

Disciplinary By-Law

Reference Number:	BYL002
Board Status:	Approved
Date of Approval:	17 th March 2007
Responsibility:	Chief Executive

In accordance with Rule 34.1 of the All Australia Netball Association Limited (“Netball Australia”) Constitution, the following By-Law is adopted by the Netball Australia Board.

This Disciplinary By-Law sets out the procedure for dealing with disciplinary actions and matters under Rule 13.1 of the Netball Australia Constitution.

Appointment of Hearings Officer and Establishment of Appeals Tribunal

- 1 The Board shall appoint a Hearings Officer for the purpose of hearing disciplinary actions and matters under Rule 13.1 of the Netball Australia Constitution.
- 2 The Board shall also appoint an Appeals Tribunal of 3 persons for the purpose of hearing any appeals from the decision of the Hearings Officer.
- 3 The Board may call for nominations to the Appeals Tribunal. No Netball Australia Director or employee shall be a member of the Appeals Tribunal.

Notice of Alleged Breach

- 4 Where the Board is advised or considers that a Member of Netball Australia has allegedly:
 - (a) breached, failed, refused or neglected to comply with a provision of the Constitution, the By-Laws or any resolution or determination of the Board; or
 - (b) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of Netball Australia and/or netball; or
 - (c) brought Netball Australia or netball into disrepute;the Board shall notify the Hearings Officer.
 - 5 The Hearings Officer shall, as soon as practicable upon receipt of notice in accordance with clause 4, serve on the Member a notice in writing:
 - (a) setting out the alleged breach of the Member and the grounds on which it is based;
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- (b) stating that the Member may address the Hearings Officer at a hearing to be held not earlier than 14 and not later than 28 days after service of the notice;
- (c) stating the date, place and time of that hearing;
- (d) informing the Member that he or she may do one or more of the following: -
 - (i) attend that hearing;
 - (ii) give the Hearings Officer, before the date of the hearing, a written statement regarding the alleged breach.

Hearings Officer Procedures

- 6 At a hearing held in accordance with clause 5, the Hearings Officer shall:
 - (a) give to the Member every opportunity to be heard;
 - (b) give due consideration to any written statement submitted by the Member;
and
 - (c) determine whether the alleged breach occurred.
- 7 Netball Australia and the Member shall not be entitled to legal representation at the hearing.
- 8 The Hearings Officer shall hear and determine the alleged breach in whatever manner she or he considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that she or he does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged breach occurred.
- 9 If the Hearings Officer considers that the alleged breach occurred, she or he may impose any one or more of the penalties set out in clause 12.
- 10 If the Hearings Officer considers that the alleged breach did not occur, the matter shall be dismissed.
- 11 Each party shall be responsible for their own costs associated with the hearing. The Hearings Officer has no power to award costs to a party.

Penalties

- 12 If the Hearings Officer considers that the alleged breach occurred, the Hearings Officer may impose any one or more of the following penalties:
 - (a) impose a warning;
 - (b) fine the Member;

- (c) where there has been damage to property, direct that the Member pay compensation to the relevant organisation which controls or has possession of the property;
- (d) cease funding granted or given to it by Netball Australia from a specified date;
- (e) suspend for a specified period and/or terminate any rights, privileges and benefits provided to that Member by Netball Australia;
- (f) cease to sanction events held by or under the auspices of that Member;
- (g) reprimand the Member;
- (h) suspend the Member from membership of Netball Australia for a specified period;
- (i) expel the Member from Netball Australia;
- (j) any other such penalty as the Hearings Officer considers appropriate.

Appeal from Decision of Hearings Officer

- 13 Netball Australia and the Member have a right to appeal the decision of the Hearings Officer to the Appeals Tribunal, but only on the ground that the procedures in this By-Law have not been followed.
- 14 Any appeal must be lodged with the Board within fourteen days of the Hearings Officer's decision. The appeal must specify how the procedures in this By-Law have not been followed.
- 15 Where the Board receives an appeal under clause 14, the Board shall convene a meeting of the Appeals Tribunal to be held within thirty days of the appeal being received.
- 16 Where an appeal is lodged, the decision of the Hearings Officer does not take effect unless the Appeals Tribunal hears the matter in accordance with this By-Law.
- 17 The procedures of the Appeals Tribunal shall be the same as the procedures of the Hearings Officer as set out in this By-Law, with such necessary amendments as required.
- 18 If the Appeals Tribunal considers that the procedures in this By-Law have not been followed by the Hearings Officer, the Appeals Tribunal may reconsider the matter and vary the penalty.

No Appeal from Appeals Tribunal

- 19 The decision of the Appeals Tribunal is final and binding upon Netball Australia and the Member. Netball Australia and the Member have no further right of appeal.

Non Application of By-Law

- 20 For the avoidance of doubt, the procedure set out in this By-Law shall not apply to any incident or matter to which other By-Laws (which includes by-laws, regulations

and policies) apply and which include a disciplinary procedure including but not limited to the member protection policy, anti doping policy and competition regulation of Netball Australia. Any disciplinary matter which may be dealt with in accordance with other By-Laws (including but not limited to the member protection policy, anti doping policy and competition regulation) shall be dealt with in accordance with the disciplinary procedure set out in that By-Law.

Adopted by the Netball Australia Board: 17th March 2007.