



Whistleblower Policy

Effective 17 February 2020

WHISTLEBLOWER POLICY

Netball Australia (NA) pays respect to the traditional custodians of our ancient continent, Aboriginal and Torres Strait Islander peoples, we honour their continuing connection to country and their custodianship of the world's oldest living culture.

NA means Netball Australia Limited, the Super Netball League and the Confident Girls Foundation Limited.

TABLE OF CONTENTS

1.	Purpose	3
2.	Definitions	3
3.	Frequently Asked Questions.....	4
4.	Who Can Make A Disclosure?.....	4
5.	Can A Disclosure Be Made Anonymously?.....	5
6.	What Can A Disclosure Be About?	5
7.	How To Make A Disclosure	6
8.	How Will Disclosures Be Handled And/Or Investigated?.....	6
9.	Identity Protection	7
10.	Protection From Detriment.....	8
11.	Avenues For Review.....	9
12.	Breach Of This Policy	9
13.	Review Of This Policy.....	9

1. PURPOSE

- 1.1. Netball Australia (NA) encourages those who are aware of Serious Misconduct in relation to NA to make a Disclosure in accordance with this Policy.
- 1.2. This Policy outlines how to make a Disclosure, what Disclosures can be about, the protections available to people who make Disclosures, and how Disclosures will be managed by NA.
- 1.3. If anything in this Policy is inconsistent with any relevant Federal, State or Territory law, the relevant Federal, State or Territory law prevails to the extent of the inconsistency.

2. DEFINITIONS

NA means Netball Australia Limited, the Super Netball League and the Confident Girls Foundation Limited.

Detrimental Conduct means conduct that causes Detriment to a person who has made a Disclosure or is believed or suspected to have made, or be planning to make, a Disclosure.

Detriment means:

- (a) Dismissal of a person's employment;
- (b) Injury to a person in their employment;
- (c) Alteration of an employee's position or duties to their disadvantage;
- (d) Discrimination towards a person;
- (e) Harassment or intimidation of a person;
- (f) Harm or injury to a person, including psychological harm;
- (g) Damage to a person's property, reputation or business or financial position;
- (h) Any other damage to a person.

Examples of actions that are not Detrimental Conduct include:

- (a) administrative action that is reasonable for the purpose of protecting a Discloser from Detrimental Conduct (e.g. moving a Discloser who has made a Disclosure about their immediate work area to another office to prevent them from Detrimental Conduct); and
- (b) managing a Discloser's unsatisfactory work performance, if the action is in line with NA's performance management framework.

Disclosure means providing information about actual or suspected Serious Misconduct in accordance with this Policy.

Serious Misconduct means misconduct, or an improper state of affairs or circumstances, including but limited to:

- (a) illegal conduct, such as theft;
- (b) violence or threatened violence and criminal damage against property;
- (c) fraud, money laundering or misappropriation of funds;
- (d) offering or accepting a bribe;
- (e) financial irregularities;

- (f) failure to comply with, or breach of, legal or regulatory requirements, including the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission (ASIC) Act 2001* (Cth) or conduct that constitutes an offence against any other Commonwealth law;
- (g) engaging in or threatening to engage in Detrimental Conduct against a person who has made a Disclosure or is believed or suspected to have made, or be planning to make, a Disclosure.

Discloser means a person who makes a Disclosure in accordance with this Policy.

3. FREQUENTLY ASKED QUESTIONS (FAQS)

Who can make a Disclosure under this Policy?	Current or former NA officers (e.g. director, company secretary), employees, contractors/suppliers (or their employees), volunteers, and spouses, relatives or dependants of these individuals.
What can a Disclosure be about under this Policy?	Serious Misconduct, which may include illegal conduct like theft, violence or threats of violence, criminal property damage, fraud, money laundering, misappropriation of funds, bribery, breach of legal or regulatory requirements and Detrimental Conduct against a Discloser.
What matters will not be investigated under this Policy?	<p>Personal employment-related grievances (e.g. interpersonal conflicts, decisions about promotions, decisions that do not involve a breach of workplace laws, or terms and conditions of employment).</p> <p>Frivolous or vexatious reports; reports made for malicious reasons, personal gain or ulterior motive.</p> <p>Deliberately false reports (i.e. that the Discloser knows to be untrue).</p> <p>Mere allegations unsupported by facts that provide a reasonable basis for making a Disclosure.</p> <p>Matters or investigations properly dealt with under this Policy and no new information is available that would change the outcome (as per clause 11 of the Policy).</p>

4. WHO CAN MAKE A DISCLOSURE?

4.1 The following people can make a Disclosure under this Policy.

An individual who is, or has been:

- (a) an officer of NA (e.g. a director or company secretary);
- (b) an employee of NA ;
- (c) a contractor, or an employee of a contractor, who has supplied goods or services to NA;
- (d) a volunteer of NA;
- (e) an Associate (as defined in the *Corporations Act 2001* (Cth)) of NA;
- (f) a spouse, relative or dependant of an individual referred to in sub points (a) to (e) above.

- 4.2 While a Discloser must hold or have held one of these roles to access the protections, the Discloser does not have to identify themselves or their role and can raise their concerns anonymously as per clause 5 of this Policy.

5. CAN A DISCLOSURE BE MADE ANONYMOUSLY?

- 5.1 A Discloser may:
- (a) choose to remain anonymous while making a Disclosure, over the course of the investigation and after the investigation is finalised (this may involve communicating through an anonymised email address or adopting a pseudonym for the purpose of the Disclosure); and
 - (b) refuse to answer questions they feel could reveal their identity at any time, including during follow-up conversations.

6. WHAT CAN A DISCLOSURE BE ABOUT?

- 6.1 A Disclosure can be about Serious Misconduct (see Definitions).
- 6.2 A person making a Disclosure under this Policy must have reasonable grounds to suspect that an individual has engaged in Serious Misconduct in connection with NA and share whatever information they have available to them in respect of the Disclosure.
- 6.3 The following matters will not be investigated under this Policy:
- (a) personal work-related grievances (e.g. interpersonal conflicts, decisions about promotions, decisions that do not involve a breach of workplace laws, or terms and conditions of employment);
 - (b) frivolous or vexatious reports; reports made for malicious reasons, personal gain or ulterior motive;
 - (c) deliberately false reports (i.e. that the Discloser knows to be untrue);
 - (d) mere allegations unsupported by facts that provide a reasonable basis for making a Disclosure;
 - (e) matters or investigations properly dealt with under this Policy and no new information is available that would change the outcome (as per clause 11 of the Policy).
- 6.4 Personal work-related grievances are those that relate to the Discloser's current or former employment with NA that might have implications for the Discloser personally but do not:
- 6.4.1 have any other significant implications for NA (or another entity); or
 - 6.4.2 relate to any Serious Misconduct.
- 6.5 However, personal work-related grievances may be covered by this Policy where they include information about misconduct, an allegation that the entity has breached employment or other laws punishable by imprisonment of a period of 12 months or more, or the grievance includes Detrimental Conduct in response to a Disclosure.

7. HOW TO MAKE A DISCLOSURE

- 7.1 A Disclosure can be made to the NA Integrity Unit (via phone at 03 8621 8600, email to integrity@netball.com.au).
- 7.2 For a Disclosure to be investigated, it must contain enough information to form a reasonable basis for investigation. The Disclosure should include as much information as possible. This includes any known details about the events underlying the Disclosure such as the:
- (a) date;
 - (b) time;
 - (c) location;
 - (d) name of person(s) involved;
 - (e) possible witnesses to the events;
 - (f) evidence of the events (e.g. documents, emails);
 - (g) any steps taken to report the matter elsewhere or to resolve the concern.

8. HOW WILL DISCLOSURES BE HANDLED AND/OR INVESTIGATED?

- 8.1 When NA receives a Disclosure, it will determine whether the Disclosure falls within the scope of this Policy. NA will also determine whether a formal investigation is required.
- 8.2 NA will determine:
- (a) the nature and scope of the investigation;
 - (b) the person(s) within and/or outside the entity that should lead the investigation (such as a whistleblower investigation officer);
 - (c) the procedure for investigating the Disclosure;
 - (d) the nature of any technical, financial or legal advice that may be required to support the investigation; and
 - (e) the timeframe for the investigation.
- 8.3 If an investigation is deemed necessary, it will be conducted fairly, objectively and in a timely manner. The investigation process will vary depending on the nature of the Disclosure and the amount of information provided.
- 8.4 NA may not be able to undertake an investigation if it is not able to contact the Discloser (e.g. if a Disclosure is made anonymously and the Discloser has not provided a means of contacting them).
- 8.5 If there is insufficient information to warrant further investigation, or the initial investigation immediately identifies there is no case to answer, it will notify the Discloser at the earliest possible opportunity. NA may not be able to notify the individual if a Disclosure has been made anonymously and the Discloser has not provided any contact information.
- 8.6 NA will provide the Discloser with updates, if the Discloser can be contacted (including through anonymous channels). The frequency and timeframe of updates will vary depending on the nature of the Disclosure and investigation.
- 8.7 To ensure fairness and independence, investigations must be independent of the Discloser, the individuals who are the subject to the Disclosure, and the department or business unit involved.

- 8.8 Any individuals who are accused of misconduct in a report will have an opportunity to respond to allegations before any adverse findings are made and before any disciplinary action (if appropriate) is taken.
- 8.9 The method for documenting the findings of an investigation will depend on the nature of the Disclosure. In most cases, NA will prepare a report outlining:
- 8.9.1 a finding of all relevant facts;
 - 8.9.2 a determination as to whether the allegations have been substantiated or otherwise;
 - 8.9.3 the action that will be taken, which may include disciplinary action up to and including dismissal, depending on the severity, nature and circumstances of any Serious Misconduct.
- 8.10 Where possible and appropriate, having regard to NA's privacy and confidentiality obligations, the Discloser will be informed of the outcome of any investigation into their concerns. There may be circumstances where it may not be appropriate to provide details of the outcome of an investigation to the Discloser.

9. IDENTITY PROTECTION

- 9.1 Subject to clause 9.2 of this Policy, NA will keep the Discloser's identity confidential using some or all of the following measures:
- (a) **Reducing the risk that the Discloser will be identified from the information contained in a Disclosure**
 - (i) all personal information or reference to the Discloser witnessing an event will be redacted;
 - (ii) the Discloser will be referred to in a gender-neutral context;
 - (iii) where possible, the Discloser will be contacted to help identify certain aspects of their Disclosure that could inadvertently identify them; and
 - (iv) Disclosures will be handled and investigated by qualified staff.
 - (b) **Secure record keeping and information sharing processes**
 - (i) all paper and electronic documents and other materials relating to Disclosures will be stored securely;
 - (ii) access to all information relating to a Disclosure will be limited to those directly involved in managing and investigating the Disclosure;
 - (iii) only a restricted number of people who are directly involved in handling and investigating a Disclosure will be made aware of a Discloser's identity (subject to the Discloser's consent) or information that is likely to lead to the identification of the Discloser;
 - (iv) reminding each person who is involved in the handling and investigation of a disclosure about confidentiality requirements, including that unauthorised disclosure of a Discloser's identity may be a criminal offence.
- 9.2 NA may disclose the identity of the Discloser:
- (a) with the Discloser's consent; and
 - (b) to ASIC, the Australian Prudential Regulation Authority (APRA) or the Australia Federal Police, its legal advisors or a person or body prescribed by regulations.
- 9.3 NA may disclose the information contained in a Disclosure with or without the Discloser's consent if:

- (a) the information does not include the Discloser's identity;
 - (b) NA has taken all reasonable steps to reduce the risk that the Discloser will be identified from the information; and
 - (c) it is reasonably necessary for investigating the issues raised in the Disclosure.
- 9.4 If a Discloser reasonably believes there has been a breach of confidentiality, they can:
- (a) make a complaint to NA, which will investigate the complaint as a separate matter (consideration will be given as to whether it was reasonably necessary for investigating the issues raised in the Disclosure or there are other legitimate reasons why the relevant decision was made);
 - (b) seek independent legal advice or contact regulatory bodies such as ASIC, APRA or the Australian Taxation Office (ATO); or
 - (c) seek compensation and other remedies through the courts.
- 9.5 Nothing in this Policy prohibits NA from sharing information with the police, law enforcement and regulatory bodies it has determined that the Disclosure does not fall within the scope of this Policy in accordance with clause 8.1; and considers it appropriate to do so,

10. PROTECTION FROM DETRIMENT

- 10.1 NA will not tolerate a Discloser being threatened with or being subjected to any Detriment as a result of a belief or suspicion that a Disclosure has been or will be made.
- 10.2 NA may use some or all of the following measures to protect a Discloser from suffering Detriment as a result of making a Disclosure:
- (a) notifying the Discloser of support services that are available to them (including, but not limited to, counselling and other professional services);
 - (b) strategies to help the Discloser minimise and manage stress, time or performance impacts, or other challenges resulting from the Disclosure or its investigation;
 - (c) other measures to minimise the risk of Detriment (including, but not limited to, allowing the Discloser to perform their duties from another location or make other modifications to their workplace);
 - (d) reminding individuals involved in the management and investigation of the Disclosure of their obligations to maintain the confidentiality of a Disclosure, address risks of isolation and harassment, manage conflicts, and ensure fairness when managing the performance of, or taking other management action relating to a Discloser;
 - (e) appointing a whistleblower protection officer to oversee the protection and welfare of the Discloser.
- 10.3 If a Discloser reasonably believes they have suffered Detriment as a direct result of making a Disclosure, they can:
- (a) make a complaint to NA, which will investigate the complaint as a separate matter (consideration will be given as to whether the person has suffered Detriment and whether there are other legitimate reasons why the relevant decision was made);
 - (b) seek independent legal advice or contact regulatory bodies such as ASIC, APRA or the Australian Taxation Office (ATO); or
 - (c) seek compensation and other remedies through the courts.

11. AVENUES FOR REVIEW

- 11.1 If the Discloser is not satisfied with the outcome of the investigation that arose from the Disclosure, they may submit a request for review that outlines the reasons they are dissatisfied with the outcome and the alternative outcome they are seeking. NA may conduct an internal review as to whether the investigation was conducted in accordance with this Policy.
- 11.2 NA is not obliged to reopen an investigation and may conclude a review if it finds that the investigation was conducted properly, or new information is either not available or would not change the findings of the investigation.
- 11.3 If the Disclosure relates to the *Corporations Act 2001* (Cth), *ASIC Act 2001* (Cth), or conduct that constitutes an offence under a law of the Commonwealth, the Discloser may seek compensation and other remedies through the courts or refer the matter to ASIC.
- 11.4 NA will also protect individuals who have made a report in connection with NA:
- 11.4.1 to ASIC, APRA or another Commonwealth regulatory body prescribed in legislation;
 - 11.4.2 to a legal practitioner for the purposes of obtaining legal advice or legal representation about whistleblower protections; or
 - 11.4.3 that qualifies as an emergency or public interest disclosure under the *Corporations Act 2001* (Cth). It is important that Disclosers understand the criteria for making a public interest or emergency disclosure and they may wish to consult an independent legal adviser before making a public interest or emergency disclosure.

12. BREACH OF THIS POLICY

- 12.1 NA will not tolerate a Discloser being threatened with or being subjected to any Detriment as a result of a belief or suspicion that a Disclosure has been or will be made.
- 12.2 Such action will be considered Serious Misconduct and will result in disciplinary action. Such action may also attract civil or criminal penalties.

13. REVIEW OF THIS POLICY

- 13.1 This Policy will be reviewed in line with changes to the legislative and sports governance requirements in Australia.

END

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