiliate who can guide you/the Complainant as to next steps; and/or
- (i) depending on the nature and seriousness of the Complaint, formalise the Complaint to your Affiliate.

#### **Step 2 - Person in a Position of Responsibility and Authority talks to Complainant**

Regardless of whether you are a Member, Participant or a Person in a Position of Responsibility and Authority, it is critical that all Complaints are treated seriously and without judgment. Everyone has a role to play to ensure that appropriate steps are taken and in a sensitive and non-judgmental way.

There are certain circumstances that make it inappropriate for a particular Person in a Position of Responsibility and Authority to speak to a Complainant about a Complaint, irrespective of whether the Complainant specifically informed that Person in a Position of Responsibility and Authority of their Complaint. In the following circumstances, it may be appropriate for another Person in a Position of

Responsibility and Authority, or a Senior Person, to talk to the Complainant once a Complaint is lodged:

- (a) where the Person in a Position of Responsibility and Authority has had personal involvement in the circumstances giving rise to the Complaint;
- (b) where the Complainant does not wish to discuss the Complaint further with that particular Person in a Position of Responsibility and Authority;
- (c) where there is a significant (actual or perceived) power imbalance between the Person in a Position of Responsibility and Authority and the Complainant; or
- (d) where the Person in a Position of Responsibility and Authority shares another relationship with the Complainant outside Netball, including immediate or extended family members.

Where any of the circumstances in (a) - (d) above arise, it may be appropriate for a different Person in a Position of Responsibility and Authority to talk to the Complainant, **unless the Complainant specifically requests, or will only speak to, that particular Person in a Position of Responsibility and Authority.**

Where a Person in a Position of Responsibility and Authority or Senior Person is talking to a Complainant about a Complaint, remember to:

- (e) talk to the Complainant calmly and without judgment or opinion;
- (f) ensure that the conversation is occurring in a private and safe environment;
- (g) ask non-leading questions to establish what the Complainant's concerns are. This can be in the form of the questions set out at Step 1 [(a)-(g) – who, what when, where, why, what next?];
- (h) if appropriate (for example, the issue is minor, easily resolved and no person is in danger) take steps to resolve the Complaint at that time;
- (i) if the person receiving details of the Complaint is not a NV (or an Affiliate) employee, official or coach and the Complaint is not easily resolved, seek out a NV (or Affiliate) employee, official or coach and tell them what you and/or the Complainant know about the Complaint; and
- (j) take notes or record the details regarding the Complaint.

Depending on the nature of the Complaint being made regarding a Child or Young Person (or Persons), certain steps must be taken. It is crucial that these steps are taken immediately or within 24 hours of becoming aware of a Complaint where a Child or Young Person is at risk of potential or future Harm.

The initial response is crucial to the well-being of the Child or Young Person. It is important for the person receiving the information to:

- (k) listen to, be supportive and not dispute what the Complainant says;
- (l) reassure the Child or Young Person and let them know that what has occurred is not the fault of the Child or Young Person;

- (m) ensure that the Child or Young Person is safe;
- (n) remain calm and do not express shock, panic or disbelief;
- (o) be honest and explain that other people may need to be told in order to stop what is happening;
- (p) ensure that what the Child or Young Person says is quite clear but do not elicit detailed information about the Abuse. Use objective, non-leading and non-suggestive questions that do not put words into the Child or Young Person's mouth as much as possible; and
- (q) make written notes during or as soon as possible after the discussion.

In **all circumstances** where Persons in Positions of Responsibility and Authority are aware of information about any Complaint concerning Abuse of a Child or Young Person, they **will not discuss it with anyone other than their relevant Senior People**. They may be required to discuss their allegations with Police as directed.

Once details of the Complaint have been established the relevant **Person in a Position of Responsibility and Authority must:**

- (r) discuss their concerns with their immediate Senior Person or another Senior Person who is available; and
- (s) collaborate with the Senior Person to develop a plan that aims to address the concerns regarding the particular Child or Young Person.

*It is imperative that no discussion occurs with the Child or Young Person's parents/carers or other family member/s until the plan has been developed and authorised by the Senior Person.*

### **Step 3 - Senior Person documents Complaint**

Once a Complaint is reported to a Senior Person under Step 2, the Senior Person must:

- (a) ensure that all relevant information is recorded regarding the Complaint and in relation to the outcomes of decision-making; and
- (b) ensure that all allegations of Sexual Abuse of a Child or Young Person are reported to police (see **Mandatory Reporting**).

When recording the Complaint, the Senior Person should include as much information as possible in response to the specific questions at Step 1(a) - (g) above. The inclusion of as much information as possible in the record makes it easier for NV or the Affiliate to investigate and action the Complaint.

Records for Case 1 Complaints must be retained in a safe and secure location for 7 years after the incident, to ensure a copy is available for the duration of relevant limitations of liability period under the law. Refer to Section 3.4 for more information regarding record-keeping.

### **Step 4 - Senior Person reports to NV's Member Services Team**

Once a Complaint is documented by the Senior Person, the Senior Person must report the Complaint to NV's Member Services Team. In reporting the Complaint, the Senior Person must provide the following information:

- (a) the completed record of the Complaint;
- (b) any materials lodged by the Complainant in relation to the Complaint;
- (c) any transcripts or notes taken by the Person in a Position of Responsibility and Authority or Senior Person when dealing with the Complainant;
- (d) the record of any communications between representatives of the Involved Organisation and the Complainant in relation to the Complaint; and
- (e) any other information requested by NV.

The Senior Person must report a Case 1 Complaint to NV's Member Services Team.

### **Mandatory reporting**

There are certain circumstances where individuals will be legally required to report a Complaint that they receive to the relevant external authority.

'Mandatory reporting' refers to legislative requirements imposed on specific classes of persons to report suspected cases of Child Abuse and Neglect to government authorities.

Child Protection Concerns are defined in this Policy as including:

- (a) disclosures of actual harm, abuse or exploitation of a child;
- (b) the potential risk of harm, abuse or exploitation of a child; or
- (c) breaches of the Code by staff or volunteers.

The 'state of mind' requirement and 'extent of harm' requirements generally involve a specified class of person reasonably believing that a Child or Young Person is at risk of significant detriment caused by Child Abuse. The specified class of persons generally include teachers, registered health practitioners, police and welfare-related officers.

It is not the Person in a Position of Responsibility and Authority's job to investigate Child Abuse. The relevant Person in a Position of Responsibility and Authority, Senior Person or Investigation Officer must report a Child Protection Concern if they form a reasonable belief that it is occurring or is at risk of occurring. A reasonable belief is defined as an inclination to believe something rather than not believe something. Such a person should trust their judgement, and never ignore their concerns.

The persons referred to above **must** notify a Senior Person of any Child Protection Concerns.

Depending on:

- (d) the employment of the Person in a Position of Responsibility and Authority to which a Complaint is lodged; and

- (e) the specific allegations contained within a Case 1 Complaint,

certain Persons in a Position of Responsibility and Authority and/or Senior Persons dealing with a Case 1 Complaint may also be required by law to mandatorily report the Complaint to an external authority.

Further, any person who holds a reasonable belief that a Child or Young Person in Victoria has been sexually abused is likely to be required to mandatorily report a Case 1 Complaint involving Child Abuse to the relevant external authority under the mandatory reporting laws:

To determine whether any specific Person in a Position of Responsibility and Authority, Senior Person or Investigation Officer falls under mandatory reporting laws, please refer to the Australian Government's *Child, Family, Community Australia* website below, which provides an outline of who must report, and in what circumstances they must report, in each Australian jurisdiction (including Victoria).

<https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect>

**IMPORTANT NOTE:** If an individual receives a Case 1 Complaint under this Policy and is classified as a mandatory reporter in their relevant jurisdiction, and holds the relevant belief regarding the risk of harm to the Child or Young Person, the individual is **personally legally responsible** for reporting their belief to the relevant external authority. If any individual within this Policy requires assistance in determining whether they should report a Case 1 Complaint, they should immediately speak to a Senior Person.

In Victoria, the relevant government department is the Department of Human Services who have information regarding child protection accessible at:

<http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/child-protection>

### **Step 5 - NV reports to relevant external authority if appropriate**

Once a Complaint is reported to NV under Step 4, the relevant Senior Person within NV must:

- (a) determine whether or not the concerns should be reported to the Department of Human Services or Victoria Police. If the Person in a Position of Responsibility and Authority strongly disagrees with a decision not to report, he/she maintains the right to report the matter to the Department of Human Services or Victoria Police. In this event, it is expected that the report will occur jointly with the Senior Person. See **Mandatory Reporting** (above) for further information;
- (b) if a report is made to the Department of Human Services or Victoria Police, determine who, when and what will be communicated to the Department of Human Services or Victoria Police;
- (c) in conjunction with the Person in a Position of Responsibility and Authority, determine whether the decision to notify the Department of Human Services is communicated to the Child or Young Person's parents/carers. As a principle, parents/carers of Children and Young Persons will be informed of and be involved in the process of the decision to make a notification to the

Department of Human Services unless doing so jeopardises the Child or Young Person's safety or the safety of any other person;

- (d) establish a plan to offer support and counselling as required to the Child or Young Person who has been allegedly assaulted and his/her family, where appropriate;
- (e) establish a plan to offer support and debriefing to other relevant Persons in Positions of Responsibility and Authority about the incident as soon as practicable;
- (f) once informed of the allegations, provide the alleged perpetrator with access to counselling and support as organised by the relevant Senior People, as appropriate;
- (g) set a review date to evaluate any changes arising from the support offered to the family of the Child or Young Person. At any stage, additional concerns about the Child or Young Person will be addressed. The Senior Person may escalate the extent of intervention provided to the Child or Young Person and family if the concerns for the Child or Young Person's safety increase; and
- (h) no communication will take place with the alleged perpetrator against whom the allegations have been made. Police will determine the procedure for communicating with the Child or Young Person, their parents or carers and the Person in Positions of Responsibility and Authority against whom the allegations have been made.

All Persons in Positions of Responsibility and Authority who are aware of this information will not discuss it with anyone other than their relevant Senior Person. They may be required to discuss their allegations with police as legally required.

**Step 6:- NV determines whether Affiliate or NV appropriate to resolve Complaint**

Once NV receives the report of the Complaint under Step 4, NV will consider how the Complaint is to be resolved. NV must consider and determine whether it is appropriate for the Affiliate involved or NV to handle and resolve the matter. NV may, at its absolute discretion, determine whether the relevant Affiliate or NV should handle and resolve the Complaint.

When considering whether the Affiliate or NV should handle the Complaint, NV may consider the following:

- (a) the seriousness of the allegations contained in the Complaint;
- (b) who the relevant Affiliate is;
- (c) whether NV is the best organisation to handle the Complaint; and
- (d) any other factor NV considers appropriate to the circumstances.

NV will then communicate this decision to the relevant Affiliate and the Complaint will proceed in accordance with NV's determination.

**Step 7 - Affiliate (or NV if NV determines under Step 6) conducts internal investigation of Complaint:**

Natural Justice requires that each person that is a party to the Complaint is informed about the allegations and has an opportunity to respond to them.

When investigating a Complaint, the Investigation Officer within NV or the Affiliate should:

- (a) connect with the Complainant(s) on behalf of the appropriate Affiliate responding to and investigating the Complaint;
- (b) connect with the Respondent(s) against whom the allegation refers at an appropriate time and give the Respondent an opportunity to:
  - (i) hear the allegation(s) against him/her/it in full;
  - (ii) explain or respond to the allegation(s), either orally, in writing or both;
  - (iii) identify any witnesses and supporting evidence in favour of the Respondent;
  - (iv) invite a support person or advisor, who must not be qualified as a lawyer or barrister, to attend any meeting with the person investigating; and
  - (v) be provided support (for example, professional counselling) if necessary;
- (c) obtain a signed statement and record of interview from the Respondent;
- (d) make contact with any witnesses and obtain written and signed statements outlining details of the allegation (what happened, when, how); and
- (e) obtain other information that could assist in making a decision on the allegation.

If the alleged offender is an employee, participant, coach or official within Netball, the Investigation Officer will:

- (f) convene separate meetings with the parties (as appropriate) and discuss the outcomes of the investigation; and
- (g) determine and implement a plan for managing feedback and counselling to the parties as appropriate.

If the parent/carer is not satisfied with the outcome of the investigation, the parent/carer can raise their concerns with NV's Member Services Team.

### **Step 8 - Provisional Action (if required)**

Provisional Action is defined as action that may be taken by NV or an Affiliate (in relation to Case 1 Complaints).

Provisional Action is action taken against a Respondent to Case 1 Complaints where the alleged incident is serious enough to warrant such action being taken until the outcome(s) of the internal investigation, Independent Investigation or Hearing Tribunal is known.

Provisional Action may include, but is not limited to:

- (a) suspension, restriction of duties or temporary re-deployment; or
- (b) suspension or restriction of rights, privileges and benefits.

In all circumstances in which Case 1 Complaints are reported to NV or any relevant external authorities, NV reserves the right in its sole discretion to recommend that the activities undertaken by the Respondent are revised and amended as necessary to minimise risk.

Involved Organisations should be mindful of any contractual or employment issues arising where the Involved Organisation is contemplating Provisional Action. For instance:

- (c) the contract governing a service provider's obligations to an Involved Organisation; or
- (d) an individual's employment contract with an Involved Organisation,

may have an impact on what type of Provisional Action may be legally taken by an Involved Organisation.

**IMPORTANT NOTE:** Where the livelihood of a Respondent to a Complaint is likely to be adversely impacted by any disciplinary measures imposed, including Provisional Action such as a suspension, special care must be taken before imposing any such Provisional Action. An Involved Organisation should seek legal advice prior to imposing Provisional Action in those circumstances.

Where a Respondent to a Case 1 Complaint is either an independent contractor providing services to an Involved Organisation, or an employee of an Involved Organisation, or has a livelihood that would likely be impacted by any disciplinary measures, it is strongly recommended that the Involved Organisation seeks legal advice prior to imposing any Provisional Action.

### **Step 9: Involved Organisation evaluates next steps and process conducted**

After completing the internal investigation under Step 7, NV or the relevant Affiliate must determine what action is taken next, namely:

- (e) closing the Complaint where no further action is required, or no longer sought by the Complainant;
- (f) making a decision and imposing disciplinary measures (if required) in response to the internal investigation of the Complaint (see Step 7);
- (g) referring the Complaint to an Independent Investigation; or
- (h) referring the Complaint to a Hearing Tribunal.

When evaluating which process to undertake in relation to any Complaint, the following table provides guidance as to when each process may be the most beneficial.



**Table A - Processes for resolving Complaints**

Case	When to use
<b>Involved Organisation makes decision</b>	<ul style="list-style-type: none"> <li>• Complainant and Respondent are both Children or Young People</li> <li>• There is no dispute as to the facts</li> <li>• Complaint is at the minor end of the Case 1 Complaint scale</li> </ul>
<b>Independent Investigation</b>	<ul style="list-style-type: none"> <li>• There are major inconsistencies between each party's version of events</li> <li>• Involved Organisation has not been able to sufficiently establish what occurred through internal investigation</li> <li>• Complainant is not comfortable appearing in the same room as the Respondent at a Hearing Tribunal</li> </ul>
<b>Hearing Tribunal</b>	<ul style="list-style-type: none"> <li>• Respondent is an employee or independent contractor of the Involved Organisation</li> <li>• Respondent's livelihood will be impacted by any adverse finding or disciplinary measures</li> <li>• There are only minor inconsistencies between each party's version of events, or only a small number of facts are disputed</li> </ul>

The relevant procedure that must be followed for an Independent Investigation or Hearing Tribunal under this Policy are outlined at:

- (a) Attachment A for Independent Investigations; and
- (b) Attachment B for Hearing Tribunals.

NV or the relevant Affiliate may proceed straight to Step 10 after completing Step 7.

As outlined at "Evaluating Next Steps" above, it may be beneficial for the Involved Organisation to make a decision and impose disciplinary measures (if required) at the completion of Step 7 where:

- (c) both the Complainant and Respondent are Children or Young People;
- (d) there is no dispute as to the facts of the Complaint; or
- (e) the Complaint is at the minor end of the Case 1 Complaint scale.

Where an Involved Organisation decides to make a decision and impose disciplinary measures (if required) after the completion of Step 7, the following should have occurred to satisfy the requirements of Natural Justice:

- (f) the Respondent was made aware of the specific allegations against him/her/it and the identity of the Complainant;

- (g) the Respondent was provided the opportunity to respond to the specific allegations within the Complaint, either in writing or in person; and
- (h) the Respondent was afforded the opportunity to have a support person, who must not be a lawyer or barrister, present at any meeting or interview with a representative of the Involved Organisation.

There is no right of appeal from any decision and disciplinary measures imposed by an Involved Organisation in response to a Complaint, except where NV determines that the decision will impact on the livelihood of a person involved in the Complaint. Where NV determines that an appeal should be held, it is to be conducted in accordance with the process applicable to the Hearing Tribunal provided in Attachment B, with such adjustments as deemed appropriate by NV.

### **Step 10 - Decision and/or discipline**

Under Section 3.14, an Involved Organisation may impose a variety of disciplinary measures against a Respondent (whether an individual or organisation) who has breached this Policy.

The form of disciplinary measures to be imposed on an individual or organisation should depend on factors such as:

- (a) the nature and seriousness of the behaviour or incidents;
- (b) in a case where action is taken concurrently with or in lieu of a resolution of a formal Complaint, the wishes of the Complainant;
- (c) if the Respondent knew or should have known that the behaviour was a breach of the Policy;
- (d) level of contrition of the Respondent;
- (e) the effect of the proposed disciplinary measures on the Respondent including any personal, professional or financial consequences;
- (f) if there have been relevant prior warnings or disciplinary action; or
- (g) if there are any mitigating circumstances such that the Respondent should not be disciplined at all or not disciplined so seriously.

### **Step 11 - Record, notify and finalise**

Records must be kept of all Case 1 Complaints for a minimum of 7 years.

Records must be maintained in a secure and confidential place – preferably both in electronic and hard copy (if any) versions.

NV must keep a register of Complaints that is updated quarterly at a minimum.

When recording details at the finalisation of a Complaint, the Senior Person must:

- (a) file all materials lodged by each party to the Complaint;
- (b) document the decision made with respect to the Complaint;

- (c) document any disciplinary measures arising out of the Complaint; and
- (d) record any additional outcomes of the Complaint.

The relevant Involved Organisation must (where it is not NV) notify NV as soon as possible after the Complaint is resolved. The Involved Organisation must notify the appropriate person within NV, as notified to the Involved Organisation from time to time.

### **3.13 Guidelines for each Step - Complaints not involving Child Abuse and Sexual Misconduct or Serious Criminal Conduct**

This section contains guidelines for each step contained within a Complaint not involving Child Abuse and allegations of Sexual Misconduct or Serious Criminal Conduct (**Case 2 Complaints**).

#### **Step 1 - Complainant tells Person in a Position of Responsibility and Authority**

If any person involved in Netball has concerns about a breach of this Policy, they are encouraged to seek out a Person in Position of Responsibility and Authority to tell them about their concerns. This may be a coach, official, volunteer or employee of an Affiliate or NV. Wherever possible, please provide to that person details about:

- (a) who was involved (alleged perpetrator & victim, as well as witnesses, including any known contact details);
- (b) the details of the Child and Young Person's age and parent/guardian details;
- (c) what was observed or heard;
- (d) when the concerning incident, behaviour or conduct was observed;
- (e) where the concerning incident, behaviour or conduct occurred;
- (f) why you are concerned and the impact of the incident (i.e. injuries, others at risk of harm); and
- (g) if known, what you would like to happen next and the outcome you are seeking.

To help remember, think of this step as providing the initial guidance to determine the "who, what, when, where, why, what next?" This is also helpful for those who are responding to the Complaint.

Depending on the nature of the Complaint, once the initial contact is made and it is known what the Complainant would like to occur next, there are two options:

- (a) talk to a Person in a Position of Responsibility and Authority who can guide you/the Complainant as to next steps; and/or
- (b) depending on the nature and seriousness of the Complaint, formalise the Complaint to the relevant Affiliate, as appropriate, based on the incident categorisation.

## **Step 2 - Person in a Position of Responsibility and Authority talks to Complainant**

Regardless of whether you are a Member, Participant or a Person in a Position of Responsibility and Authority, it is critical that all Complaints are treated seriously and without judgment. Everyone has a role to play to ensure that appropriate steps are taken and in a sensitive and non-judgmental way.

There are certain circumstances that make it inappropriate for a particular Person in a Position of Responsibility and Authority to speak to a Complainant about a Complaint, irrespective of whether the Complainant specifically informed that Person in a Position of Responsibility and Authority of their Complaint. In the following circumstances, it may be appropriate for another Person in a Position of Responsibility and Authority, or a Senior Person, to talk to the Complainant once a Complaint is lodged:

- (a) where the Person in a Position of Responsibility and Authority has had personal involvement in the circumstances giving rise to the Complaint;
- (b) where the Complainant does not wish to discuss the Complaint further with that particular Person in a Position of Responsibility and Authority;
- (c) where there is a significant (actual or perceived) power imbalance between the Person in a Position of Responsibility and Authority and the Complainant; or
- (d) where the Person in a Position of Responsibility and Authority shares another relationship with the Complainant outside the Netball context, including immediate or extended family members.

Where any of the circumstances in (a) - (d) above arise, it may be appropriate for a different Person in a Position of Responsibility and Authority to talk to the Complainant, **unless the Complainant specifically requests, or will only speak to, that particular Person in a Position of Responsibility and Authority.**

Where a Person in a Position of Responsibility and Authority or Senior Person is talking to a Complainant about a Complaint, remember to:

- (a) talk to the Complainant calmly and without judgment or opinion;
- (b) ensure that your conversation is occurring in a private and safe environment;
- (c) ask non-leading questions to establish what the Complainant's concerns are. This can be in the form of the questions set out at Step 1 [(a)-(g) – who, what when, where, why, what next?];
- (d) if appropriate (for example, the issue is minor, easily resolved and no person is in danger) take steps to resolve the Complaint at that time;
- (e) if the person receiving details of the Complaint is not an employee, official or coach of NV (or an Affiliate) and the Complaint is not easily resolved, seek out an employee, official or coach of the organisation and tell them what you and/or the Complainant know about the Complaint; and
- (f) take notes or record the details of what you find out regarding the Complaint.

Once the above steps have been taken, please read the guidance in the corresponding sections of this Policy.

Depending on the nature of the Complaint being made regarding a Child or Young Person (or Persons), certain steps must be taken. It is crucial that these steps are taken immediately or within 24 hours of becoming aware of a Complaint where a Child or Young Person is at risk of potential or future Harm.

The initial response is crucial to the well-being of the Child or Young Person. It is important for the person receiving the information to:

- (g) listen to, be supportive and do not dispute what the Complainant says;
- (h) reassure the Child or Young Person and let them know that what has occurred is not the fault of the Child or Young Person;
- (i) ensure that the Child or Young Person is safe;
- (j) remain calm and do not express shock, panic or disbelief;
- (k) be honest and explain that other people may need to be told in order to stop what is happening; and
- (l) make written notes during or as soon as possible after the discussion.

In **all circumstances** where Persons in Positions of Responsibility and Authority are aware of information about any Complaint concerning Abuse of a Child or Young Person, they **will not discuss it with anyone other than their relevant Senior People**. They may be required to discuss their allegations with Police as directed.

Once details of the Complaint have been established the relevant **Person in a Position of Responsibility and Authority must:**

- (m) discuss their concerns with their immediate Senior Person or another Senior Person who is available; and
- (n) collaborate with the Senior Person to develop a plan that aims to address the concerns regarding the particular Child or Young Person.

*It is imperative that no discussion occurs with the Child or Young Person's parents/carers or other family member/s until the plan has been developed and authorised by the Senior Person.*

### **Step 3 - Senior Person documents Complaint**

Once a Complaint is reported to a Senior Person under Step 2, the Senior Person must ensure that all relevant information is recorded regarding the Complaint and in relation to the outcomes of decision-making.

When recording the Complaint, the Senior Person should include as much information as possible in response to the specific questions at Step 1(a) - (g) above. The inclusion of as much information as possible in the record makes it easier for the Involved Organisation to investigate and action the Complaint.

Records for Case 2 Complaints must be retained in a safe and secure location for 3 years after the incident, to ensure a copy is available for the duration of relevant limitations of liability period under the law. Refer to Section 3.4 for more information regarding record-keeping.

#### **Step 4 - Affiliate conducts internal investigation**

Natural Justice requires that each person that is a party to the Complaint is informed about the allegations and has an opportunity to respond to them.

When investigating a Complaint, the Investigation Officer within the Involved Organisation should:

- (a) connect with the Complainant(s) on behalf of the appropriate Involved Organisation responding to and investigating the Complaint;
- (b) connect with the Respondent(s) against whom the allegation refers at an appropriate time and give the Respondent an opportunity to:
  - (i) hear the allegation(s) against him/her/it in full;
  - (ii) explain or respond to the allegation(s), either orally, in writing or both;
  - (iii) identify any witnesses and supporting evidence in favour of the Respondent;
  - (iv) invite a support person or advisor, who must not be qualified as a lawyer or barrister, to attend any meeting with the person investigating; and
  - (v) be provided support (for example, professional counselling) if necessary;
- (c) obtain a signed statement and record of interview from the Respondent;
- (d) make contact with any witnesses and obtain written and signed statements outlining details of the allegation (what happened, when, how); and
- (e) obtain other information that could assist in making a decision on the allegation.

If the alleged perpetrator is an employee, participant, coach or official within Netball, the Investigation Officer will:

- (f) convene separate meetings with the parties (as appropriate) and discuss the outcomes of the investigation; and
- (g) determine and implement a plan for managing feedback and counselling to the parties as appropriate.

If the parent/carer is not satisfied with the outcome of the investigation, the parent/carer can raise their concerns with NV's Member Services Team.

## **Step 5 - Provisional Action (if required)**

Provisional Action is defined as action that may be taken by an Involved Organisation (in relation to Case 2 Complaints).

Provisional Action is action taken against a Respondent to Case 2 Complaints where the alleged incident is serious enough to warrant such action being taken until the outcome(s) of the internal investigation, Independent Investigation or Hearing Tribunal is known.

Provisional Action may include, but is not limited to:

- (a) suspension, restriction of duties or temporary re-deployment; or
- (b) suspension or restriction of rights, privileges and benefits.

In all circumstances in which Case 2 Complaints are reported to an Involved Organisation or the relevant external authorities, NV and the Involved Organisation reserve the right in their sole discretion to recommend that the activities undertaken by the Respondent are revised and amended as necessary to minimise risk.

Involved Organisations should be mindful of any contractual or employment issues arising where the Involved Organisation is contemplating Provisional Action. For instance:

- (c) the contract governing a service provider's obligations to an Involved Organisation; or
- (d) an individual's employment contract with an Involved Organisation,

may have an impact on what type of Provisional Action may be legally taken by an Involved Organisation.

**IMPORTANT NOTE:** Where the livelihood of a Respondent to a Complaint is likely to be adversely impacted by any disciplinary measures imposed, including Provisional Action such as a suspension, special care must be taken before imposing any such Provisional Action. An Involved Organisation should seek legal advice prior to imposing Provisional Action in those circumstances.

Where a Respondent to a Case 2 is either an independent contractor providing services to an Involved Organisation, or an employee of an Involved Organisation, or has a livelihood that would likely be impacted by any disciplinary measures, it is strongly recommended that the Involved Organisation seeks legal advice prior to imposing any Provisional Action.

## **Step 6 - Next steps evaluated and complaint resolution procedure undertaken**

After completing the internal investigation under Step 4, NV or the Affiliate must determine what action is taken next, namely:

- (a) closing the Complaint where no further action is required, or no longer sought by the Complainant;
- (b) making a decision and imposing disciplinary measures (if required) in response to the internal investigation of the Complaint (see Step 6 or 8);

- (c) referring the Complaint to an Independent Investigation; or
- (d) referring the Complaint to a Hearing Tribunal.

When evaluating which process to undertake in relation to any specific Complaint, the following table provides guidance as to when each process may be the most beneficial.

**Table B - Processes for resolving Complaints**

Case	When to use
<b>Mediation</b>	<ul style="list-style-type: none"> <li>• Both parties have had their chance to tell their version of events</li> <li>• Person in a Position of Responsibility and Authority does not believe that any of the allegations warrant any form of disciplinary action</li> <li>• Mediation looks like it may work</li> </ul>
<b>Involved Organisation makes decision</b>	<ul style="list-style-type: none"> <li>• Complainant and Respondent are both Children or Young People</li> <li>• There is no dispute as to the facts</li> <li>• Complaint is at the minor end of the Case 1 Complaint scale</li> </ul>
<b>Independent Investigation</b>	<ul style="list-style-type: none"> <li>• There are major inconsistencies between each party's version of events</li> <li>• Involved Organisation has not been able to sufficiently establish what occurred through internal investigation</li> <li>• Complainant is not comfortable appearing in the same room as the Respondent at a Hearing Tribunal</li> </ul>
<b>Hearing Tribunal</b>	<ul style="list-style-type: none"> <li>• Respondent is an employee or independent contractor of the Involved Organisation</li> <li>• Respondent's livelihood will be impacted by any adverse finding or disciplinary measures</li> <li>• There are only minor inconsistencies between each party's version of events, or only a small number of facts are disputed</li> </ul>

The relevant procedure that must be followed for a Mediation, Independent Investigation or Hearing Tribunal under this Policy are outlined at:

- (a) Attachment A for Independent Investigations;
- (b) Attachment B for Hearing Tribunals; and
- (c) Attachment C for Mediation.

The Involved Organisation may proceed straight to Step 7 after completing Step 4.



As outlined at "Evaluating Next Steps" above, it may be beneficial for the Involved Organisation to make a decision and impose disciplinary measures (if required) at the completion of Step 4 where:

- (d) both the Complainant and Respondent are Children or Young People;
- (e) there is no dispute as to the facts of the Complaint; or
- (f) the Complaint is at the minor end of the Case 2 Complaint scale.

Where an Involved Organisation decides to make a decision and impose disciplinary measures (if required) after the completion of Step 4, the following should have occurred to satisfy the requirements of Natural Justice:

- (g) the Respondent was made aware of the specific allegations against him/her/it and the identity of the Complainant;
- (h) the Respondent was provided the opportunity to respond to the specific allegations within the Complaint, either in writing or in person; and
- (i) the Respondent was afforded the opportunity to have a support person, who must not be a lawyer or barrister, present at any meeting or interview with a representative of the Involved Organisation.

There is no right of appeal from any decision and disciplinary measures imposed by an Involved Organisation in response to a Complaint, except where NV determines that the decision will impact on the livelihood of a person involved in the Complaint. Where NV determines that an appeal should be held, it is to be conducted in accordance with the process applicable to the Hearing Tribunal provided in Attachment B, with such adjustments as deemed appropriate by NV.

### **Step 7 - Decision and/or discipline**

Under Section 3.14, an Involved Organisation may impose a variety of disciplinary measures against a Respondent (whether an individual or organisation) who has breached this Policy.

The form of disciplinary measures to be imposed on an individual or organisation should depend on factors such as:

- (a) the nature and seriousness of the behaviour or incidents;
- (b) in a case where action is taken concurrently with or in lieu of a resolution of a formal Complaint, the wishes of the Complainant;
- (c) if the Respondent knew or should have known that the behaviour was a breach of the Policy;
- (d) level of contrition of the Respondent;
- (e) the effect of the proposed disciplinary measures on the Respondent including any personal, professional or financial consequences;
- (f) if there have been relevant prior warnings or disciplinary action; or

- (g) if there are any mitigating circumstances such that the Respondent should not be disciplined at all or not disciplined so seriously.

### **Step 8 - Record, notify and finalise**

Records must be kept of all Case 2 Complaints for a minimum of 3 years.

Records must be maintained in a secure and confidential place – preferably both in electronic and hard copy (if any) versions.

NV must keep a register of Complaints that is updated quarterly at a minimum.

When recording details at the finalisation of a Complaint, the Senior Person must:

- (a) file all materials lodged by each party to the Complaint;
- (b) document the decision made with respect to the Complaint;
- (c) document any disciplinary measures arising out of the Complaint; and
- (d) record any additional outcomes of the Complaint.

The relevant Involved Organisation must notify NV (where it is not NV) as soon as possible after the Complaint is resolved. The Involved Organisation must notify NV, as notified to the Involved Organisation from time to time.

### **3.14 Disciplinary Measures**

#### **Any disciplinary measure imposed under this Policy must:**

- observe any contractual and employment rules and requirements;
- conform to the principles of Natural Justice;
- be based on the evidence and information presented;
- be within the powers of the position imposing the disciplinary measure; and
- must be reasonable in all circumstances.

It is strongly recommended that where disciplinary measures are being considered in relation to an employee or contractor, the relevant organisation seeks legal advice.

#### **Individuals**

Subject to contractual and employment requirements, if a finding is made that an individual has breached a provision of this Policy, the measures that may be taken by the organisation involved (subject to their Constitution and By-laws), whether through the Hearing Tribunal, disciplinary committee on consideration of the Independent Investigation or the organisation involved itself, are:

1. maintain any Provisional Action already taken in relation to the Complaint;
2. direct that the individual make a verbal or written apology;
3. provide a written warning;
4. direct that the individual attend counselling to address their behaviour;
5. direct that the individual do something, or refrain from doing something, to remedy the breach of this Policy;
6. withdraw any awards, placings, records, achievements bestowed in any competition, activities or events held or sanctioned by the organisation;
7. demote or transfer the individual to another location, role or activity;

8. suspend the individual's membership or participation or engagement in a role or activity;
9. recommend that another organisation suspend the individual's membership, appointment or engagement;
10. in the case of a coach or official, direct that the relevant accrediting organisation (if any) de-register the accreditation of the coach or official for a period of time or permanently;
11. termination or other disciplinary action in accordance with the individual's contract of employment and/or workplace legislation; or
12. any other form of discipline that the organisation involved considers appropriate. When imposing any form of discipline, it should be accompanied by a warning that a similar breach by that individual in the future may result in the imposition of a more serious form of discipline.

## **Organisations**

Subject to the relevant Constitution and By-laws, if a finding is made that NV, or an Affiliate has breached the Policy, the measures that may be taken by the organisation involved (subject to their Constitution and By-laws), whether through the Hearing Tribunal, disciplinary committee on consideration of the Independent Investigation or the organisation involved itself, are:

1. a written warning;
2. a monetary fine;
3. a direction to set aside and remake a decision that is the subject of a Complaint under this Policy, which may or may not be subject to guidelines;
4. a direction that the organisation do something, or refrain from doing something, to remedy the breach of this Policy;
5. a recommendation that any rights, privileges and benefits provided to that organisation by Netball Australia, NV or other peak association be suspended for a specified period;
6. a recommendation that any funding granted or given to it by NV cease from a specified date;
7. a recommendation that NV ceases to sanction events held by or under the auspices of that organisation;
8. a recommendation that the organisation's membership of NV be suspended or terminated in accordance with the relevant constitution or rules; or
9. any other form of discipline that NV directs to be appropriate under this Policy.

When imposing any form of discipline, it should be accompanied by a warning that a similar breach of this Policy by the organisation in the future may result in more serious form of discipline.

## 4. Part 4 – Dictionary

These definitions apply throughout this Policy:

Term	Definition
<b>Abuse</b>	Abuse means physical abuse, emotional abuse (including psychological abuse), sexual abuse, and abuse of power that has caused, is causing or is likely to cause harm to a person’s wellbeing or development. Examples of Abuse include but are not limited to, Bullying, humiliation, verbal abuse and insults, Grooming, Harassment (including Sexual Harassment), Discrimination, Neglect and Sexual Exploitation.
<b>Affiliate</b>	All bodies (excluding natural persons) which are members of, and affiliated with, NV. All Affiliates have agreed to be, and are, bound by this Policy. For the avoidance of doubt, all Regions and Clubs are Affiliates.
<b>Bullying</b>	Bullying involves the inappropriate use of power by one or more persons over another less powerful person or group and is generally an act that is repeated over time. Bullying has been described by researchers as taking many forms which are often interrelated and include: <ul style="list-style-type: none"> <li>• <i>Verbal</i> (name calling, put downs, threats);</li> <li>• <i>Physical</i> (hitting, punching, kicking, scratching, tripping, spitting);</li> <li>• <i>Social</i> (ignoring, excluding, ostracising, alienating); and/or</li> <li>• <i>Psychological</i> (spreading rumours, stalking, dirty looks, hiding or damaging possessions).</li> </ul> For the avoidance of doubt, Bullying includes Cyber Bullying, which can also have lasting and damaging consequences.
<b>Case 1 Complaints</b>	Case 1 Complaints are those Complaints that should be immediately escalated to NV. Case 1 Complaints include: <ul style="list-style-type: none"> <li>• Child Abuse;</li> <li>• Sexual Misconduct; and</li> <li>• Serious Criminal Conduct.</li> </ul>
<b>CEO</b>	CEO means the chief executive officer of NV or an Affiliate and includes the executive officer, general manager or other similar title. If the relevant organisation has no executive officer (for example, for Clubs) the CEO means the President.
<b>Child Abuse</b>	Child Abuse is the mistreatment by an adult of a Child or Young Person that has harmed, is harming or is likely to harm or endanger or put at risk that Child or Young Person’s physical or emotional health, development or wellbeing. For the avoidance of doubt, this includes but is not limited to Emotional or Psychological Abuse, Bullying, Grooming, Sexual Exploitation, Neglect and Child Harassment.
<b>Child or Young Person / Children or Young People</b>	A Child or Young Person is a person under the age of eighteen years.
<b>Child Harassment</b>	Child Harassment is defined as any detrimental effect of a significant nature on the Child or Young Person’s physical, psychological or emotional wellbeing. For harassment to be significant, the detrimental effect on a Child’s or Young Person’s wellbeing must be substantial or

Term	Definition
	serious, more than transitory and must be demonstrable in the Child or Young Person's presentation, functioning or behaviour.
<b>Child Protection Commitment Statement</b>	The Commitment Statement in <b>Part 2.1</b> of this Policy that defines the principles and procedures that are implemented to ensure that Children and Young People who access a NV program, service or facility are protected.
<b>Child Protection Concern</b>	<p>A Child Protection Concern includes:</p> <ul style="list-style-type: none"> <li>• disclosures of actual harm, Abuse or exploitation of a Child or Young Person;</li> <li>• the potential risk of harm, Abuse or exploitation of a Child or Young Person; and</li> <li>• breaches of this Policy or the Code by staff or volunteers.</li> </ul>
<b>Clubs</b>	Clubs means Netball clubs within Victoria that are currently Members of a Region and therefore a Member of NV. Clubs have agreed to adhere to this Policy.
<b>Code</b>	The Safe Environments for Children in Netball Code of Conduct established with this Policy which aims to identify and prevent behaviour that may be Harmful to Members, Participants, Children and Young People in Netball communities. The Code outlines what is, and what is not acceptable behaviour or practice when working with others or engaging with Children and Young People.
<b>Complainant</b>	The person or persons making a Complaint under <b>Part 3</b> of this Policy, and includes a parent, guardian or adult representative of a Child or Young Person.
<b>Complaint</b>	A complaint made under this Policy, to which <b>Part 3</b> of this Policy relates.
<b>Complaints Procedures</b>	The procedures dealing with complaints set out in <b>Part 3</b> of this Policy.
<b>Direct Contact</b>	<p>Direct Contact means:</p> <ul style="list-style-type: none"> <li>• physical contact; or</li> <li>• face to face contact; or</li> <li>• contact by post or other written communication; or</li> <li>• contact by telephone or other oral communication; or</li> <li>• contact by email or other electronic communication.</li> </ul>
<b>Discrimination</b>	<p>Discrimination means treating, proposing to treat or requesting, assisting, instructing or encouraging another person to treat a person less favourably than someone else on the basis of an attribute or personal characteristic they have. The relevant attributes or characteristics include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>• Age;</li> <li>• Disability</li> <li>• Marital Status;</li> <li>• Parental or carer status;</li> <li>• Physical features;</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>• Irrelevant medical record;</li> <li>• Irrelevant criminal record;</li> <li>• Political belief or activity;</li> <li>• Pregnancy;</li> <li>• Breastfeeding;</li> <li>• Race;</li> <li>• Religious Belief or activity;</li> <li>• Sex or gender;</li> <li>• Sexual orientation;</li> <li>• Trade Union membership or activity; and</li> <li>• Transgender orientation.</li> </ul> <p>Discrimination also includes any other behaviour recognised by Commonwealth, State or Territory law as discrimination. Examples of Discrimination are available on the <i>Play by the Rules</i> website.</p> <p>Some exceptions to State and Federal anti-discrimination law apply, including (but not limited to):</p> <ul style="list-style-type: none"> <li>• Holding a competitive sporting activity for girls and boys who are under the age of 12 or of any age where strength, stamina, or physique is relevant; or</li> <li>• Not selecting a Participant if the person's disability means that he or she is not reasonably capable of performing the actions reasonably required for that particular activity.</li> </ul>
<b>Domestic Violence</b>	Domestic Violence is Physical, Emotional or Psychological Abuse occurring in the home of a Child or Young Person, Member or Participant.
<b>Emotional or Psychological Abuse</b>	Emotional or Psychological Abuse occurs when a Child or Young Person does not receive the love, affection or attention they need for healthy emotional, psychological and social development. Such abuse may involve repeated rejection or threats to a Child or Young Person. Constant criticism, teasing, ignoring, threatening, yelling, scapegoating, ridicule and rejection or continual coldness are all examples of emotional abuse. Specific to sport, overtraining can constitute Emotional or Psychological Abuse. These behaviours continue to an extent that results or has the potential to result in significant damage to the Child or Young Person's physical, intellectual or emotional wellbeing and development.
<b>Family Violence</b>	Family Violence is conduct, whether actual or threatened, by a person towards, or towards the property of, a member of the person's family that causes that or any other member of the person's family to fear for, or to be apprehensive about, his or her personal wellbeing or safety.
<b>Football/Netball Clubs</b>	Clubs which are directly linked or affiliated with, or form part of, an Australian rules football club and operate as part of that same Australian rules football club.
<b>Grooming</b>	Grooming is a term used to describe what happens when a perpetrator of abuse builds a relationship with a child with a view to abusing them at some stage. There is no set pattern in relation to the Grooming of Children or Young People. For some perpetrators, there will be a lengthy period of time before the abuse begins. The child may be given special attention and, what starts as an apparently normal display of affection, such as cuddling, can develop into sexual touching or masturbation and

Term	Definition
	then into more serious sexual behaviour. Other perpetrators may draw a child in and abuse them relatively quickly. Some abusers do not groom Children or Young People but abuse them without forming a relationship at all. Grooming can take place in any setting where a relationship is formed, such as leisure, music, sports and religious activities, or in internet "chatrooms", in social media or by other technological channels.
<b>Harm</b>	<p>Harm to a child, is any detrimental effect of a significant nature to the child's physical, psychological or emotional wellbeing. It is immaterial how the harm is caused. Harm can be caused by:</p> <ul style="list-style-type: none"> <li>• Physical, Psychological or Emotional Abuse or Neglect;</li> <li>• Sexual Abuse or Exploitation;</li> <li>• a single act, omission or circumstance; and</li> <li>• a series or combination of acts, omissions or circumstances.</li> </ul>
<b>Harassment</b>	<p>Harassment means any type of behaviour that the other person does not want and that is offensive, abusive, belittling or threatening <b>and that is reasonably likely to cause psychological harm to the person who is the subject of the Harassment</b>. 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. Harassment includes bullying.</p> <p>Unlawful harassment includes the above but is either sexual or targets a person because of their race, gender, pregnancy, marital status, sexual orientation or other characteristic (see characteristic list under Discrimination).</p> <p>It does not matter whether the harassment was intended: the focus is on the impact of the behaviour. As a guide, if someone finds behaviour or actions harassing, then it could be considered as harassment. Harassment may be a single incident or repeated. It may be explicit, implicit, verbal or non-verbal and includes public acts of hatred.</p>
<b>Hearing Tribunal</b>	Hearing Tribunal means the panel created in accordance with Attachment B of this Policy to hear a complaint under this Policy.
<b>Individual Member</b>	Individual Member means any person who is an individual Member of an Affiliate and therefore a Member of NV.
<b>Investigation Officer</b>	Investigation Officer refers to a Person in a Position of Responsibility and Authority that has been appointed by NV or an Affiliate to conduct initial investigations into a complaint.
<b>Involved Organisation</b>	Involved Organisation means the relevant organisation to receive a Complaint and may be NV or an Affiliate.
<b>Member</b>	A Member is an entity or individual who is recognised and/or registered as a member of NV.
<b>Natural Justice</b>	<p>Natural Justice (or procedural fairness) is the principle that, when resolving a complaint:</p> <ul style="list-style-type: none"> <li>• both the Complainant and the Respondent must know the full details of what is being said against them;</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>• both the Complainant and the Respondent must be given full opportunity to respond to the allegations and raise any matters in their own defence;</li> <li>• all parties need to be heard and all relevant submissions considered;</li> <li>• irrelevant matters should not be taken into account;</li> <li>• no person may judge their own case;</li> <li>• the decision maker(s) must be unbiased, fair and just; and</li> <li>• the penalties imposed must not outweigh the breach of this Policy or offending behaviour.</li> </ul>
<b>Neglect</b>	<p>Neglect is the persistent failure or deliberate failure or denial to provide the child with the basic necessities of life. Such Neglect includes the failure to provide adequate food, clothing, shelter, adequate supervision, clean water, medical attention or supervision to the extent that the child's health and development is, or is likely to be, significantly harmed. Categories of neglect include physical neglect, medical neglect, abandonment or desertion, emotional neglect and educational neglect. The issue of neglect must be considered within the context of resources reasonably available.</p>
<b>Netball Australia</b>	The national governing body for Netball in Australia.
<b>NV</b>	Netball Victoria.
<b>Participant</b>	<p>A Participant includes anyone who participates in a NV or Affiliate service, event, activity or program, including people who may not be a Member. A Participant may be provided the service or program for free, yet is still under the care of Persons in Positions of Responsibility and Authority whilst participating.</p>
<b>Person(s) in positions of Responsibility and Authority</b>	<p>Persons in positions of Responsibility and Authority includes everyone who holds a position of responsibility or authority in Netball, whether paid or unpaid, and includes, but is not limited to, all NV and Affiliate staff, coaches, officials and volunteers. For the avoidance of doubt, Persons in Positions of Responsibility and Authority also includes Children and Young People who may hold a position of responsibility or authority in Netball over other Children and Young People.</p>
<b>Physical Abuse</b>	<p>Physical Abuse occurs when a person subjects a child to non-accidental physically aggressive acts. The abuser may inflict an injury intentionally or inadvertently as a result of physical punishment or the aggressive treatment of a child. Physically abusive behaviour includes (but is not limited to) shoving, hitting, slapping, shaking, throwing, punching, biting, burning, excessive and physically harmful overtraining and kicking. It also includes giving Children or Young People harmful substances such as drugs, alcohol or poison. Certain types of punishment, whilst not causing injury, can also be considered physical abuse if they place a child at risk of Harm.</p>
<b>Policy</b>	This Safe Environments for Children in Netball Policy.
<b>Provisional Action</b>	<p>Provisional Action is action that may be taken in relation to Case 1 incidents. Provisional Action is action taken against an alleged perpetrator of Case 1 incidents where the alleged incident is serious enough to warrant such action being taken until the outcome(s) of the internal investigation, Independent Investigation or Hearing Tribunal is known. Provisional action may include, but is not limited to, suspension, restriction of duties or temporary re-deployment.</p>



Term	Definition
<b>Region</b>	Those bodies affiliated with NV, who are members of NV and known as Regions. Regions must adhere to this Policy.
<b>Respondent</b>	Respondent means the person or organisation responding to the complaint up to the point of a Hearing Tribunal.
<b>Senior Person</b>	The President, CEO, Secretary or designated delegate of NV or an Affiliate, as applicable.
<b>Serious Criminal Conduct</b>	<p>Serious Criminal Conduct means any of the following :</p> <ul style="list-style-type: none"> <li>• Sexual Offences;</li> <li>• drug possession, use, sale or any other drug-related conduct;</li> <li>• assault causing serious injury; and</li> <li>• any criminal conduct deemed serious enough to warrant escalation to NV by the Involved Organisation.</li> </ul>
<b>Sexual Abuse</b>	<p>Sexual Abuse occurs when an adult or a person of authority (e.g. older) involves a Child or Young Person in any sexual activity. Perpetrators of Sexual Abuse take advantage of their power, authority or position over the Child or Young Person for their own benefit. It can include making sexual comments to a child, engaging Children and Young People to participate in sexual conversations over the internet or on social media, kissing, touching a child's genitals or breasts, oral sex or intercourse with a child. Encouraging a child to view pornographic magazines, websites and videos is also sexual abuse. Engaging Children and Young People to participate in sexual conversations over the internet is also considered Sexual Abuse.</p>
<b>Sexual Exploitation</b>	<p>Sexual Exploitation occurs when Children or Young People are forced into sexual activities that are then recorded in some way and/or used to produce pornography. Such pornography can be in the form of actual photos or videos or published on the internet.</p>
<b>Sexual Harassment</b>	<p>Sexual Harassment means unwanted, unwelcome or uninvited behaviour of a sexual nature and which could reasonably be anticipated to make a person feel humiliated, intimidated or offended. Sexual Harassment can take many different forms and may include unwanted physical contact, verbal comments, jokes, propositions, displays of pornographic or offensive material or other behaviour that creates a sexually hostile environment.</p>
<b>Sexual Misconduct</b>	<p>Sexual Misconduct means any of the following:</p> <ul style="list-style-type: none"> <li>• Sexual Offences;</li> <li>• Sexual Harassment; and</li> <li>• the use of technology or social media platforms with sexual connotation.</li> </ul>
<b>Sexual Offence</b>	<p>Sexual offence means a criminal offence involving sexual activity or actions of indecency. This can include but is not limited to:</p> <ul style="list-style-type: none"> <li>• rape;</li> <li>• indecent assault;</li> <li>• sexual assault;</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>• assault with intent to have sexual intercourse;</li> <li>• incest;</li> <li>• sexual penetration of Child under the age of 16;</li> <li>• indecent act with Child under the age of 16;</li> <li>• sexual relationship with Child under the age of 16;</li> <li>• sexual offences against people with impaired mental functioning;</li> <li>• abduction and detention;</li> <li>• procuring sexual penetration by threats of fraud;</li> <li>• procuring sexual penetration of a Child under the age of 16;</li> <li>• bestiality;</li> <li>• soliciting acts of sexual penetration or indecent acts;</li> <li>• promoting or engaging in acts of Child prostitution;</li> <li>• obtaining benefits from Child prostitution;</li> <li>• possession of Child pornography; and</li> <li>• publishing Child pornography and indecent articles.</li> </ul>

## **ATTACHMENT A - INDEPENDENT INVESTIGATION PROCEDURE**

Following an internal investigation into a Complaint to establish the facts and the position of the parties to a Complaint, the Senior Person of the Involved Organisation may determine that it is appropriate to appoint an Independent Investigator to review the circumstances of the Complaint and conduct an Independent Investigation.

For Complaints lodged under this Policy, the Involved Organisation must conduct its own internal investigation (Step 7 - Case 1 Complaints, Step 4 - Case 2 Complaints) into the circumstances surrounding the allegation(s). The internal investigation may include the appointment of an Independent Investigator.

On completion of the internal investigation, the Involved Organisation may wish to refer the Complaint to an Independent Investigation under Step 9 (Case 1 Complaints) or Step 6 (Case 2 Complaints).

Where an Independent Investigator is appointed, the steps set out below must be followed.

Any internal or Independent Investigation process conducted in relation to Case 1 Complaints must occur concurrently with any external organisation process, as long as the internal or Independent Investigation process is placed on hold should an external organisation request the Involved Organisation to do so.

In conducting an Independent Investigation, the below steps must be followed:

### **Investigation**

1. The Involved Organisation will provide a written brief to the Investigator to ensure that the terms of engagement and scope of the Investigator's role and responsibilities are clear.
2. The Complainant should be interviewed by the Investigator and the Complaint and any key information arising from the interview(s) documented in writing by the Investigator. The Complainant is entitled to have a support person present during any interview that takes place, subject to the support person never being admitted as a lawyer or barrister.
3. The key details of the Complaint should be conveyed to the Respondent(s). The Respondent(s) must be given sufficient information to enable them to properly respond to the Complaint.
4. The Respondent(s) should be interviewed by the Investigator and given the opportunity to respond to the allegations. The Respondent(s) response to the Complaint should be documented in writing by the Investigator. The Respondent is entitled to have a support person present during any interview, subject to the support person never having been admitted as a lawyer or barrister.
5. If, in the process of the Independent Investigation, there continues to be a dispute regarding the facts, then statements from witnesses and other relevant evidence should be obtained by the Independent Investigator to assist in reaching conclusions and preparation of a report and recommendations.
6. The Investigator must make a finding, on the balance of probabilities, as to whether the Complaint, or each of the allegations in the Complaint (as appropriate) 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 or not enough evidence to substantiate the Complaint); or
  - (d) mischievous, vexatious or knowingly untrue.
7. A report documenting the Complaint, the investigation process, evidence, finding(s) and, if requested, recommendations, should be given to the CEO (or his/her delegate) of the Involved Organisation who may, in consideration of the report of the Independent Investigator, either:
- (a) take disciplinary action against either the Respondent, Complainant or any other person/persons involved in the Complaint in accordance with "Sanction" below;
  - (b) refer the Complaint to a Hearing Tribunal (which will take place in accordance with the Hearing Tribunal Procedure) to determine what, if any, further action to take; or
  - (c) take no further action and close the Complaint handling procedure under this Policy.
8. Within 14 days of the CEO (or his/her delegate) of the Involved Organisation receiving a report of an Independent Investigator, a report must be provided to the Complainant(s) and the Respondent(s) which summarises the investigation process and documents key points that were found to be substantiated, inconclusive, unsubstantiated or mischievous (**Report**). Where the Report relates to one or more Children or Young Persons, as either the Complainant or a witness, the Report may be redacted to the extent required to protect the identity of the Children or Young Persons. Each party to the Complaint must be provided an opportunity to provide a written response to the Report, should they wish.
9. All parties to the Complaint receiving a copy of the Report of the Independent Investigator must maintain strict confidentiality of the Report, other than where necessary to disclose the contents of the Report in order to obtain legal advice or as required by law. Any disclosure of the Report other than in accordance with this item 9 is a breach of this Policy and may result in disciplinary action being taken against the party making the disclosure.
10. Subject to paragraphs 2 and 4 above, both the Complainant and the Respondent(s) are entitled to support throughout this process from their chosen support person/adviser.

### **Sanction**

Where the CEO of the Involved Organisation deems disciplinary action is required as a result of the Independent Investigation under 7(a) above, the following steps must be followed:

11. The CEO must refer the report he/she receives under item 7 to a disciplinary sub-committee of the Board (**Committee**) of the relevant Involved Organisation.

12. Prior to holding a meeting to consider the Report and any sanctions to be imposed as a result of the Report, the Committee must:
  - (d) provide the Complainant and Respondent(s) an opportunity to respond in writing to the Report;
  - (e) notify each of the parties to the Complaint that the Committee will be meeting to consider the Complaint, and any disciplinary measures to be imposed as a result of the Complaint;
  - (f) inform the Complainant and Respondent:
    - (i) that they are entitled to provide submissions and evidence to the Committee, either in writing, in person at the meeting or both;
    - (ii) that the Committee will make a decision based on all of the information before it;
    - (iii) that they are not entitled to be represented by a lawyer or barrister at the meeting; and
    - (iv) of the date, time and location of the Committee meeting at which the Report will be considered.
13. Once the Committee holds a meeting to consider the Report, and any evidence provided by the parties, it may impose any disciplinary measures available under this Policy.

## **ATTACHMENT B - HEARING TRIBUNAL PROCEDURE**

Where an Involved Organisation refers a Complaint under this Policy to a Hearing Tribunal, the below steps must be followed.

Any reference to the CEO of an Involved Organisation in this Hearing Tribunal Procedure is replaced by the Board of an Involved Organisation, where no CEO is employed by that Involved Organisation.

### **Preparing for a Hearing Tribunal**

1. A Hearing Tribunal panel should be constituted as set out below. The level at which the Hearing Tribunal is constituted (ie NV or Affiliate) is determined by the categorisation of the Complaint (Case 1 or 2).
2. The CEO of the Involved Organisation, should organise for a Hearing Tribunal to be convened to hear a Complaint by notifying Panel Members that they are required to hear a Complaint. The Panel Members should be provided with a copy of all the relevant correspondence, reports or information received and sent by the CEO relating to the Complaints.
3. The Hearing Tribunal should be scheduled as soon as practicable, but must allow adequate time for the Respondent(s) to prepare to respond to the Complaint.
4. Subject to paragraph 8 below, the number of Panel Members required to be present throughout the Hearing Tribunal Process is three.
5. The Hearing Tribunal will not include any person who has any actual or perceived conflict of interest, preconceived opinions, vested interests or personal involvement relating to the Complaint.
6. The Hearing Tribunal must comprise at least one person who has knowledge, and preferably experience, of any relevant laws relating to the Complaint (e.g. anti-discrimination).
7. One of the Panel Members shall be appointed Chairperson by the CEO of the Involved Organisation.
8. If for any reason three Panel Members are not maintained, the discontinuing member may be replaced if it is considered appropriate by the Chairperson. Factors to consider should include the circumstances of the Complaint and the ability of the new Panel Member to be reasonably and impartially informed of the hearing evidence up until the time of his or her appointment. If the Chairperson believes it is not appropriate for a new Panel Member to be appointed then the Tribunal should be rescheduled to a later date. The Chairperson should inform the CEO of the Involved Organisation of the need to reschedule, and the CEO of the Involved Organisation should organise for the Hearing Tribunal, with a new Panel, to be reconvened.
9. The CEO must inform the Respondent by written notification that a Hearing Tribunal will take place. The written notification must outline:
  - (a) that the Respondent has a right to appear at the Hearing Tribunal to defend the Complaint/allegation(s);

- (b) details of the Complaint, including any relevant policy, rules or regulations which have allegedly been breached (if there is more than one Complaint these should be set out separately);
- (c) the date, time and venue of the Hearing Tribunal;
- (d) that the Respondent can make either verbal or written submissions to the Hearing Tribunal;
- (e) that the Respondent may arrange for witnesses to attend the Tribunal hearing to support their position (statutory declarations of witnesses not available to attend and from character witnesses may also be provided to the Tribunal hearing);
- (f) an outline of any possible penalties that may be imposed if the Complaint is found to be true;
- (g) that legal representation will not be allowed; and
- (h) that if the Respondent is considered a Child or Young Person, they should have a parent or guardian present.

A copy of any information / documents that have been given to the Hearing Tribunal should also be provided to the Respondent subject to the approval of such action by the Chairperson of the Hearing Tribunal.

10. The CEO will inform the Complainant by written notification that a Hearing Tribunal will take place. The written notification will outline:

- (a) that the Complainant has a right to appear at the Hearing Tribunal to support their Complaint;
- (b) details of the Complaint, including any relevant policies, rules or regulations (if there is more than one Complaint these should be set out separately);
- (c) the date, time and venue of the Hearing Tribunal;
- (d) that the Complainant can make either verbal or written submissions to the Hearing Tribunal;
- (e) that the Complainant may arrange for witnesses to attend the Tribunal hearing to support their position (statutory declarations of witnesses not available to attend and from character witnesses may also be provided to the Tribunal hearing);
- (f) that legal representation will not be allowed; and
- (g) that if the Complainant is considered a Child or Young Person, they should have a parent or guardian present.

A copy of any information or documents that have been given to the Hearing Tribunal will also be provided to the Complainant subject to the approval of the Chairperson of the Hearing Tribunal.

11. If the Complainant believes the details of the Complaint are incorrect or insufficient they should inform the CEO as soon as possible so that the Respondent and the members of the Tribunal can be properly informed of the Complaint.

### **Hearing Tribunal Procedure**

12. The following people are allowed to attend the Hearing Tribunal:
  - (a) the Panel Members;
  - (b) the Respondent;
  - (c) the Complainant;
  - (d) any witnesses called by the Respondent, but only for the period deemed required by the Chairperson for the witness to provide evidence and be questioned;
  - (e) any witnesses called by the Complainant, but only for the period deemed required by the Chairperson for the witness to provide evidence and be questioned;
  - (f) any parent or guardian or support person, excluding a legal representative, required to support the Respondent; and
  - (g) any parent or guardian or support person, excluding a legal representative, required to support the Complainant.
13. The Chairperson should call the hearing to order at the designated time and determine if the Respondent is present.
14. If the Respondent is not present and the Chairperson considers that no valid reason has been presented for their absence, the Hearing Tribunal may continue subject to the Tribunal Chairperson being satisfied that all notification requirements under the Hearing Tribunal procedures have been carried out correctly and that the principles of Natural Justice will not be prejudiced solely by the absence of the Respondent.
15. If the Chairperson considers that a valid reason for the non-attendance of the Respondent is presented, or the Chairperson does not believe the notification requirements have been carried out correctly, then the Hearing Tribunal should be rescheduled to a later date. The Chairperson will inform the CEO of the Involved Organisation of the need to reschedule, and the CEO of the Involved Organisation should organise for the Hearing Tribunal to be reconvened.
16. The Chairperson will read out the Complaint, ask the Respondent if they understand the Complaint being made against them, and if they agree or disagree with the Complaint.
17. If the Respondent agrees with the Complaint, he or she will be asked to provide any evidence or witnesses that should be considered by the Hearing Tribunal when determining any disciplinary measures.
18. If the Respondent disagrees with the Complaint, the Complainant should be asked to describe the circumstances that led to the Complaint being made. The Complainant may:



- (a) refer to brief notes; and
- (b) call witnesses.

The Respondent or their representative may apply to the Hearing Tribunal to be allowed to question the Complainant and their witnesses. It is in the Hearing Tribunal's sole discretion whether the Respondent should be allowed to question the Complainant.

19. The Respondent should then be asked to respond to the Complaint. The Respondent may:

- (a) refer to brief notes; and
- (b) call witnesses.

The Complainant or their representative may apply to the Hearing Tribunal to be allowed to ask questions of the Respondent and their witnesses. It is the Hearing Tribunal's sole discretion whether the Complainant should be allowed to question the Respondent.

20. Both the Complainant and Respondent should be allowed to be present when evidence is presented to the Hearing Tribunal. Witnesses may be asked to wait outside the Hearing Tribunal until required.

21. The Hearing Tribunal may:

- (a) consider any evidence, and in any form, that it deems relevant;
- (b) question any person giving evidence; and
- (c) limit the number of witnesses presented to those who provide new evidence.

22. The Hearing Tribunal must not:

- (a) draw any adverse inference solely from a Complainant who is a Child or Young Person failing to be present at the Hearing Tribunal, or failing to be present and being represented by their parent/guardian;
- (b) allow the Respondent to submit that an adverse inference should be drawn from the circumstances in (a) above; or
- (c) draw an adverse inference where a Complainant who is a Child or Young Person provides evidence only by statutory declaration or other written statement prior to the Hearing Tribunal.

23. Video evidence, if available, may be presented. The arrangements for such presentation will be the responsibility of the person/s wishing to offer this type of evidence.

24. If the Hearing Tribunal considers that at any time during the Hearing Tribunal that there is any unreasonable or intimidating behaviour from anyone, the Chairperson has the power to deny any further involvement of the person in the Hearing Tribunal.

25. After all of the evidence has been presented the Hearing Tribunal will make its decision in private. If the Hearing Tribunal believes the Complaint has been substantiated on the balance of probabilities (i.e. more probable than not), the Respondent should then be given an opportunity to address the Hearing Tribunal and make submissions on any disciplinary measures that may be imposed and including but not limited to mitigating circumstances. Any disciplinary measure imposed must be reasonable in the circumstances.
26. All decisions made by the Hearing Tribunal will be based on a majority vote.
27. The Chairperson should announce the decision in the presence of all those involved in the Tribunal Hearing and should then declare the Tribunal Hearing closed.
28. Within 48 hours, the Chairperson should:
  - (a) forward to the CEO of the Involved Organisation a copy of the Hearing Tribunal's decision including any disciplinary measures imposed; and
  - (b) forward a letter to the Respondent reconfirming the Hearing Tribunal's decision and any disciplinary measures imposed.
29. The Hearing Tribunal does not need to provide written reasons for its decision, but may do so if it chooses.
30. There is no right of appeal from a decision of the Hearing Tribunal except where NV determines that the decision will impact on the livelihood of a person involved in the Complaint. Where NV determines that an appeal should be held, it is to be conducted in accordance with the process applicable to the Hearing Tribunal provided in Attachment B, with such adjustments as deemed appropriate by NV.



## ATTACHMENT C- MEDIATION PROCEDURE

1. Mediation is a process that allows the people involved in a Complaint to talk through the issues with an impartial person – the mediator – and work out a mutually agreeable solution.
2. 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 to talk through the issues and makes sure that the process is as fair as possible for all concerned.
3. Mediation may occur either before or after an investigation of the Complaint
4. Serious allegations should not be mediated, even if both parties would like to attempt mediation. Mediation is only available to Case 2 Complaints under this Policy.
5. Mediation may only be recommended if:
  - (a) both parties have had a chance to tell their version of events;
  - (b) the Senior Person dealing with the Complaint does not believe that any of the allegations warrant any form of disciplinary action; and
  - (c) mediation looks like it may work.
6. There are some situations where mediation will not be appropriate, including:
  - (a) when the people involved have completely different versions of the incident;
  - (b) when one or both parties 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; and
  - (e) matters that involve serious, proven allegations.
7. The Person(s) in Positions of Responsibility and Authority or Senior Person should, in consultation with the Complainant and the Respondent(s), appoint a mediator to help resolve the Complaint. The Person(s) in Positions of Responsibility and Authority or Senior Person's choice of mediator will be final.
8. The mediator will talk with the Complainant and Respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
9. All issues raised during mediation will be treated confidentially. NV respects the rights of the Complainant and the Respondent(s) to pursue an alternative process if the Complaint is not resolved.
10. For the avoidance of doubt, neither party is entitled to be represented by a legal practitioner at the mediation.
11. 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 they

should sign it as their agreement. The parties involved must respect and comply with the terms of the agreement.

12. If the formal Complaint is not resolved by mediation, the Complainant may:
- (a) write to the Involved Organisation to request reconsideration of the Complaint via either an Independent Investigation or a Hearing Tribunal; or
  - (b) approach an external agency such as an anti-discrimination commission or equal opportunity commission to resolve the matter.