



COMPLAINTS AND DISPUTE RESOLUTION POLICY

POLICY INFORMATION

OWNER:	Head of Integrity, Risk and Legal
EFFECTIVE DATE:	29 September 2022
NEXT REVIEW:	1 October 2023
APPROVAL AUTHORITY:	Cricket NSW Board
APPROVAL DATE:	29 September 2022

VERSION INFORMATION

Effective period	Document Title	Version	Amendments
29 September 2022	Complaints and Dispute Resolution Policy	v1.0	Implemented as part of the CNSW Integrity Framework
8 August 2023	Complaints and Dispute Resolution Policy	v1.1	See Schedule E

ASSOCIATED INFORMATION

Effective period	Document Title
From 29 September 2022	CNSW Anti-Corruption Policy
	CNSW Safeguarding Children and Young People Policy
	CNSW Member Protection Policy
	CNSW Code of Conduct (contained in the CNSW By-laws)

CNSW Complaints and Dispute Resolution Policy

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Part 1 Purpose and application

- (1.1) This Policy sets out the process for resolving complaints and instituting disciplinary action arising from incidents that involve an individual or organisation alleged to have engaged in Prohibited Conduct.
- (1.2) This Policy does not apply to Personal Grievances, team selection issues, employment-related misconduct, governance matters or Protected Disclosures.
- (1.3) This Policy applies to all allegations of Prohibited Conduct, including those alleged to have occurred before the commencement of this Policy but which have not been dealt with under any previous policy or other process for managing conduct that would constitute Prohibited Conduct under the Integrity Policies.

- (1.4) A Complainant and/or Respondent to a matter out of the scope of this Policy may agree to use any of the dispute resolution processes set out in the Policy for the resolution of that matter.
- (1.5) This Policy should be read in conjunction with the other Integrity Policies, which includes:
- (a) CNSW Code of Conduct;
 - (b) CNSW Member Protection Policy;
 - (c) CNSW Anti-Corruption Policy; and
 - (d) Child Safeguarding Policy.
- (1.6) The defined terms set out at Schedule A to this Policy apply for the purpose of this Policy and, where used in an Integrity Policy, for the interpretation of those terms.
- (1.7) Where a provision of Cricket Australia or the International Cricket Council is inconsistent with a provision in an Integrity Policy, the other provision will apply to the extent of that inconsistency. If Prohibited Conduct under an Integrity Policy may also constitute misconduct under a Cricket Australia, International Cricket Council or other National Cricket Federation policy, the conduct will be managed in accordance with the Cricket Australia, International Cricket Council or other National Cricket Federation policy unless and until it is determined that the matter should be managed as Prohibited Conduct under the Integrity Policy.

Part 2 Complaint Administration

Complaints Management

- (2.1) CNSW is the peak body for cricket in New South Wales. It is established to regulate, administer, manage and advance the game of cricket in New South Wales, and facilitates the resolution of disputes involving any member or affiliate of CNSW or any other person in any way associated with the sport of cricket in New South Wales. CNSW is also responsible for formulating, adopting and implementing appropriate policies that are necessary for the conduct of cricket in New South Wales.
- (2.2) CNSW has delegated its powers to Authorised Officers and Tribunals in relation to the investigation, hearing and determination of Complaints to ensure efficiencies in process and consistency of outcomes in integrity matters.
- (2.3) CNSW Integrity Unit provides the central point of contact and triage for all Complaints and will take the steps as set out in this Policy to determine who should investigate, hear and decide the Complaint.

Who investigates, hears and decides Alleged Breaches?

- (2.4) Schedule B sets out the Authorised Officers and Tribunals that have the power to investigate, hear and decide allegations and impose Sanctions under this Policy.
- (2.5) Authorised Officers may be assisted in an investigation by the CNSW Integrity Unit or by external referral to an external investigator or investigation firm.

- (2.6) An Authorised Officer may be engaged by the CNSW Integrity Unit under clause 3.7(b)(iii) following a preliminary assessment of the Complaint.
- (2.7) Authorised Officers and Tribunals have power to carry out those functions specified in this Policy and shall treat all Alleged Breaches as allegations of the Cricket Organisation.
- (2.8) Authorised Officers and Tribunals:
- (a) may decide their own procedures, subject to this Policy and Schedule D;
 - (b) are not bound by the rules of evidence;
 - (c) may make inquiries and obtain evidence about any matter, consistent with the rules of procedural fairness, including health or risk assessments;
 - (d) may obtain advice or assistance from another person in exercising their functions (although they cannot delegate the exercise of their function except as permitted under this Policy). This includes legal advice on jurisdictional or procedural issues.
- (2.9) Nothing in this Policy prevents CNSW, with prior agreement from Cricket Australia:
- (a) from referring any matter that would otherwise be dealt with by a Cricket Organisation to the General Division of the NST to be arbitrated or made the subject of alternative dispute resolution, provided the matter is a type of dispute that may be dealt with by the General Division of the NST under the NST Legislation; and
 - (b) where a matter is dealt with by the General Division of the NST, nothing in this Policy prevents an appellant that is able to appeal a decision from applying to the Appeals Division of the NST instead of following the procedures under Part 9 – Appeals and Review to have an appeal heard, provided the appeal involves a type of dispute that may be dealt with by the Appeals Division of the NST.

What is Prohibited Conduct?

- (2.10) In addition to the Prohibited Conduct prescribed by the Integrity Policies, a Cricket Participant or Cricket Organisation commits a breach of this Policy when they:
- (a) fail to report any Prohibited Conduct to CNSW as soon as reasonably practicable (or otherwise in accordance with the requirements of the relevant Integrity Policy);
 - (b) deliberately or wilfully withhold information in relation to any possible Prohibited Conduct;
 - (c) fail to provide further information or documentation as requested as part of a process under any Integrity Policy, including a failure to fully and in good faith participate in an interview;
 - (d) attempt to interfere, influence or otherwise affect the outcome of any aspect of a process instituted under this Policy including but not limited to make contact with administrators, investigators or Tribunal members by any person, whether or not they are a party to the process;

- (e) fail to comply with or enforce Provisional Action or Sanctions imposed under this Policy; or
- (f) knowingly provide any inaccurate and/or misleading information during any investigation or proceedings under this Policy.

Note: Any breach of clause 2.10(a) will be managed in the first instance through education and training.

How to Make a Complaint

- (2.11) All Complaints should be submitted to CNSW's Integrity Unit to be assessed under this Policy.
- (2.12) Any person or Cricket Organisation may submit a Complaint by either:
 - (a) completing the online complaint form located at <https://cricketnsw.com.au/complaints>; or
 - (b) sending an email to integrity@cricketnsw.com.au.
- (2.13) A Complaint may be submitted by a parent or guardian on behalf of a Vulnerable Person.
- (2.14) Any individual or Cricket Organisation that receives a Complaint should forward it to the CNSW Integrity Unit by sending an email to integrity@cricketnsw.com.au.

Anonymous Complaints

- (2.15) A Complaint may be submitted anonymously.
- (2.16) An anonymous Complaint will be assessed under the processes contained in this Policy. However, if there is insufficient information to proceed, the Complaint may be dismissed in accordance with clause 3.7(a).

Withdrawing a Complaint

- (2.17) A Complainant may withdraw their Complaint at any time before CNSW makes a finding under clause 3.7.
- (2.18) Withdrawing a Complaint must be done by writing to integrity@cricketnsw.com.au, or to another contact address that has been previously notified to the Complainant by CNSW during the Complaints Process.

Who can be a Respondent?

- (2.19) A Respondent must be a Cricket Participant or a Cricket Organisation who is bound by the Integrity Policy they are alleged to have breached.
- (2.20) Subject to clause 1.3 of this Policy, any person or organisation who:
 - (a) has had a Complaint made against them under this Policy;
 - (b) was bound by this Policy at the time the Complaint was made or when they became aware that a Complaint may be made; and
 - (c) would, for any reason, otherwise have ceased to be bound by this Policy at any time after the Complaint was made or when they became aware that the Complaint may be made,

remains bound by this Policy in respect of the Complaint and any related Complaint until the Complaints Process has been finalised.

- (2.21) Once a Complaint has been made under this Policy, the Respondent will continue to be bound by this Policy and the relevant Integrity Policy/ies in respect of that Complaint and any related complaint until the Complaints Process has been finalised.

Standard of Proof

- (2.22) Unless otherwise specified, the standard of proof that applies to all decisions made under this Policy (including by a Tribunal) is “balance of probabilities”. To find something has been proven on the balance of probabilities, it must be satisfied that on the evidence put before it the alleged fact or matter is more probable than not. In reaching this conclusion, all relevant factors must be taken into account including the:
- (a) nature and seriousness of the allegations; and
 - (b) impact of the potential Sanctions that may be imposed if the allegations are proven.
- (2.23) The standard of proof requires that the certainty of a decision-maker (including a Tribunal) is higher, and more evidence is required, in more serious matters of Alleged Breaches, compared with less serious matters.

Part 3 Preliminary Assessment

Complaint within scope of Policy

- (3.1) Upon receipt of a Complaint, CNSW must assess the Complaint and determine whether:
- (a) the Complaint is a Protected Disclosure, in which case it must be dealt with under the Whistleblower Procedure;
 - (b) the Complaint is solely a Personal Grievance;
 - (c) the Complaint does not relate to Prohibited Conduct under an Integrity Policy;
 - (d) the Complaint is mischievous, vexatious, or knowingly untrue;
 - (e) the Respondent is not an eligible Respondent as outlined in clauses 2.19 to 2.21;
 - (f) the Complaint is primarily an Employment Matter;
 - (g) the Complaint requires mandatory reporting to occur under Australian child protection legislation or other laws, in which case the Cricket Organisation must do so in accordance with the Child Safeguarding Policy.
- (3.2) If the Complaint falls within any of the circumstances set out in clause 3.1(a) to (f), the process under this Policy is permanently discontinued and noted on the complaints register.
- (3.3) If a Complaint falls within the circumstances set out in clause 3.1(g), it shall be handled in accordance with Part 5 – Investigation and External Referral.

Preliminary Assessment

- (3.4) If a Complaint is found to be within scope of this Policy and is not permanently discontinued, CNSW shall assess the Complaint and may collect further information to determine:
- (a) if the Complaint relates to an Alleged Breach; and
 - (b) if so, the most appropriate Cricket Organisation to manage the matter in accordance with the procedures set out in this Policy; and
 - (c) if the matter is to be handled by CNSW, the most appropriate Resolution Process to be applied.
- (3.5) The assessment may be conducted in such manner as determined by CNSW in its absolute discretion. CNSW may, based on the assessment, make findings as to whether the Standard of Proof has been met in respect of the Alleged Breach.
- (3.6) This assessment may or may not involve formal interviews and collection of additional evidence at CNSW's discretion.
- (3.7) Following the assessment under clause 3.4, CNSW may do any of the following:
- (a) dismiss the Complaint or take no further action if CNSW considers there is no substance to it, or that it is incapable of further investigation as not to warrant further action or that following investigation, it is not an Alleged Breach;
 - (b) make a determination that the Complaint is an Alleged Breach, in which case it shall determine the Resolution Process to be applied, which is to:
 - (i) take no further action;
 - (ii) issue a Notice of Allegations, which may or may not be accompanied by a Breach Offer;
 - (iii) refer the matter to an Authorised Officer for further investigation and/or decision;
 - (iv) refer the matter to a Cricket Organisation for further investigation, to issue a Notice of Allegations, to impose Sanctions and/or to hear and decide the matter;
 - (v) refer the Complainant and the Respondent to attend Alternative Dispute Resolution and coordinate the process itself or nominate a Cricket Organisation or external body to coordinate the process; or
 - (vi) refer the matter for Hearing subject to Part 6 – Hearing; or
 - (c) if the Respondent has admitted the Alleged Breach the subject of the Complaint, refer the matter to an Authorised Officer to impose Sanction(s) for the Prohibited Conduct.

Part 4 Referral for Alternative Dispute Resolution

- (4.1) At any time after determining that the Complaint is an Alleged Breach, CNSW may refer the Complainant and the Respondent to Alternative Dispute Resolution and either coordinate the Alternative Dispute Resolution itself or direct another Cricket Organisation to coordinate the process.

- (4.2) The Respondent and the Complainant may, by agreement between them, request that the Cricket Organisation refer a matter to Alternative Dispute Resolution and the Cricket Organisation may refer the matter if it considers it appropriate to do so.
- (4.3) An Alternative Dispute Resolution process may include:
- (a) Mediation;
 - (b) Conciliation; or
 - (c) Case appraisal (only available at the NST).
- (4.4) In accordance with clause 4.5, the Alternative Dispute Resolution process shall be facilitated:
- (a) By the NST if the Alternative Dispute Resolution process can be facilitated by the NST; or
 - (b) Where the Alternative Dispute Resolution process cannot be facilitated by the NST, by:
 - (i) the Cricket Organisation coordinating the process; or
 - (ii) an independent third-party provider.
- (4.5) To implement the Alternative Dispute Resolution process, the Cricket Organisation coordinating the process shall:
- (a) if the matter is an NST Eligible Matter, provided Cricket Australia has provided its consent, make an application to the NST for mediation, conciliation, or case appraisal of the Alleged Breach;
 - (b) if the matter is neither an NST Eligible nor NST Excluded Matter, provided Cricket Australia has provided its consent, apply to the NST CEO for approval of the dispute to be referred to the NST for Alternative Dispute Resolution, failing which it will be dealt with under (c); or
 - (c) refer the Alleged Breach to Alternative Dispute Resolution facilitated by the relevant Cricket Organisation or a third-party provider.
- (4.6) The parties to an Alternative Dispute Resolution process shall be the Complainant, the Respondent, and the relevant Cricket Organisation (the Parties). Additional persons may participate in exceptional circumstances and only if the facilitator of the Alternative Dispute Resolution process deems it appropriate.
- (4.7) The Parties are required to participate in the Alternative Dispute Resolution process in good faith.
- (4.8) Where the Alternative Dispute Resolution process is facilitated by a Cricket Organisation or a third-party provider:
- (a) the payment of the appointed facilitator's fee, if any, must be resolved between the Parties; and
 - (b) the procedure shall be in accordance with the rules prescribed by those bodies.
- (4.9) An Alleged Breach shall be finalised through Alternative Dispute Resolution where the relevant Cricket Organisation, the Complainant and the Respondent execute a written agreement as to an outcome.

- (4.10) If the Alleged Breach is resolved through Alternative Dispute Resolution, the relevant Cricket Organisation must proceed to finalising the matter in accordance with Part 10 – Finalising Complaints.
- (4.11) If the matter cannot be resolved through Alternative Dispute Resolution, the relevant Cricket Organisation shall select another Resolution Process to be applied to the Alleged Breach.

Part 5 Investigation and External Referral

External Referral

- (5.1) A Cricket Organisation may, at any time before or while dealing with an Alleged Breach under this Policy, refer the matter to any external organisation for any reason connected with this Policy (this may include an investigation firm, alternative dispute resolution body, law enforcement agency, government or regulatory authority or child protection agency).
- (5.2) If an external referral is made, the Cricket Organisation may suspend the Complaints Process pending external resolution. The Cricket Organisation shall inform the Complainant of any such decision unless directed not to do so by the external referral organisation.
- (5.3) If the Resolution Process is suspended due to an external referral, the Cricket Organisation must determine whether any Provisional Action should be taken against the Respondent under Part 8 – Provisional Action.

Investigation

- (5.4) Where an external referral is made to an external investigator or investigation firm to investigate a matter under this Part on behalf of an Authorised Officer under this Policy, the investigator shall have the same powers as the Authorised Officer to investigate the Alleged Breach and make findings of fact and recommendations on Sanction to the Cricket Organisation.
- (5.5) Any investigation conducted under this Policy (whether referred externally to an external investigator or investigation firm or otherwise) shall comply with Schedule C – Investigation Procedure.

Part 6 Hearing

Notice of Allegations

- (6.1) A Notice of Allegations may be issued by a Cricket Organisation at any time after determination that the matter is within the scope of this Policy.
- (6.2) Any Notice of Allegations issued under this Policy shall:
- (a) notify the Respondent of the Alleged Breach, including the alleged conduct and relevant sections of the Integrity Policy(ies);
 - (b) state the usual Sanctions for the Alleged Breach (if known) and any proposed discounted Sanction if the Prohibited Conduct is admitted;
 - (c) state that the Sanction is to be publicly disclosed (if applicable);

- (d) state that the Respondent has a right to a hearing in relation to the Alleged Breach and/or the proposed Sanction;
 - (e) state that the Respondent may admit the Alleged Breach, waive their right to a hearing and agree to a statement being made by the Cricket Organisation that the proposed Sanction or the proposed discounted Sanction (if applicable) has been accepted by the Respondent;
 - (f) state that if the Respondent does not respond within 14 days of receipt of the Notice of Allegations, they will be deemed to have admitted the Alleged Breach, waived their right to a hearing and accepted the proposed Sanction;
 - (g) state that any response to the Notice of Allegations must be made to the Cricket Organisation and provide the Respondent with the contact details of the contact person at the Cricket Organisation; and
 - (h) be provided to the Respondent, and to any Cricket Organisation (if applicable).
- (6.3) In response to a Notice of Allegations, a Respondent may:
- (a) admit the Alleged Breach, waive their right to a hearing and accept the proposed Sanction or proposed reduced Sanction (if applicable);
 - (b) dispute the Alleged Breach and/or the proposed Sanction, in which case the Alleged Breach shall be referred to a Hearing under this Policy; or
 - (c) not respond, in which case they shall be deemed to have admitted the Alleged Breach, waived their right to a hearing and accepted the proposed Sanction.
- (6.4) A Respondent has seven (7) days from receipt of the Notice of Allegations to notify the Cricket Organisation of their decision under clause 6.3.
- (6.5) A Notice of Allegations may (but does not have to) include copies of any relevant evidence which may be excluded or redacted if disclosure at that time could unreasonably:
- (a) compromise the integrity of the investigation of the alleged Prohibited Conduct; or
 - (b) place the health, safety or welfare of a person, including any witness, at risk.

Breach Offer

- (6.6) A Breach Offer may be issued by an Authorised Officer at any time prior to a Notice of Hearing being issued and may or may not accompany a Notice of Allegations.
- (6.7) A Breach Offer can be made on such terms and conditions as the relevant Authorised Officer sees fit and may take into account a previous admission made following the issuing of a Notice of Allegations.
- (6.8) A Respondent cannot attempt to negotiate, bargain or otherwise seek to reduce the imposed sanction in a Breach Offer.
- (6.9) If a Respondent does not respond to a Breach Offer, they will be deemed to have accepted the Alleged Breaches and the proposed Sanctions will automatically commence by the time period stipulated by the Cricket Organisation.

Hearing

- (6.10) Any Hearing conducted under this Policy shall comply with Schedule D – Tribunal Procedure.
- (6.11) A Respondent must receive a Notice of Hearing no less than 7 days before the date of the Hearing.
- (6.12) Fresh or new allegation(s) made against the Respondent, whether or not related to the original allegation(s) of Prohibited Conduct before a finding is made, may be heard and decided together with the original allegation at the discretion of the Authorised Officer or Tribunal. However, the Respondent must:
- (a) first be sent another Notice of Allegations containing the fresh allegation(s) that meets the requirements set out in clause 6.2; and
 - (b) if the Respondent wishes to dispute the Alleged Breach and/or the proposed Sanction, be given an opportunity to be heard in relation to that new allegation(s) according to the procedure prescribed in this Part.
- (6.13) Where it appears to the Tribunal that the Cricket Organisation has made an error in identifying the correct Alleged Breach of an Integrity Policy, or omitted Alleged Breaches that should have been made, the Tribunal may amend the allegation(s), subject always to the requirement that the Respondent must be informed of the new allegations and given a reasonable opportunity to respond to such allegations.
- (6.14) A Respondent may admit an allegation of Prohibited Conduct at any time prior to the making of a decision by the Authorised Officer or the Tribunal and the Respondent will be given an opportunity to make an oral or written statement about any Sanction(s) to be imposed.
- (6.15) A Hearing must proceed to its conclusion if the Respondent does not attend the hearing without reasonable excuse.
- (6.16) The Tribunal shall conduct the Hearing in such manner as it sees fit subject to Schedule D.
- (6.17) All Hearings will be conducted in private.
- (6.18) A Tribunal must notify the parties to the proceeding of its decision in accordance with this Policy and Schedule D and notify any other relevant parties of the decision. Subject to any Appeal under Part 9 – Appeals and Reviews, the Cricket Organisation shall proceed to finalise the Alleged Breach in accordance with Part 10 – Finalising Complaints.
- (6.19) Sanctions imposed under this Policy shall commence from the date of the decision, unless otherwise directed..

Part 7 Sanctions

- (7.1) Where a Respondent is found to have engaged in Prohibited Conduct, an Authorised Officer or a Tribunal (if applicable) may determine to impose a Sanction on that Respondent
- (7.2) Subject to clause 7.7, the Sanction may include one or a combination of the following measures (but is not limited to these measures):
- (a) a written warning or reprimand;

- (b) a monetary fine;
 - (c) a direction that any rights, privileges and benefits provided to the Respondent by a Cricket Organisation may be suspended for a specified period;
 - (d) a direction that any funding granted or given to the Respondent by a Cricket Organisation may cease from a specified date;
 - (e) a requirement to make a verbal or written apology to the Complainant or any other relevant person or organisation;
 - (f) a direction to undergo counselling or completion of a specified training course to address their behaviour;
 - (g) a ban from cricket facilities or venues;
 - (h) a ban on, or a suspension from, taking any part in any Cricket Event in New South Wales;
 - (i) identification of the Respondent and the findings made under this Policy on any online platform that relates to cricket registration in New South Wales (which may be public facing);
 - (j) a deduction of match points;
 - (k) expulsion from membership of a Cricket Organisation or a direction that a Cricket Organisation expel the person from its membership in accordance with the relevant constitution or rules;
 - (l) a transfer to another job or position;
 - (m) expulsion or termination of engagement or employment;
 - (n) cancellation of any CNSW accreditation or licence or coaching accreditation;
 - (o) removal or withdrawal of awards or achievements (such as life membership); or
 - (p) such other discipline as is appropriate in the circumstances.
- (7.3) Subject to clause 7.7, an Authorised Officer or a Tribunal (if applicable) has absolute discretion to determine the appropriate Sanction, including as to whether a combination of measures is to be imposed, and the terms and the period of any measures.
- (7.4) The following factors shall be considered when determining the appropriate Sanction:
- (a) the nature and seriousness of the behaviour or incidents;
 - (b) the considerations (if any) of the Complainant;
 - (c) the contrition, or lack thereof, of the Respondent;
 - (d) any Provisional Action taken in relation to the breach;
 - (e) the effect of the Sanction on a Respondent including any personal, professional, or financial consequences;
 - (f) if there have been relevant prior warnings or disciplinary action against the Respondent; and
 - (g) if there are any mitigating circumstances.

- (7.5) If there are multiple instances of Prohibited Conduct, where appropriate, the Sanction may be imposed having regard to all of the breaches considered together, and the seriousness of the overall conduct in question.
- (7.6) Any Sanction imposed is subject to any contractual or employment requirements of the Respondent or any other Cricket Participant.
- (7.7) Certain types of Prohibited Conduct attract a minimum Sanction in accordance with clause 7.12.
- (7.8) A Sanction may be suspended with or without conditions.
- (7.9) A Respondent may be required to comply with any one or more of the following as a condition of suspending a Sanction:
- (a) to undertake to do or not to do something to minimise risk of further Prohibited Conduct or to the health, safety and welfare of any person, such as restrictions on communications or interactions with another person;
 - (b) to undertake counselling, training or other remedial action;
 - (c) to apologise either verbally or in writing to any person aggrieved by the Respondent's Prohibited Conduct; or
 - (d) to contact or report to a specified person nominated by CNSW at specified intervals.
- (7.10) If the Respondent fails to comply with a condition imposed under clause 7.9, then the full Sanction shall apply and take effect immediately when CNSW or the Cricket Organisation gives the Respondent notice to that effect.
- (7.11) Where CNSW or a Tribunal has determined that a Sanction(s) shall be made publicly available:
- (a) CNSW shall maintain a register of persons subject to publicly disclosable Sanctions on its website. The public register shall include the name of the individual or organisation being sanctioned, the Sanction imposed, and the period of the Sanction. CNSW shall remove Sanctions from the public register when the period of disclosure prescribed by CNSW or the Tribunal has expired.
 - (b) Details of Alleged Breaches shall not be published on CNSW's website, but where appropriate, may be disclosed to third parties (such as other Cricket Organisations or to the national governing body for another sport in which the Respondent participates) in accordance with the relevant confidentiality provisions of that organisation.
 - (c) Sanctions shall not be publicly disclosed until the Alleged Breach has been finalised in accordance with Part 10 - Finalising Complaints.

Procedure for certain types of Prohibited Conduct

- (7.12) Where a Sanction is to be imposed for conduct involving the following types of Prohibited Conduct, unless the Authorised Officer or Tribunal consider that there are extenuating circumstances that warrant a lesser Sanction in accordance with any guidelines or procedures relating to the imposition of Sanctions, the following Sanctions must be applied as a minimum:

- (a) for Prohibited Conduct involving a sexual offence – ban on taking any part in any cricket related activity in New South Wales for the remainder of the season, and the following season (which will be a minimum period of 12 months). For second or multiple occurrences or in circumstances of an aggravated sexual assault – expulsion from membership of any Cricket Organisation and ban on taking any part in any cricket related activity in New South Wales for life;
 - (b) for Prohibited Conduct involving other types of assault – ban on taking any part in any cricket related activity in New South Wales for the remainder of the season or a minimum period of 6 months (whichever is greater). For second or multiple occurrences or in circumstances of an aggravated assault – ban on taking any part in any cricket related activity in New South Wales for the remainder of the season, and the following season (which will be a minimum period of 12 months);
 - (c) for Prohibited Conduct involving serious harassment, victimisation, vilification or bullying – ban on taking any part in any cricket related activity in New South Wales for 12 months. For second or multiple occurrences – expulsion from membership of any Cricket Organisation and ban on taking any part in any cricket related activity in New South Wales for life.
 - (d) for Prohibited Conduct involving a breach of the Child Safeguarding Policy– ban on taking any part in any cricket related activity in New South Wales until such time as the Office of the Children’s Guardian provides clearance for the individual to hold a Working With Children Check, or a ban on taking any part in any cricket related activity in New South Wales for life.
- (7.13) Nothing in clause 7.12 prevents the imposition of a more severe Sanction under this Policy.
- (7.14) For the avoidance of doubt, the minimum sanctions prescribed in clause 7.12 are not to be considered as a test of proportionality for the imposition of sanctions for other instances of Prohibited Conduct that are not included in sub-clauses (a) to (d).

Part 8 Provisional Action

- (8.1) Where the Alleged Breach involves behaviour that:
- (a) may be Prohibited Conduct under the Child Safeguarding Policy; and/or
 - (b) has or may result in, serious criminal charges being laid against the Respondent; and/or
 - (c) suggests there is a further or ongoing risk of harm that may be suffered by one or more persons involved in the sport of cricket,

the Cricket Organisation may, in its absolute discretion, determine whether any Provisional Action(s) will be taken.

Note: A "serious criminal charge" is a charge under any Commonwealth or State/Territory criminal law that is punishable by imprisonment for a maximum period of five years or more. Such offences include (but are not limited to) recklessly, negligently, or intentionally causing injury, indecent assault, theft, possession of child pornography, manslaughter, rape, sexual penetration of a child, sexual assault, drug trafficking,

- (8.2) Provisional Action includes, but is not limited to, suspension from taking any part in any cricket related activities, restriction of duties or temporary redeployment, suspension or restriction of rights, privileges and benefits, or any other action(s) at the discretion of CNSW.
- (8.3) Provisional Action may be imposed by:
- (a) the Cricket Organisation; or
 - (b) subject to clause 11.4, an Authorised Officer or Tribunal.
- (8.4) If Provisional Action is imposed, a Respondent may seek to have that decision reviewed only by an expedited hearing convened in accordance with Part 9 – Appeals and Reviews. An expedited hearing convened under this clause shall only consider the decision to impose the Provisional Action and will not consider the merits of the Alleged Breach.

Part 9 Appeals and Reviews

- (9.1) All Appeals made under this Policy must be submitted to CNSW's Integrity Unit to be processed under this Policy.
- (9.2) A Respondent may appeal against a finding of Prohibited Conduct, or the imposition of a Sanction.
- (9.3) There is no internal avenue of appeal available to a Complainant.
- (9.4) The decision of an Authorised Officer or a Tribunal under this Policy can only be appealed on the following grounds:
- (a) that the Authorised Officer or a Tribunal has failed to follow the procedures in this Policy, or properly apply the relevant Integrity Policy, and that failure has caused a denial of procedural fairness to occur; and/or
 - (b) that the Sanction imposed is:
 - (i) inconsistent with Part 7 - Sanctions; and/or
 - (ii) excessive and disproportionate to the Prohibited Conduct; and/or
 - (c) no reasonable decision maker in the position of the Authorised Officer or the Tribunal, based on the material before them, could reasonably make such a decision.
- (9.5) The Respondent must lodge a letter setting out the basis for their request with the CNSW Integrity Unit and pay a review fee to CNSW of \$500 within 5 business days of the relevant decision being made.
- (9.6) Any right of Appeal shall lapse if the requirements of clause 9.5 are not met.
- (9.7) Subject to compliance with clause 9.5, the Cricket Organisation shall convene a Tribunal to consider the appeal in accordance with Schedule D.
- (9.8) The Chair of the Appeals Committee shall review the application for an Appeal and decide whether there are sufficient grounds for the Appeal to proceed.
- (9.9) There is no further avenue of internal appeal from an Appeal.

Part 10 Finalising Complaints

- (10.1) A Resolution Process will be finalised, and an outcome reached:
- (a) when CNSW notifies the relevant parties of its determination under clause 3.7(a);
 - (b) where the Respondent admits the Alleged Breach, waives their right to a hearing and accepts the Sanction, or is deemed to have done so under clause 6.3(c);
 - (c) where the parties to a Hearing under Part 6 – Hearing are notified of the decision and no appeal has been filed within the timeframe specified in this Policy; or
 - (d) where the parties to an appeal proceeding are notified of the decision of the Appeals Tribunal.
- (10.2) Once the applicable Resolution Process (including any Appeal) under this Policy has concluded, the decision is final and binding on all parties involved.
- (10.3) When a Resolution Process is finalised, the relevant Cricket Organisation shall:
- (a) notify CNSW or any other relevant Cricket Organisation, the Complainant and the Respondent of the outcome in writing, unless otherwise provided for in this Policy;
 - (b) take all necessary steps to implement any Sanction imposed (if applicable); and
 - (c) ensure any public disclosures of the matters referred to in clause 7.11 are completed (if applicable).

Recording Decisions and Outcomes

- (10.4) A Cricket Organisation must keep records of all Complaints and Alleged Breaches in a secure and confidential location, which may be electronically.

Part 11 Miscellaneous matters

Tribunal Constitution

- (11.1) A Cricket Organisation may convene a Tribunal for a hearing or an appeal in any manner or composition, as it determines, including the appointment of the Chair of the Tribunal.
- (11.2) Each Tribunal shall comprise of three members appointed by the Cricket Organisation and:
- (a) comprise at least one legal practitioner and one sports administrator;
 - (b) be chaired by a person who shall be:
 - (i) a legal practitioner; and
 - (ii) a person of experience and skills suitable to the function of chairing a tribunal; and
 - (c) be independent of, and must not be, employees or officers of the Cricket Organisation.

- (11.3) A Tribunal convened to hear an Appeal must not comprise a member who sat on or was involved in the original Tribunal for the Alleged Breach which is the subject of the Appeal.
- (11.4) A Tribunal convened to hear a matter referred under Part 8 – Provisional Action shall comprise of a single member appointed by the Cricket Organisation who is a person of suitable experience and skills, independent of the Cricket Organisation.
- (11.5) Other than Tribunals convened under Part 8 – Provisional Action, the quorum for any Tribunal is two members, one of whom must be the Chair.
- (11.6) The Cricket Organisation shall use reasonable endeavours to ensure that the members selected do not have any actual or perceived conflict of interest in relation to the Alleged Breach that might reasonably call into question the impartiality of the Tribunal.
- (11.7) If a vacancy on a Tribunal occurs after that Tribunal begins to hear or consider a matter, but before it makes a decision, then the Head of Integrity, in consultation with the remaining Tribunal members, shall decide as follows, taking into account what is convenient and fair in the circumstances:
- (a) to direct the remaining members to hear and decide the allegation or appeal, as long as there is a quorum;
 - (b) to appoint a replacement member; or
 - (c) to dissolve that Tribunal and convene a new Tribunal.
- (11.8) Should a party challenge the impartiality of a member, the challenge will be determined by the Chair sitting alone, unless that challenge relates to the Chair in which case it shall be determined by:
- (a) the Head of Integrity; or
 - (b) if the Head of Integrity is unavailable or unable to act, the other members of the Tribunal. There shall be no right of appeal from a decision made under this clause.
- (11.9) No Tribunal decision shall be invalidated by any irregularity in the appointment of a Tribunal member.

Access to documents and information

- (11.10) The Cricket Organisation shall communicate with the Complainant and the Respondent at appropriate intervals throughout the Complaints Process to keep them informed about the process until a Resolution Process has been chosen or the Complaints Process is otherwise discontinued.
- (11.11) The Respondent shall not be entitled to a copy of the Complaint Form as submitted by the Complainant but shall be provided with a summary of the Alleged Breach(es) and sufficient details of the Complaint to allow them to respond. Both the Complainant and the Respondent shall be informed of any additional information that becomes relevant to the assessment process and provided with a reasonable opportunity to respond.
- (11.12) The Cricket Organisation shall notify both the Complainant and the Respondent of the outcome of the Complaints Process when it has been finalised in accordance with clause 10.1, subject to any determination by CNSW that information concerning the

outcome of the Complaint be redacted from notification to the Complainant because it is confidential, sensitive or infringes the privacy of a person including the Respondent.

Recording of proceedings under this Policy

- (11.13) All proceedings under this Policy may be recorded in an audio or audio-visual format. An Authorised Officer or a Tribunal may also designate any interviews or proceedings before them to be recorded.
- (11.14) Where proceedings are conducted by videoconferencing, the Complainant and/or Respondent must access the hearing using such methods as directed by the Authorised Officer or Tribunal, and ensure that they are able to be appropriately identified.

Part 12 Definitions and Interpretation

Defined Terms

- (12.1) In this Policy, all defined terms have the meaning as set out in the table at Schedule A unless otherwise indicated.

Interpretation

- (12.2) In this Policy:
- (a) references to 'including' or similar words are not words of limitation;
 - (b) 'business day' means a day other than a Saturday, a Sunday or a day which is lawfully observed as a public holiday in the State of New South Wales;
 - (c) all notices must be in writing and in English;
 - (d) words in the singular include the plural and vice-versa;
 - (e) a construction that would promote the purpose or object underlying this Policy must be preferred to a construction that would not promote that purpose or object; and
 - (f) to the extent that there is any inconsistency between a term of any legislation and a term of this Policy, the term of that legislation overrides the Policy and applies to the extent of the inconsistency.

SCHEDULE A: Definitions

Defined Terms

Term	Definition
Alleged Breach	An Alleged Breach is an allegation or information that a Cricket Participant or Cricket Organisation has engaged in Prohibited Conduct under an Integrity Policy but does not include a Complaint that falls under clause 3.2.
Alternative Dispute Resolution	A collective term for processes, such as mediation, to resolve disputes without the need for litigation that will be applied to resolve an Alleged Breach in accordance with Part 4 of this Policy.
Appeal	An appeal made under Part 9 of this Policy.
Appeals Tribunal	A Tribunal convened in accordance with clause 9.7.
Authorised Officer	Those persons listed in Schedule B of this Policy.
Chair	The individual appointed to chair a Tribunal in accordance with clause 11.2(b).
Child Safeguarding Policy	The NSW Safeguarding Children and Young People Policy.
CNSW	New South Wales Cricket Association trading as Cricket NSW (ABN 27 000 011 987).
CNSW Integrity Unit	The Integrity Unit within CNSW management that includes the Head of Integrity.
Code of Conduct	The Code of Conduct contained in the CNSW By-laws as amended from time to time.
Complainant	A person who, or an organisation which, makes a Complaint about an Alleged Breach by a Respondent in accordance with this Policy.
Complaint	A formal notification of a complaint relating to Prohibited Conduct by a Respondent under an Integrity Policy.
Complaints Process	The process of handling and resolving a Complaint under this Policy from the point where the Complaint is received to the finalisation of the Resolution Process.
Cricket Australia	Cricket Australia (ABN 53 006 089 130)
Cricket Event	Any match, tournament, tour, contest, event, activity (including training), whether on a one-off basis or as part of a series, league or competition sanctioned or organised by CNSW or a Cricket Organisation.
Cricket Organisation	Any of the following organisations: (a) CNSW; (b) each company or incorporated association that is a member or affiliate of CNSW;

	<p>(c) Team, which means a collection or squad of athletes who compete and/or train in cricket and/or cricket activities; and</p> <p>(d) any other organisation who has agreed to be bound by the Integrity Policies.</p>
Cricket Participant	<p>Includes:</p> <p>(a) Players;</p> <p>(b) Individuals who are registered with or entitled to participate in a Cricket Organisation or a Cricket Event;</p> <p>(c) Coaches appointed to train a Player or Team in a Cricket Organisation or Cricket Event;</p> <p>(d) Administrators who have a role in the administration or operation of a Cricket Organisation, including owners, directors, committee members or other persons;</p> <p>(e) Officials including referees, umpires, technical officials, or other officials appointed by a Cricket Organisation or any league, competition, series, club or Team sanctioned by CNSW;</p> <p>(f) Player Support Personnel who are appointed in a professional or voluntary capacity by a Cricket Organisation;</p> <p>(g) individuals who are registered as members with a Cricket Organisation or any league, competition, series, Club or Team sanctioned by CNSW;</p> <p>(h) Employees;</p> <p>(i) Contractors;</p> <p>(j) Volunteers; and</p> <p>(k) Any other individual who has agreed to be bound by the Integrity Policies.</p>
Employee	Any individual working for and representing CNSW, including employees, Board Directors and sub-committee members, contractors, consultants and/or related personnel acting in any relation to any Cricket Event.
Employment Matter	A matter relating to an Employee in the course of their employment duties.
Head of Integrity	CNSW's Head of Integrity, Risk and Legal or nominee.
Hearing	Any hearing under Part 6 – Hearing or Part 9 – Appeals and Review of this Policy.
Integrity Policy	The CNSW policies listed in clause 1.5 and this Policy.
NST	The National Sports Tribunal.
NST Eligible Matter	An Alleged Breach that is a kind of dispute that falls within the jurisdiction of the NST.
NST Excluded Matter	An Alleged Breach that is a kind of dispute that is expressly excluded from the NST's jurisdiction.

Personal Grievance	Any form of grievance between two or more people (including individuals and bodies corporate) that does not concern or allege a breach of an Integrity Policy.
Player	A participant in a cricket match (including those in addition to those that are playing in the Team) organised, sanctioned or otherwise under the auspices of a Cricket Organisation and includes representative competitions, tours and carnivals.
Player Support Personnel	Includes any parent, guardian, coach, trainer, team manager, player agent, selector, umpire, team official, doctor, physiotherapist, dietitian, fitness or other health-related advisor or any other person employed by, contracted to, representing or otherwise affiliated to a Cricket Organisation, or any parent or other person working with, treating or assisting a Player.
Policy	This Conduct and Dispute Resolution Policy including any Schedules.
Prohibited Conduct	The conduct prescribed in an Integrity Policy and at clause 2.10 of this Policy.
Protected Disclosure	A report or concern raised in the context of the Australian Cricket Whistleblower Procedure that is accepted for management under that Procedure.
Provisional Action	Action taken in accordance with Part 8 – Provisional Action of this Policy.
Resolution Process	The chosen process for resolving an Alleged Breach under this Policy, including the issue of a Notice of Allegations.
Respondent	Any person/s or organisation/s against whom a Complaint has been made.
Sanction	A sanction imposed on a Respondent for breaching an Integrity Policy in accordance with Part 7 – Sanctions of this Policy.
Tribunal	A Tribunal convened in accordance with clause 11.1 and includes an Appeal Tribunal for the purpose of Schedule D.
Volunteer	Any person engaged by a Cricket Organisation in any capacity who is not otherwise an Employee or Contractor, including directors and office holders, coaches, officials, administrators and Player Support Personnel.
Vulnerable Person	A person who is (a) under the age of 18; or (b) aged 18 or over, but is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation, by reason of age, illness, trauma or disability, or any other reason.
Whistleblower Procedure	The Australian Cricket Whistleblower Procedure.

SCHEDULE B: Who investigates, hears and decides Alleged Breaches

Authorised Officer or Tribunal	Powers and responsibility
Chief Executive Officer	(a) Investigate and decide admitted Prohibited Conduct; (b) Impose a Sanction for admitted Prohibited Conduct; (c) Impose Provisional Action under Part 8 – Provisional Action.
Chief Strategy Officer	(a) Investigate and decide admitted Prohibited Conduct; (b) Impose a Sanction for admitted Prohibited Conduct; (c) Impose Provisional Action under Part 8 – Provisional Action.
Chief of Cricket Performance	(a) Investigate and decide admitted Prohibited Conduct; (b) Impose a Sanction for admitted Prohibited Conduct; (c) Impose Provisional Action under Part 8 – Provisional Action.
External Investigator	Investigate matters of Prohibited Conduct following a referral under clause 5.1 of this Policy.
Head of Integrity	(a) Investigate matters of Prohibited Conduct following a determination under clause 3.7(b)(iii) of this Policy. (b) Issue a Notice of Allegations in respect of Alleged Breaches. (c) Refer a matter for Alternative Dispute Resolution or to a Cricket Organisation to facilitate Alternative Dispute Resolution. (d) Appoint members to a Hearing Tribunal or Appeals Tribunal. (e) Refer a matter for Hearing. (f) Ensure any Sanction is imposed on a Respondent.
Hearing Tribunal	Hear and decide all Alleged Breaches referred to the Tribunal under clause 3.7(b)(v) and determine appropriate Sanction(s). Impose Provisional Action under Part 8 – Provisional Action.
Appeals Tribunal	Hear and decide all Appeals lodged under Part 9 – Appeals.

SCHEDULE C: Investigation Procedure

- (1) This Schedule prescribes the procedure for an Authorised Officer appointed under Part 5 – Investigation and External Referral of this Policy to investigate a Complaint, make findings of fact and recommendations on Sanction to CNSW.
- (2) Where an investigation into a Complaint has already commenced by a Cricket Organisation, this does not preclude any subsequent investigation proceeding upon any referral of the Complaint to CNSW.
- (3) Any investigation must be conducted in accordance with the principles of procedural fairness.
- (4) Where a Complaint involves a Vulnerable Person and/or allegations as to suspected Prohibited Conduct under the Child Safeguarding Policy, or a Child or Young Person being at risk of suspected harm or neglect, CNSW must seek advice from police and/or the Department for Human Services (or the relevant government agency at the time) and follow any other requirements of the Child Safeguarding Policy as to appropriate steps/approach to be taken in this context, before referring such a Complaint to an investigation or commencing any investigation.
- (5) When the investigation involves interviewing a Vulnerable Person, the Authorised Officer must ensure that a parent/guardian or a responsible adult is present during the interview and that the parent/guardian or responsible adult co-sign any statement obtained from the Vulnerable Person.
- (6) When investigating a Complaint, an Authorised Officer may:
 - (a) interview the Complainant(s) and record the interview in writing;
 - (b) provide full details of the Complaint to the Respondent(s) so that they can respond (so far as feasible, where appropriate, having regard to any circumstances);
 - (c) interview the Respondent(s) to allow them to answer the Complaint and record the interview in writing;
 - (d) obtain statements from witnesses and collect other relevant evidence;
 - (e) make a finding as to whether the Complaint is:
 - (i) substantiated (there is sufficient evidence to support the Complaint);
 - (ii) inconclusive (there is insufficient evidence either way);
 - (iii) unsubstantiated (there is sufficient evidence to show that the Complaint is unfounded); or
 - (iv) mischievous, vexatious or knowingly untrue; and
 - (f) provide a report to CNSW or the Cricket Organisation documenting the Complaint, the investigation process, the evidence and, if requested, any findings and recommendations.
- (7) Before making any findings of fact or recommendations in relation to a Complaint, the Authorised Officer must satisfy themselves as to the requisite standard of proof required as set out in clauses 2.22 and 2.23 of the Policy.

- (8) All information collected will be stored securely and confidentially and will only be provided to those who require further information to support a Resolution Process under this Policy.
- (9) The Complainant(s) and the Respondent(s) will be entitled to support throughout this process from their chosen support person or advisor.

SCHEDULE D: Procedure on Hearing and/or Appeal

- (10) This Schedule prescribes the procedure for a Tribunal convened under this Policy to hear and decide an Alleged Breach and/or an Appeal.
- (11) A Tribunal is required to act as quickly and with as little formality as possible, subject to the requirements of this Policy and treat all proceedings under this Policy as inquisitorial proceedings, not adversarial proceedings.

Hearing Tribunal

- (12) At any Hearing under Part 6 – Hearing of the Policy, the Tribunal must:
 - (a) identify the Respondent, including by requesting to sight any official identification;
 - (b) advise all those persons present of the method of recording the hearing (if any);
 - (c) advise the parties of their right to remain in the hearing until all evidence is presented but not to be present while the Tribunal considers its findings and determines an appropriate Sanction (if any);
 - (d) confirm whether the Respondent admits or denies the allegations by reading out each allegation to the Respondent and those present;
 - (e) in the case of admission, provide the Respondent with an opportunity to make submissions;
 - (f) consider all available evidence about the allegation and make findings of fact based on the evidence available;
 - (g) give the Respondent a reasonable opportunity to respond to the allegation(s) and any evidence, and to present their own evidence or give any statements;
 - (h) otherwise determine its own procedures, which may include:
 - (i) asking questions of witnesses;
 - (ii) limiting the number of witnesses being called by either the Complainant or the Respondent;
 - (iii) require the attendance of witnesses they deem relevant to the extent that they have power to do so;
 - (i) decide whether the allegation is substantiated or unsubstantiated by reference to the standard of proof in clauses 2.20 and 2.21; and
 - (j) if substantiated decide what, if any, Sanction(s) should be imposed; or
 - (k) if not, dismiss the allegation(s) and take no further action.
- (13) At a Hearing, a Respondent may:
 - (a) call witnesses to give evidence on their behalf;
 - (b) respond to any evidence;
 - (c) present any evidence or give oral or written statements;
 - (d) subject to this Schedule question witnesses;
 - (e) subject to this Schedule, have a support person present.

- (14) At a Hearing, a Complainant may:
- (a) call witnesses to give evidence on their behalf;
 - (b) respond to any evidence;
 - (c) present any evidence or give oral or written statements;
 - (d) subject to this Schedule, question witnesses;
 - (e) subject to this Schedule, have a support person present.

Questioning witnesses

- (15) There is no automatic right for a Complainant or Respondent to ask questions of witnesses in proceedings under this Policy.
- (16) Questioning of witnesses may be permitted by the Tribunal and, if so, may:
- (a) occur either directly to the witness or through the Tribunal;
 - (b) be undertaken using any form of telecommunications (such as video conferencing) and with or without the Respondent being present. If this occurs, the Respondent must be given details of the substance of that witness' evidence and a reasonable opportunity to respond to that evidence before any finding is made;
 - (c) be directed to cease, or continue in an alternate form if the relevant decision-maker reasonably believes that:
 - (i) the witness is being subjected to irrelevant or unreasonable questions; or
 - (ii) there appears to be a risk to the health, safety or welfare of that witness.
- (17) Each witness shall be entitled to leave the Tribunal hearing after giving evidence unless otherwise directed by the Tribunal. Witnesses shall be entitled to remain in the hearing room after giving evidence with the permission of the Tribunal.

Tribunal's Decision

- (18) Where the Tribunal finds that one or more alleged breaches of an Integrity Policy have been proven, it shall inform the parties of its decision and provide CNSW or the Cricket Organisation and the Respondent with an opportunity to make submissions as to Sanction (if the parties have not already had an opportunity to make such submissions). The Tribunal may, in its absolute discretion, decide that it is appropriate to:
- (a) receive oral submissions as to Sanction immediately after delivering its decision as to the Alleged Breach; or
 - (b) adjourn the Hearing to allow the parties to make submissions as to Sanction on some later date, in which case, the Tribunal shall direct whether submissions should be made orally or in writing.
- (19) The decision of the Tribunal shall be given by the Chair. The Chair may either:
- (a) give its decision as to the Alleged Breach and/or Sanction orally at the close of the Hearing, with or without short-form oral reasons; or

- (b) reserve its decision as to the Alleged Breach and/or Sanction but if it does so, it will provide its decision within 14 days of the Hearing.
- (20) If the Tribunal is not satisfied that the particular Alleged Breach has been proved but is satisfied that a lesser breach of an Integrity Policy has been proven, then the Tribunal may find such lesser breach proven.
- (21) Notwithstanding clauses 9 and 10 of this Schedule if the Tribunal has directed the parties to make submissions as to Sanction as per clause 10 above, the Chair shall provide its decision and written reasons as to Sanction within 14 days of receipt of the submissions, or as otherwise directed by the Tribunal.
- (22) Unless the Tribunal has provided oral reasons to the Respondent during the hearing, the Tribunal will give written reasons for its decision as soon as practicable.

Procedure of Appeals Tribunal

- (23) Clauses 2 to 12 (inclusive) of this Schedule apply to an Appeals Tribunal with any necessary amendments.
- (24) Subject to this Schedule, the Appeals Tribunal and persons appearing before it are bound by the same procedures under this Policy as if the Appeals Tribunal was the Tribunal hearing a matter at first instance.
- (25) The Appeals Tribunal must limit its hearing to consideration of the Ground(s) of Appeal relied upon by the Appellant under clause 9.3 of this Policy and must not rehear the matter or the facts of the Alleged Breach.
- (26) The Respondent to an Appeals Tribunal shall be given the opportunity to file a written submission in response to the Notice of Appeal.
- (27) The parties to an Appeal Tribunal may not call witnesses unless given leave to do so by the Appeals Tribunal. The Appeals Tribunal shall not allow a party to call a witness to give evidence in relation to any matter outside of the Ground(s) of Appeal relied upon by the Appellant.
- (28) An Appeals Tribunal has the power to:
 - (a) dismiss the appeal;
 - (b) uphold the appeal;
 - (c) impose any of the Sanctions set out in the Policy; or
 - (d) reduce, increase, or otherwise vary any Sanction imposed by the Hearing Tribunal under the Policy, in accordance with clause 7.4 of the Policy but otherwise in such manner as it thinks fit.
- (29) At the conclusion of the Appeal hearing, the Appeal Chair shall ensure that the Appellant, Respondent and the Cricket Organisation are informed of the determinations of the Appeals Tribunal. The Appeal Chair shall also notify the CNSW Integrity Unit of the decision.
- (30) The Appeals Tribunal has discretion to order the refund of the Appeal fee and shall do so where the Appeal is upheld or the Sanction is reduced.

Support Persons

- (31) A Complainant or Respondent may bring along a support person at any interview, Hearing or Appeal conducted under this Policy. However, that person must be available at the date and time specified in the documentation sent to the Complainant or Respondent.
- (32) A support person may be directed to leave any interview, Hearing or Appeal if that person unreasonably disrupts or delays proceedings. If this occurs, any interview, Hearing or Appeal is to proceed to completion in the absence of that support person.
- (33) An Authorised Officer or Tribunal may direct the Complainant or Respondent to answer any question put to them during any interview, Hearing or Appeal.
- (34) The Tribunal has discretion to permit legal representation at any hearing or appeal under this Policy, and may do so in matters that could result in a Sanction that has a significant impact on the Respondent's livelihood or reputation.
- (35) Where a Vulnerable Person exercises his/her right to have an adviser present in accordance with this Policy, a reasonable opportunity for consultation between the Vulnerable Person and the adviser shall be provided by the Tribunal.

SCHEDULE E: Schedule of Amendments to this Policy

Amendments approved by the CNSW Board on 8 August 2023	
Clause	Amendment
Clause 2.10	New sub-clause (d): <i>attempt to interfere, influence or otherwise affect the outcome of any aspect of a process instituted under this Policy including but not limited to make contact with administrators, investigators or Tribunal members by any person, whether or not they are a party to the process;</i>
Clause 3.7(b)(ii)	At the end of the sentence, include: “which may or may not be accompanied by a Breach Offer”
Clause 6.2(b)	Include “(if known)” in relation to the usual Sanctions for the Alleged Breach.
Clause 6.6 to 6.9	New clauses: Breach Offer (6.6) A Breach Offer may be issued by an Authorised Officer at any time prior to a Notice of Hearing being issued and may or may not accompany a Notice of Allegations. (6.7) A Breach Offer can be made on such terms and conditions as the relevant Authorised Officer sees fit and may take into account a previous admission made following the issuing of a Notice of Allegations. (6.8) A Respondent cannot attempt to negotiate, bargain or otherwise seek to reduce the imposed sanction in a Breach Offer. (6.9) If a Respondent does not respond to a Breach Offer, they will be deemed to have accepted the Alleged Breaches and the proposed Sanctions will automatically commence by the time period stipulated by the Cricket Organisation.
Clause 7.14 (new)	New clause: <i>For the avoidance of doubt, the minimum sanctions prescribed in clause 7.12 are not to be considered as a test of proportionality for the imposition of sanctions for other instances of Prohibited Conduct that are not included in sub-clauses (a) to (d)</i>
Clause 11.7	Replace the clause as follows: (11.7) If a vacancy on a Tribunal occurs after that Tribunal begins to hear or consider a matter, but before it makes a decision, then the Head of Integrity, in consultation with the remaining Tribunal members, shall decide as follows, taking into account what is convenient and fair in the circumstances: (g) to direct the remaining members to hear and decide the allegation or appeal, as long as there is a quorum; (h) to appoint a replacement member; or (i) to dissolve that Tribunal and convene a new Tribunal.

Schedule B New sub-clause	New powers of Head of Integrity: (d) Appoint members to a Hearing Tribunal or Appeals Tribunal
Schedule D - clause 22	At the start of the clause insert: "Unless the Tribunal has provided oral reasons to the Respondent during the hearing,"