



netballorkney

NETBALL ORKNEY COMPLAINTS & DISCIPLINARY PROCEDURES POLICY

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1. POLICY STATEMENT

1.1. Netball Orkney is committed to providing a safe, respectful and inclusive environment for everyone involved in its activities. Netball Orkney values feedback and recognises that complaints form part of the club evaluation and improvement cycle. As such- all complaints / Disciplinary matters will be treated seriously – in a confidential, impartial manner and will respect the rights and privacy of all parties involved. This policy provides a framework and process for any club related disciplinary action, should it be required.

2. AIMS

- 2.1. To provide a clear understanding of the Netball Orkney complaints procedure and disciplinary policy
- 2.2. To provide guidance on how the procedure should be followed

3. GUIDING PRINCIPLES

3.1. Netball Orkney will:

- 3.1.1. Treat you fairly, equally and consistently.
- 3.1.2. Establish the basic facts of any complaints /disciplinary issue and identify whether it is proven and amounts to misconduct or gross misconduct, and then follow the relevant process.
- 3.1.3. Investigate promptly and thoroughly, establishing the facts as clearly as possible.
- 3.1.4. Allow you to put forward your case and listen to your views and any mitigating circumstances.
- 3.1.5. Give you a full written explanation of any disciplinary action.
- 3.1.6. Give you an opportunity to appeal any formal disciplinary action.
- 3.1.7. Encourage you to be accompanied at disciplinary meetings.

4. SCOPE

4.1. This policy applies to any person who is a member of Netball Orkney and/or associated with Netball Orkney organised activities to include athletes, volunteers, coaches (whether club members or independent coaches working with club member athletes) and parents.

5. DISCIPLINARY MATTERS

5.1. Anyone coming under the scope of this policy by virtue of paragraph 4.1 above shall be liable to disciplinary action in accordance with this Policy if their conduct or behaviour is alleged to breach the codes of conduct, be inappropriate, incorrect, improper, unlawful or unsporting.

The following **non-exhaustive** list are examples of conduct which may constitute a breach of this Policy:

- 5.1.1. Failing to comply with Netball Orkney policies, constitution, and regulations.

5.1.2. Doing anything which has the potential to harm Netball Orkney or bring Netball Orkney into disrepute.

5.1.3. Failing to comply with a written agreement with, or a written undertaking given to Netball Orkney as part of this disciplinary process.

5.1.4. Making an untrue written statement to Netball Orkney or a person acting on behalf of Netball Orkney.

5.1.5. Committing a breach of the Code of Conduct.

5.1.6. Failing to treat others in the sport with dignity and respect.

5.1.7. Committing a breach of Netball Scotland's (UKAD) Anti-Doping Regulations.

5.1.8. Assisting or encouraging any person to breach this Policy.

6. JURISDICTION AND POWER

6.1. The club committee retains jurisdiction to act in relation to any Disciplinary Matter, including the power to impose appropriate sanctions in accordance with the procedures in this Policy except that:

6.1.1. Allegations relating to doping as defined within the Netball Scotland Anti-Doping Policy, and violation in accordance with the provisions of the relevant UK Anti-Doping Rules.

6.1.2. Allegations or concerns that a person has engaged in conduct which directly or indirectly adversely affects the welfare or safety of a person under 18, or an adult at risk, and/or places them at risk, shall be directly referred to Netball Scotland Wellbeing and Protection Officer as per Netball Scotland Wellbeing & Adult Protection Policy.

[*If you consider a child is at immediate risk of harm contact the police on either 999 or 101.](#)

6.2. Disciplinary Action and any resulting sanction under this Policy shall be separate from and may be additional to: -

6.2.1. Any sanction imposed by **Netball Scotland** under separate disciplinary processes;

6.2.2. Action or investigation by the Police or statutory authorities in accordance with criminal law or other statutory regulations, whether or not resulting in a conviction, but any action under this Policy may be paused until the outcome of any criminal or external investigation is concluded, save to the extent that any Person may be suspended and/or precluded from participating in Netball Orkney activities pending determination of any criminal or external investigation.

7. COMPLAINTS LOGGING

**A complaint includes grievance, allegation & query, expression of concern or identification of an issue*

**If a complaint is deemed invalid, malicious, or vexatious it will be rejected.*

7.1 INFORMAL COMPLAINT – a matter that may require follow-up action by the club to resolve it, without the need for a formal process to be engaged.

7.1.1. Netball Orkney seeks to resolve complaints informally, unless they are regarded to be serious (examples of 'serious' such as theft, fraud, threatening behaviour, unfair discrimination, bullying, harassment, incapability through alcohol or illegal drugs). Many complaints are able to be dealt with informally offering a quick resolution. These instances are where an investigation is not required because the nature of the complaint is clear, and a resolution can be obtained without further review of the facts.

7.1.2. Once key facts are established and will help decide whether an informal or formal approach is appropriate. This may involve talking to those involved, reading correspondence or looking at evidence related to the problem.

7.1.3. Facts can often be identified through informal discussions and does not necessarily mean any further discussion or action will be necessary.

7.1.4. Most informal resolution stages will involve little more than discussions between people affected and a verbal agreement on expectations ways of working.

7.1.5. Solutions could be to re explain the role and expectations, offer more support and training, change the tasks, agree on improvements, remind members of the clubs ethos, make people aware of further action. Complaints of this nature will be reported to the committee and documented at committee level. A letter or email can be sent to those involved setting out agreed expectations, if necessary.

If there is dissatisfaction with any matter involving the club, then you should in the first instance:

- If it relates to any coaching program or supervision matter: raise the matter informally with the person or people involved, in a respectful and constructive manner, as soon as possible after the incident or issue occurs.
- If it relates to any other matter affecting the club's activities: raise it informally with any member of the committee.

If there is dissatisfaction with the response given or the complainant feels that the issue needs to be made formally in the first instance, then a formal complaint should be lodged to Netball Orkney.

7.2. APPLICATION FOR INVESTIGATION (making a formal complaint)

The formal stage of resolution should be used if:

7.2.1 a problem cannot be resolved informally.

7.2.2 the issue involves allegations of serious misconduct.

7.2.3 the complainant wishes to progress their complaint to a formal stage.

7.3. HOW TO COMPLAIN

7.3.1. A Netball Orkney member or any other person (the 'Applicant') may make a written application to the Netball Orkney Secretary that an alleged Disciplinary Matter involving a club member, who is subject to this Policy by virtue of paragraph 4, (the 'Respondent') should be investigated. Where the complaint relates to the conduct of the Netball Orkney secretary the written complaint should be submitted to the Netball Orkney chairperson. Alternatively, an online complaints form can be completed.

7.3.2. The written application shall include the name and contact details of the Applicant, the identity of the Respondent, the nature and date(s) of the alleged Disciplinary Matter and the names of any known witnesses. It should state whether Netball Orkney is aware of the issue previous (i.e.at an Informal Level.)

7.3.2.2 The complaint should be lodged no later than twenty eight days after the alleged incident that gave rise to it. Netball Orkney may consider complaints lodged outwith the twenty eight day period under exceptional circumstances.

7.3.3. By asking a Netball Orkney volunteer or committee member to write your complaint down and forward it to the secretary .

Netball Orkney recognises the importance of providing a variety of contact methods available, as each person's abilities and needs vary. Whilst supporting the right to complain we expect our volunteers to be treated courteously at all times.

8. INTERIM SUSPENSION

8.1. The Netball Orkney committee may suspend a Respondent from club activities ('interim suspension') on receipt of either of the following:

8.1.1. A written application for investigation of an alleged Disciplinary Matter involving a Netball Orkney member. Such interim suspension may remain in force until not later than the final conclusion of the Disciplinary Action.

8.1.2. Notification by the statutory authorities (police/social work services etc.) that a Netball Orkney member is under investigation in relation to an alleged offence under the Sexual Offences Act or any related or preceding legislation. Such interim suspension may remain in force until the legal outcome becomes known and the club disciplinary process has concluded.

8.2. An interim suspension shall only be imposed if the Netball Orkney committee is satisfied it is necessary in the best interests of the club, its members, and the sport of Netball.

8.3. Interim suspension shall be a neutral action and shall not imply any prejudgment of the circumstances under investigation.

8.4. Netball Scotland will be informed of any interim suspension of a Netball Orkney member.

9. INVESTIGATION

9.1. On receipt of a written complaint for an alleged Disciplinary Matter the Netball Orkney Secretary shall inform the Chairperson who will in turn inform the committee of the complaint's existence at the first available meeting. Depending on the circumstances the Netball Orkney committee present may seek an informal resolution to the Disciplinary Matter or appoint an Investigator to investigate it.

9.2. The committee may appoint as Investigator any Netball Orkney member that does not have an interest in the case. The Netball Orkney Chairperson and members of any subsequent Disciplinary Panel are excluded from conducting investigations.

9.3. Where the Disciplinary Matter relates to conduct towards a person under 18 years, or towards an adult at risk, Netball Orkney will follow safeguarding procedures, notify the Wellbeing and Protection Officer who will report to Netball Scotland Wellbeing and Protection Officer.

9.4. When an Investigator is appointed, he or she will inform the Applicant in writing that they are dealing with the matter and inform that the details of the application will be disclosed to the Respondent.

9.5. The investigator will also inform the Respondent in writing that they are the subject of a complaint, provide an outline of the allegation, identify who made the complaint (but only when the identification of such person is not confidential for safeguarding reasons), and seek a brief response to the complaint. Such a reply should include a short factual response to the allegation.

9.6. The Investigator will then conduct an investigation that is thorough, proportionate, relevant and fair to all parties. Contact with the Applicant, the Respondent and all witnesses can be face to face or via telephone or email. The Applicant, the Respondent and any witnesses shall give the Investigator all reasonable assistance, including promptly supplying statements if necessary, making themselves available for interview, answering any questions and supplying documentary or other information.

9.7. The Investigator shall make a written report which shall include the documentary evidence and a recommendation as to whether the Respondent has a case to answer.

9.8. The Investigator's report shall be submitted to the Netball Orkney committee in strictest confidence. The committee shall either confirm the recommendation or arrange for further investigation by the same or a different Investigator. The report must not be circulated further.

9.9. If the committee confirms a recommendation that there is no case to answer the Netball Orkney chairperson shall inform the Applicant and the Respondent accordingly in writing. There shall be no appeal against a decision that there is no case to answer but a case may be re-examined if further evidence is later forthcoming.

9.10. If the committee confirms a recommendation that there is a case for the Respondent to answer, the Netball Orkney chairperson shall inform the Applicant and the Respondent accordingly and establish a disciplinary panel.

10. DISCIPLINARY PANEL

10.1. The club committee shall agree and appoint no fewer than three individuals to constitute a disciplinary panel, designating one of those as the disciplinary panel chairperson.

10.2. The disciplinary panel members will be independent to the alleged circumstances and those involved.

10.3. A disciplinary panel member having an interest in a matter to be considered must declare that interest as soon as he or she is aware of it and must have no further involvement in that case.

10.4 The Netball Orkney Chairperson should not sit on a disciplinary panel, see 15.6.

11. DISCIPLINARY PROCEEDINGS

11.1. Once the committee confirms a recommendation that there is a case to answer and establishes a disciplinary panel, they shall give the Respondent written notice of the decision together with the Investigator's report. Not later than 14 days after the sending of the notice, the Respondent shall send to the disciplinary panel chairperson a written response, together if desired with signed statements from any witnesses. At the same time, the Respondent may be invited to, or request, a personal hearing.

11.2. If the Respondent is not invited to or does not request a personal hearing within the prescribed time outlined in the notice, the disciplinary panel shall adjudicate the matter, taking into consideration the report of the Investigator, the written statements of the Applicant, Respondent and witnesses and any other evidence it thinks appropriate. The disciplinary panel may in certain cases decide to adjudicate a case by correspondence only.

11.3. Proceedings, findings or decisions of the disciplinary panel shall not be invalidated by reason of any minor defect, irregularity, omission or technicality unless it raises a material doubt as to the reliability of the proceedings, findings or decisions.

12. PERSONAL HEARING

12.1. If the Respondent requests a personal hearing, the Disciplinary Panel shall give the Respondent at least 14 days' notice of the date, place, and time of the hearing, which shall be held as soon as practicable and where possible within 42 days of receipt of the original request for a personal hearing.

12.2. The Respondent may be accompanied at a personal hearing by one other person of the Respondent's choice, who shall not be a witness.

12.3. The disciplinary panel chairperson shall be responsible for managing the hearing's proceedings.

12.4. Failure of any person to attend the hearing, or to answer any question, or to produce any necessary papers, shall not prevent the disciplinary panel from proceeding to a decision.

12.5. The disciplinary panel shall consider its decision in private. If the allegation is contested the disciplinary panel shall first decide whether or not it is proved on the balance of probabilities and inform the respondent accordingly.

12.6. If the allegation is admitted, or if the disciplinary panel finds the allegation proved, the Respondent may present a plea in mitigation before the disciplinary panel decides on any sanction to impose.

12.7. The disciplinary panel is entitled absolutely to determine the procedures that will be adopted at any personal hearing.

13. SANCTIONS

13.1. If the Respondent admits an allegation or if the disciplinary panel finds an allegation proved Sanctions may include but shall not be limited to:

13.1.1. Receive a verbal warning.

13.1.2. Receive written warning.

13.1.3. Be monitored by another club coach or any other person deemed relevant.

13.1.4. Be required to attend a relevant training course.

13.1.5. Be suspended by Netball Orkney from some or all of the club activities for a stated period.

13.1.6. Be required to leave or be expelled from Netball Orkney.

13.1.7. Be suspended or expelled from Netball Scotland Membership (if imposed by a Disciplinary Panel constituted at National Level)

13.1.8 Any combination of the above, or any other appropriate sanction which may be levied from time to time.

14. RECORDS AND CONFIDENTIALITY

14.1. A decision made by the disciplinary panel on whether or not a case is found proved and the sanction imposed shall not be regarded as confidential except where the Respondent is under 18 or is an Adult at Risk.

14.2. The disciplinary panel chairperson shall within 30 days of the decision notify it in writing to the Respondent, the Applicant and any other Participant involved.

14.3. In a case of suspension, the disciplinary panel chairperson shall notify a suspension to those likely to be affected and to Netball Scotland.

14.4. The chair of the disciplinary panel shall collate the minutes of each hearing which shall contain a record of the proceedings. The Minute shall include reasons for any findings made by the disciplinary panel including the sanction, if any, and the factors that were taken into consideration when imposing such sanction.

14.5. Records relating to a disciplinary matter shall be confidential and kept securely and in line with the club data protection policy for two years after any investigation, proceedings, and sanction imposed are all completed.

15. APPEALS

15.1. If the disciplinary panel finds an allegation proved, the Respondent may appeal against the finding or the sanction imposed or both.

15.2. Any appeal must be made within 10 working days in writing to the panel chairperson.

15.3. The notification of appeal must contain the grounds for the appeal. The only grounds for an appeal are:

15.3.1. That there was a material error, either factual or procedural in the original proceedings.

15.3.2. That there is material new evidence that, had it been known at the time of the original proceedings would have affected the decision of the panel.

15.4. Any Appeal that does not meet one of the criteria in 15.3 above may be refused.

15.5. The Appeal shall be heard by an appeal panel that shall usually consist of two club members who were not involved in the original proceedings along with the Netball Orkney Chairperson.

15.6. The Netball Orkney Chairperson shall act as the appeal chairperson. An appeal is not a re-hearing of the original proceedings and whilst it will be necessary for the appeal panel to review the evidence by reading the statements and any reports, it will not involve the calling of new witnesses unless the appeal is based upon the ground specified in 15.3.2 above only.

15.7. The appeal Chair shall determine the manner in which the appeal is dealt with, including inviting representations either in writing or in person from the Applicant and/or the Respondent. Once the appeal chair is satisfied that the panel has sufficient information on which to decide the appeal, they will consider whether the appeal is upheld or dismissed.

15.8. The appeal panel shall have the following powers:

15.8.1. To dismiss the appeal.

15.8.2. To alter or vary the original decision.

15.8.3. To quash any sanction and/or substitute it for any other penalty; or

15.8.4. To make any such other order or determination as it may think right or just.

15.9. The decision of the appeal panel will be communicated to the Respondent, the Applicant by the appeal chair in writing within fourteen days of receiving the letter of appeal.

15.10. The decision of the appeal panel will be final and binding. The case will not be reconsidered by the governing body.

16. PEOPLE UNDER 18 YEARS

*Netball Scotland Policy followed, and Wellbeing and Protection Officer informed

17. ADULTS AT RISK

*Netball Scotland Policy followed, and Wellbeing and Protection Officer informed

18. GLOSSARY

'Adult at risk' means anyone over 16 years who is unable to safeguard their own interests and are at risk of harm because they are affected by: disability, mental disorder, illness, or physical or mental infirmity, as defined under the Adult Support and Protection (Scotland) Act 2007.

'Child' means any person under 18 years of age.

'Days' means calendar days except where it is explicitly stated as working days.

'Disciplinary Matter' means a breach of the clubs Constitution, Regulations, codes of conduct, or Policy or any act, or omission, which is, in any way, contrary to Club rules in place at the time.

Contacts:

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