Australian Government | NATIONAL SPORTS TRIBUNAL

Case number: NST-E25-342729

Case Title: Applicant v Geelong & District Football Netball League and Netball Victoria (with Netball Australia)

Determination

National Sports Tribunal

General Division

sitting in the following composition:

Member: Professor Jack Anderson

in the arbitration between

Applicant *(Applicant)*

Represented by Mr Paul Horvath, Legal Representative and Ms Liz Seddon, Legal Representative

And

Geelong & District Football Netball League *(First Respondent)*

Represented by Mr Neville Whitley OAM, President, Geelong and District Football Netball League

And

Netball Victoria *(Second Respondent)*

Represented by Ms Penny Forrest, Western Region Manager

And

Netball Australia *(National Sporting Organisation)*

Represented by Ms Natasha Currao, Legal Representative

PARTIES

1. The **Applicant** is a netball player and coach with a Club affiliated with the Geelong & District Football Netball League (**GDFNL** or the **first Respondent** or **Respondent**). The **second Respondent** is the state sporting organisation, Netball Victoria. The national sporting organisation is **Netball Australia**, the governing body for the sport of netball in Australia.

INTRODUCTION AND BACKGROUND

2. The matter related to sanctions imposed on the Applicant by the (first) Respondent and communicated to the Applicant on 5 August 2025 (**the Sanction Letter**) for an incident which the Respondent described as a "Cyber Safety Breach – Social Media Posting of Umpire Without Consent…". A number of breaches by the Applicant of various policies were noted in clause 12 of the Sanction Letter. In clause 17 of the Sanction Letter, the Respondent imposed a number of sanctions on the Applicant: a 6-week suspension from coaching and playing; ineligibility for the Respondent's end of season league awards; a provision relating to future offences by the Applicant; and the obligation to write a letter of apology via the Respondent to a named umpire who was central to the above "Cyber Safety Breach".

3. The Applicant challenged the above along two inter-related grounds. The first ground was that such was the extent and gravity of procedural unfairness (in the investigation, processing, sanctioning, and handling of the appeal rights) in the matter that the sanctions contained in clause 17 of the Sanction Letter should be declared void. The second ground was that even if the prejudice and detriment suffered by the Applicant as a result of the Respondent's procedural impropriety could in some way be seen as "cured" (by the appellate nature of this NST hearing), the sanction imposed remained disproportionate in the sense that the Applicant should be considered to have served a sufficient penalty already, proportionate to the alleged breaches.

4. The Respondent countered that the matter had been handled in compliance with policy and the sanction was fair and appropriate in the circumstances.

5. Guided generally by the principles outlined in *Calvin v Carr* (1979) 22 ALR 417 (that in sporting organisations, notwithstanding some initial procedural defect, which in any event can be cured on appeal, those bound by that sporting body's rules should be taken to have agreed to accept what in the end is a fair decision) the Member held that that the decision and sanction reached by the Respondent was, in the end, fair and proportionate with two caveats. The first of these, on decision/procedure, related to the summary dismissal of the Applicant's internal right of appeal. The second, on sanction/proportionality, related to a number of mitigating circumstances in the Applicant's favour. The Member ordered that, on the proviso that an apology would be provided to the named umpire by the Applicant by a certain date, the originally imposed 6-week suspension from coaching and playing should be reduced to four (4) weeks.

NST JURISDICTION AND PROCEEDINGS BEFORE THE NST

6. This matter was heard as a General Division – Arbitration (section 24 of the *National Sports Tribunal Act 2019* (**NST Act**)) by way of an arbitration agreement (**the Agreement**) between the Parties dated 3 September 2025. Pursuant to clause 4 of the Agreement, the jurisdiction of the NST was engaged by section 24(1) of the NST Act and clause 12.5.1.1(b)(1) of Netball

Australia's Integrity Framework, Conduct & Disciplinary Policy 2025 (**NA Conduct and Disciplinary Policy**).

7. Pursuant to clause 10.1 of the Agreement, the Parties agreed to conduct the arbitration, where appropriate, in accordance with the NA Conduct and Disciplinary Policy.

8. Pursuant to clause 4.1 of the Agreement, the Parties agreed that a single NST Member should be appointed to hear this dispute, and namely this Member.

9. Pursuant to clause 8 of the Agreement (extract below in italics), the following Procedural Directions were agreed. The Parties abided by said Directions and the Member was grateful for the Parties' efficient filing of submissions and the clear, comprehensive nature of said submissions.

> ***Procedural Directions***
>
> *Pre-Hearing:*
>
> *8.1. By 11:00am (AEST), on Tuesday, 2 September 2025 the Applicant to file with the NST Registry and serve on the other Parties their written submissions and any witness statement(s) evidence, and all other documents they wish to rely on.*
>
> *8.2. By 4:00pm (AEST), on Wednesday, 3 September 2025 the Respondent to file with the NST Registry and serve on the other Parties their written submissions and any witness statement(s) evidence, and all other documents they wish to rely on.*
>
> *8.3. By 4:00pm (AEST), on Thursday, 3 September 2025 to file with the NST Registry and serve on the other Parties their written submissions and any witness statement(s) evidence, and all other documents they wish to rely on in reply.*
>
> *Hearing*
>
> *The Hearing will occur at 2:00pm (AEST) on Friday, 5 September 2025. The Hearing will be conducted by video conference, and where this is not possible, by teleconference. Connection details to be provided.*

10. Given the expedited nature of this matter; in line with section 52(1) of the *NST (Practice and Procedure) Determination 2024* (**NST Practice and Procedure**); and, having obtained the consent of the Parties, the Member decided on 5 September 2025 that the matter could be dealt with "on the papers" and by written submissions only and without the need for an oral hearing.

APPLICATION FOR A STAY

11. On 28 August 2025, the Applicant made an application for what they described as a stay, arguing that the Member had to power to impose a stay pursuant to the Member's discretion in section 40(1)(a) of the NST Act 2019 ("the procedure of the Tribunal is, subject to this Act, within the discretion of the Tribunal") as read in conjunction with section 29(1) of the NST Practice and Procedure ("In an arbitration, a Tribunal member is to give such directions as the member considers appropriate for the fair, efficient and inexpensive determination of the dispute").

12. The Applicant's contention was (in summary) that the stay was justified on the following grounds, having (i) already served half of the 6-week playing and coaching suspension; (ii) outlined a good arguable case that the sanction imposed was done so in a procedurally unfair manner; and (iii) that to refuse a stay would impose further undue prejudice on the Applicant by denying her the right to compete in the first round of 2025 finals (due to be held on weekend of 30/31 August) without undue detriment to the Respondent.

13. The Respondent opposed the stay.

14. The Member replied by email to the Parties at 3pm on 29 August 2025 (extract in italics):

> ***Power to Stay***
>
> *As the appointed NST member in this matter of arbitration, I take into account the general principles relating to NST-arbitration in section 40 of the NST Act and similarly in section 28 of the National Sports Tribunal (Practice and Procedure) Determination 2024. I note also the pre-hearing powers (of direction) given to me under section 29 of the National Sports Tribunal (Practice and Procedure) Determination 2024.*
>
> *Although section 29 of the Determination does not expressly give the power to stay a matter, it does, in subsection 1, permit a Tribunal member to give such directions as the member considers appropriate for the fair, efficient and inexpensive determination of the dispute. Similarly, although section 29(2) of the Determination does not expressly permit a stay as a type of direction, it does say that Tribunal members are not limited to the type of direction listed in that subsection.*
>
> *What follows therefore cannot formally or properly under NST legislation be described, as the Applicant seeks to describes it, an application for stay of execution pending a full NST appeal; rather it is an exercise of my powers under section 29 of the Determination, what might be called a section 29 stay-like Direction.*
>
> *I grant the applicant such a Direction for this weekend, subject to the orders below.*
>
> ***Section 29 stay-like Direction***
>
> *The direction I make under section 29 is stay-like in nature and the principles which I have used in granting it are similar to those used by the Victorian courts and tribunals (VCAT) in granting a stay – see Uren v Uren [2017] VSCA 300 (19 October 2017) and Quick v Lam-Ly Pty Ltd [2019] VSCA 111 (22 May 2019)*
>
> *I can exercise a wide discretion but must take into account all the circumstances of the case;*
>
> - *The applicant bears the onus of demonstrating that a stay is justified;*
> - *The s29 stay like Direction is generally predicated on the applicant demonstrating special or exceptional circumstances. Such circumstances include where there is a real risk that it will not be possible to restore the applicant substantially to its former position if the judgment against the applicant is executed before the conclusion of the appeal.*

However, the prospect that the appeal may be rendered nugatory must be balanced against the principle that the successful party is entitled to the fruits of its judgment;

- *In order to justify the grant of a s29 stay-like Direction, an applicant should also demonstrate that there is at least an arguable ground of appeal;*

- *Unless there is no arguable ground of appeal, or the appeal is not bona fide, it will usually be inappropriate for the NST Member to speculate as to the ultimate prospects of success. The NST Member must ordinarily focus on matters that are relevant to the enforcement of the judgment, rather than matters that are relevant to its validity or correctness;*

Orders

Taking these factors into account, and applying them to the facts at hand – that this is the eve of finals weekend (and the time pressure etc on all parties to this matter); that there is a good arguable case of procedural unfairness; but that that is said without prejudice to the ultimate prospect of success for the application, I grant what I have described as a section 29, stay-like direction for this weekend (only) to the benefit of the applicant.

I order however that a full hearing of this matter take place next week, with full submissions by the applicant by COB on 1 Sept (Mon); respondent submissions by COB (2 Sept); reply submissions by noon on 3 September or a variation to that timetable as agreed by the parties with the NST secretariat.

MAIN SUBMISSIONS OF THE PARTIES

15. The Member has read and taken into account all submissions – Applicant's Submissions (**AS**), Respondent's (**RS**) and the Applicant's Reply (**AR**); quotations below are taken from same.

16. While the Member has considered all the facts, allegations, legal arguments and evidence submitted by the Parties, he refers in his Determination only to the submissions and evidence he considers necessary to explain his reasoning.

17. I further discuss the key elements of this matter's factual and legal matrix, as I see it, in the Merits section below.

Sanction Letter

18. As the gravamen of this matter revolves around the Sanction Letter of 5 August. I, for ease of reference, reproduce the Sanction Letter's key elements below (in italics).

5 August 2025

[redacted] & [redacted]

Co-Presidents

[redacted]

[redacted]

[redacted]

By Email: [redacted]

Dear [redacted]

Cyber Safety Breach – Social Media Posting of Umpire Without Consent – [redacted]

Coach/Player – [redacted]

Referral

1. The GDFNL has received a formal complaint and supporting evidence in relation to a serious breach of cyber safety and child safety standards, involving the unauthorised filming and distribution of content involving a League panel umpire.

2. This matter has been escalated in alignment with the Netball Victoria Cyber Safety Policy, Netball Victoria Competition Regulations, Codes of Conduct and GDFNL's own Behaviour Expectations and By Laws.

3. GDFNL has reviewed and made a decision based on this information.

Context

4. The League was made aware of the matter following the [redacted] *match between* [redacted] *and* [redacted] *on Saturday* [redacted] *2025.*

5. This was a very close game with xxxx xxxxxxx winning by 1 goal after being 10 goals down to [redacted] *at ¾ time.*

6. Parties involved are:

a. [redacted] *- GDFNL Panel Umpire*

b. [redacted] *-* [redacted] *Coach & Player*

7. The complaint was submitted by the umpire involved, outlining the filming of his officiating and the posting of said footage to TikTok, accompanied by commentary questioning his decisions.

8. The video:

a. Was shared without the umpire's knowledge or permission.

b. Included his body and voice.

c. Was circulated widely within the netball community, ultimately reaching his workplace, where the umpire was formally questioned by HR after colleagues forwarded the footage.

9. The content has since been deleted by the original poster; however, copies of the video and screenshots of associated comments were provided to the League and remain on record.

Incident

From the information received:

10. The A Grade Coach/Player of [redacted] was identified as the individual responsible for:

a. Posting the footage publicly on TikTok of umpire without his consent and a comment that questioned his decision making during the game.

i. User name - [redacted]

ii. Time Stamp - 6.31pm approx

iii. Post comment made by user - "Make this make sense; how is it an offensive contact. 🤣🤣🤣"

iv. Comments made by other users - [redacted] - "Old mate got his licence from the fruit loop box" [redacted] - "no way"

Possibly more comments but since deleted.

b. Engaging in conduct that caused emotional and professional harm to the umpire involved, including widespread embarrassment and reputational damage.

c. The player was not responsible for filming the umpire without his consent. This was done by another party from the angle of the film and the player being on the court. The party we believe was seated next to League Executive & League Netball Manager.

11. The umpire has submitted a formal written statement expressing:

a. Significant distress, embarrassment, and loss of confidence.

b. Negative impacts on his mental wellbeing and professional standing.

c. Resigning from umpiring as a result of the incident.

Breaches Identified

12. As the above allegations have been established, this conduct has breached the following policies:

a. Netball Victoria Cybersafety Policy

b. Netball Australia Member Protection Policy:

i. Section 4 Code of Behaviour

ii. Section 7 Policy Position Statements.

c. GDFNL Netball By Laws:

i. 34.1 Interfering with League Officials

ii. 25.10 Codes of Conduct - Officials

iii. 32.2 Child Safety in Netball

iv. 32.3 Photography/Video Footage

d. Victorian Sport and Recreation Fair Play Code - failure to act with integrity, respect, and responsibility in a community sporting environment.

Determinations

13. Upon review of the evidence, including the video, username details, and associated commentary, the GDFNL Executive has determined that a serious breach has occurred.

14. The allegations of the incident have been determined and proven to be true and correct.

15. The League acknowledges that while the content was deleted, the harm caused by the initial publication and distribution is significant and ongoing.

16. GDFNL proposes to issue sanctions and recommendations that it constitutes a breach of the policies outlined at paragraph 12.

League Sanctions

17. [redacted] - A Grade Coach/Player – [redacted]

a. Suspended from Coaching and Playing - 6 weeks – effective from [redacted], inclusive of all Finals matches

b. Ineligibility: The individual is now ineligible for any GDFNL League awards in the 2025 season.

c. Further Offences: Any future breaches will be met with immediate suspension and referral to the Independent Netball Tribunal.

d. Letter of Apology from [redacted] to [redacted] to be delivered via League Netball Manager.

18. [redacted]

a. $1,000.00 fine

b. Letter of Apology from [redacted] to be delivered via League Netball Manager

Club Sanctions

19. If the person who filmed this video can be identified and is a part of [redacted] community, [redacted] to apply sanctions using NV Competition Complaint Handling Regulation Offence Penalty Framework as follows.

a. Official Warning - Online breach of Code Of Conduct as per the Netball Victoria Cyber Safety Policy - maximum penalty up to 10 weeks

b. Official Warning to be given in person as well as in writing with a copy forwarded to GDFNL for records.

c. Any further offences of this type will have an automatic suspension applied as per penalty and/or other type at the full discretion of the GDFNL League Executive and/or Independent Netball Tribunal and ineligibility for League Awards

Recommendations

The GDFNL strongly recommends the following actions be taken:

20. A formal communication will be issued by the [redacted] to all players and coaches, reaffirming the expectations of cyber safety, child safety, and online conduct.

21. Internal education be implemented regarding the consequences of social media misuse and the mental health impact of online harassment.

22. The Club provides a written acknowledgement to the League confirming that these steps have been completed by Friday 22 August 2025.

The directives in this correspondence are in alignment with Official Notice correspondence sent to all Clubs from GDFNL President, [redacted]:

- *17 July 2025 in relation to Netball Game Day Conduct and Behaviour Standards*
- *5 August 2025 in relation to Netball Panel Umpire Abuse and Breaches of Code of*

Conduct

We again ask for your full cooperation in reaffirming a culture of respect and safety within your Club community.

This matter has now been reviewed in full and is considered concluded by the Geelong & District Football Netball League.

No further action will be taken.

Sincerely

[redacted] and [redacted]

GDFNL League Executive - Netball

Geelong & District Football Netball League

Resources (with weblinks)

GDFNL Netball By-Laws

Netball Victoria and Netball Australia Policies and Guidelines including all Codes of Conduct

Victorian Government's Fair Play Code Child Safety Standards

Netball Victoria Cyber Safety Policy

Netball Victoria Competition Complaints Handling Regulation Offence Penalty Framework

Applicant's Submissions (AS)

19. The Applicant's Submissions were threefold in nature – no charges made out; lack of procedural fairness; and mitigating circumstances with regard to sanctions. On the first and second contentions, the Applicant argued that such was the extent of the procedural unfairness therein that the sanctions imposed against the Applicant in the Sanction Letter should be declared void. If not, the Applicant argued that the mitigating circumstances were such that, in combination with time already served by the Applicant (3 of the 6 weeks), she should be considered to have served a sufficient penalty already, proportionate to the alleged breaches.

20. The first contention by the Applicant (at para 2, AS) was that, in effect, no charges were made out against her because the alleged breaches set out in clause 12 of the Sanction Letter were "not particularised" and therefore, "It is difficult, if not impossible, [for the Applicant] to identify the particular provisions of the relevant Policies, By-Law and Code set out in that paragraph that the Applicant is alleged to have breached." The Applicant then went on to say (at para 3, AS) that "[T]he Applicant is therefore unable to respond to the allegations, and unable to say whether she is guilty or not guilty of the alleged breaches."

21. The Applicant then noted (at para 4, AS) instances where, despite the Respondent referring to such as policy etc in clause 12 of the Sanction Letter, either it is:

    a. unclear what specific provision in a policy is being applied, if any e.g. (Netball Victoria Cybersafety Policy, the Netball Australia Member Protection or Vic Sport and Recreation Fair Play Code); and/or

    b. where a specific provision is mentioned e.g., clauses 32.2, 32.3 and 34.1 of GDFNL Netball By-Laws, the clause is not relevant to the conduct at hand or the penalty attributable to the clause has been misapplied,

22. With regard to the second matter, lack of procedural fairness, the Applicant pointed out (at paras 5-7, AS) that the commitment on the Respondent to follow a procedurally fair process – as specifically outlined in clause 33 of the GDFNL By-Laws and reinforced by clauses 9.9.3-4 of the NA Conduct and Disciplinary Policy and clauses 7-9 of the NV Competitions Complaint Handling Regulation (the regulation which captures the process that must be followed in the

investigation of a breach of Netball Victoria' Cyber Safety Policy and Code of Conduct) – was not upheld by the Respondent to the substantial detriment of the Applicant.

23. On the third matter, that of mitigating circumstances, the Applicant supplied reports evidencing that the Applicant had suffered a concussion during her netball game on 2 August 2025, which resulted in her being unable to attend work for 5 days which included half days due to the headaches caused from staring at a screen. The Applicant noted (at para 13, AS) that:

> "The importance of this evidence is that the alleged behaviour occurred when the Applicant was suffering from a medical condition that has a tendency to make an athlete suffering from concussion (especially females) more irritable, emotional, agitated, and with changed or unusual behaviour. We submit that this would explain behaviour of the Applicant that is completely out of character, and as soon as she regained some of her composure, she immediately took down the TikTok without being requested to do so, and without any prompting."

24. In mitigation, the Applicant also submitted that the following ten (10) factors were relevant:

a. the voluntary taking down of the TikTok;

b. the Applicant's long, significant and recognised contribution to netball and sport in over 20 years with a hitherto blemish free disciplinary record;

c. character refences attesting to the Applicant's exemplary character, both on and off the netball court;

d. the detrimental personal, mental health and reputational impact on the Applicant (as a person, player and coach) in a relatively small sporting community;

e. that she had communicated to her club, her teammates and those she coaches that she had "taken accountability for her conduct, and learned a big lesson.";

f. that the suspension caused the Applicant a loss of income related to netball of around $1,500 and that she has also incurred legal costs in bringing this matter to the NST;

g. this matter also a whole "has tarnished her otherwise exemplary character and contribution to netball and the Respondent's League (the GDFNL)";

h. that the sanction imposed was excessive in comparison to recent sanctions of similar classification imposed by the Respondent including Person A, another Club player, who received an official warning only, when she posted the same video online that the Applicant had, but without the accompanying wording used by the Applicant;

i. that the sanction imposed was excessive when compared to those outlined in clauses 10.3 and 10.5 of the NV Competitions Complaint Handling Regulation – the latter clause providing a maximum of 6 weeks suspension for gross breaches of Codes of Conduct; and

j. that even though in clause10.5 of the NV Competitions Complaint Handling Regulation provides that an online breach of Code of Conduct as per the Netball Victoria Cybersafety Policy can attract a maximum penalty of 10 weeks, "those maximums are for

> the worst examples of such conduct…the present case is far from an appropriate case for anywhere near that maximum penalty, given all of the [above] mitigating circumstances (para 27, AS)."

Respondent's Submissions (RS)

25. The Respondent, GDFNL, described itself in its submissions as a "not-for-profit, community-based organisation run by volunteers". The Respondent's submissions, which were accompanied by detailed documentation, were ultimately however relatively straightforward.

26. The Applicant had reposted on TikTok the video filming of the Umpire , without his consent; said footage, in which the Umpire was readily identifiable, was accompanied by commentary questioning the Umpire's decisions; the footage was circulated widely within the netball community, even reaching the umpire's workplace; although the footage was deleted by the original poster, copies of the video and screenshots remained in circulation.

27. The above conduct was a breach of named provisions in the Respondent's League's By-Laws - GDFNL Netball By-Laws 34.1 (Interfering with Officials); GDFNL Netball By-Laws 25.10 (Codes of Conduct – Officials); GDFNL Netball By-Laws 32.2 (Child Safety in Netball); GDFNL Netball By-Laws 32.3 (Photography/Video Footage) and of Netball Victoria Codes of Conduct and the Cyber-Safety Policy more generally.

28. An independent investigations manager had reviewed the evidence (including victim statements, video, screenshots, and supporting material) and determined that (the above) breaches had occurred.

29. The Respondent submitted that it had acted in a procedurally fair manner in line with the policies noted in para [27] above but also in line with its obligations under its Constitution and namely Articles 10, 11.5, 24–26 and 40 thereof.

30. The Respondent admitted that in one procedural regard it could have conducted itself better and I repeat what the Respondent said, below in italics (RS, para 3):

> *3. Procedural Context*
>
> *● The League acknowledges that it initially determined the matter was not open to appeal. This was based on the overwhelming evidence substantiating the breach.*
>
> *● The League accepts, however, that to strengthen governance and ensure transparency, members should be afforded the right to appeal to an independent Tribunal.*
>
> *● Administrative and operational constraints, combined with escalating negative behaviours across our sport, influenced the League's management of this matter.*
>
> *● The Applicant is now receiving full procedural fairness through this independent Tribunal process, which provides an impartial forum to address her arguments. The investigation itself was conducted independently and with reference to clear evidence, ensuring fairness in the process despite the absence of an internal appeal.*

31. As regards sanction, the Respondent submitted that the sanction was fair and appropriate in the circumstances and that the sanction length of six weeks was determined using the Netball Victoria Penalty Guidelines, which provides for suspensions of up to 10 weeks for breaches involving cyber-safety and conduct towards officials. In this case, six weeks, the Respondent said, was proportionate and consistent with the above, taking into account (RS, para 5, direct quotes):

    a. the Applicant's role as Head Coach, which carries a heightened responsibility to role model appropriate behaviour;

    b. the significant victim impact;

    c. the Applicant's lack of accountability and remorse, and her disregard for the impact on the Umpire and broader netball community;

    d. the Applicant was the original creator and publisher of the video, with commentary directed at the umpire. This is fundamentally different to the conduct of another player who merely re-posted the video and was issued with a warning;

    e. the League acknowledges the Applicant may raise medical or character circumstances; however, these do not excuse the behaviour or diminish its impact. Leadership requires higher standards, not lower, and the harm caused was serious regardless of intent;

    f. the League also notes that the Applicant's appeal is, in effect, a challenge to the length of the sanction rather than the underlying breach. The breach was clear, and the video was only removed once the League directed her to do so;

    g. umpires are already difficult to recruit and retain, and they regularly experience negative treatment that often goes unreported. The [Respondent's] decision in this matter was intended to send a clear message that umpires will be supported;

    h. overturning the sanction would undermine this message (on umpires) and risk further discouraging umpire;

    i. overturning the sanction would undermine [the Respondents, First and Second] Codes of Conduct and disciplinary processes; and

    j. overturning the sanction would create a precedent that allows individuals with legal expertise or resources to override League decisions and weaken the League's ability to govern effectively and protect umpires.

Applicant's Reply (AR)

32. In summary, the Applicant replied that the victim impact statement (from the umpire) and supplied by the Respondent in its submission had not been provided to the Applicant prior to the issuing of the Sanction Letter and should not be not admitted because (a) its content "is prejudicial, and highly unusual in the context of a sports discipline matter, especially when none of the Policies or By-Laws applicable in this case provide for or permit victim impact statements" and (b) that the assertions made therein were untested, there being no evidence of adverse employment or reputational consequences for the umpire.

33. The Applicant replied that there was no evidence put forward by the Respondent to support its accusation relating to the Applicant's lack of remorse and insight.

34. Apart from a concession with regard to the manner in which it dismissed the Applicant's appeal, the Applicant noted that "at no stage does the GDFNL acknowledge that it is its errors and its errors alone that have required this matter to be referred to the NST, at some considerable expense to the Applicant."

35. The Applicant replied that as the Sanction Letter made no reference to the Respondent's Constitution, it would be entirely inappropriate for the GDFNL to seek to now introduce a "new basis" for alleging the current breaches.

36. The Applicant replied there were a number of inconsistencies in the Respondent's submissions e.g. the Applicant was not, as the Respondent asserted, the original creator and publisher of the video (she was on the netball court playing at the time) and she was never directed to take it down. The Applicant stated that per AS, para 13, the Applicant took the video down of her own volition once some of the effects of concussion receded around 8-10 hours after initially posting the TikTok.

37. The Applicant made the point in her reply that the investigation by the independent investigator was incomplete e.g., no interview with the Applicant.

38. The Applicant then highlighted in her reply, once again, various procedural errors in the complaint handling process by the Respondent and that much of the Respondent's submissions were either irrelevant or an attempt to retrospectively explain or "fix" the original procedural errors, which then left the Applicant "with no choice but to bring the present NST application."

39. On sanction, the Applicant in her reply, once again highlighted its disproportionality in the circumstances, observing (AR, para 21) with reference to a courtside incident with umpires "that there was no malice towards either Umpire from the Applicant, and she understands and respects the umpires and their role."

MERITS

40. The Parties to the Agreement had agreed that, on filing of written submissions, an oral hearing would take place on Friday 5th September 2025. With consent of the Parties the matter was heard "on the papers" though both Parties requested that a brief outline of the Member's Determination be delivered by COB on Friday 5th September 2025 i.e., a summary of the operative part of the Determination (**5 Sept Summary**).

5 Sept Summary

41. The Member, as requested, supplied this summary by email to the Parties on said date and a copy of same is included below in italics. What follows generally in this section (Merits) is a fuller explanation of the reasons for my Determination.

Dear All

With regard to the above matter, what follows is a short explanation of my determination. I thank the parties for their efficient filing of submissions and their clear, comprehensive nature.

Please note that a full written determination will follow in due course.

This matter relates to sanctions imposed on the Applicant by the (first) Respondent and communicated to the Applicant on 5 August 2025 for an incident which the Respondent described as a "Cyber Safety Breach – Social Media Posting of Umpire Without Consent etc…". A number of breaches by the Applicant of various policies were noted in clause 12 of that 5 August letter. And in clause 17 of that 5 August letter, the first Respondent imposed the following sanctions on the Applicant:

(a) Suspended from coaching and playing – 6 weeks, effective from Round 16 etc.

(b) Ineligible (for any GDFNL League awards in the 2025 season) etc.

(c) Further Offences etc.

(d) Letter of Apology etc.

The Applicant has challenged the above along two inter-related grounds. The first ground was that such was the extent and gravity of procedural unfairness in the investigation, processing and sanctioning, and handling of the appeal rights of the Applicant, that the sanctions contained in clause 17 of the 5 August letter should be declared void. The second ground was that even if the prejudice and detriment suffered by the Applicant as a result of the Respondent's procedural impropriety could in some way now be seen to be cured (by this NST hearing), the sanction imposed remained, nevertheless, disproportionate.

The Respondent in their submissions countered that the matter had been handled in compliance with policy and the sanction was fair and appropriate in the circumstances.

In reaching my determination I am guided generally by the principles outlined in Calvin v Carr (1979) 22 ALR 417 that in sporting organisations, notwithstanding some initial procedural defect, which in any event can be cured on appeal, those bound by that sporting body's rules should be taken to have agreed to accept what in the end is a fair decision. I am of the view that the decision and sanction reached by the Respondent was in the end fair and proportionate with two caveats.

The first is that the Respondent's decision to dismiss the Applicant's appeal (made in or around 8 August) was too abrupt and made summarily. For this I subtract one week from the original penalty imposed in clause 17(a) of the 5 August letter.

Second, that in all the circumstances, the Respondent's sanction (especially under clause 17(a) of the letter of 5 August) while not unreasonable, was at the higher end. I acknowledge that the type of conduct engaged in by the Applicant is behaviour that must be specifically and generally deterred. In the specific sense, I am of the view that the posting or re-posting of the video clip on Tik Tok was done to belittle the umpire and hold him out to ridicule. In a general sense, umpire abuse (usually verbal) is a scourge of Australian sport, particularly community sport and umpire retention is difficult. Balanced

against that, I take into account the Applicant's good record, the medical circumstances, and comparable decisions. Weighing the aggravating and mitigating circumstances, I would subtract one week from the original sanction imposed under clause 17(a) of the 5 August letter.

This means that the period of suspension imposed on 5 August by the Respondent on the Applicant is now 4 weeks not 6. I am satisfied that 3 of the 4 weeks (the rounds played on the 8th, 16th and 23rd August – there was a stay for the first final round on the 30th – can be deemed as 3 weeks served and thus one week remains which is to be served this weekend (6/7th September). Thereafter the Applicant will be eligible to play, coach etc, including any remaining 2025 Finals matches.

This, in effect, 2-week reduction is however conditional on clause 17(d) of the 5 August Letter (requirement of a Letter of Apology) being completed by close of business on Monday 8th September. If a Letter of Apology is not completed by the Applicant by the stated time, then the 2 weeks will no longer be considered discounted and must be served. It is important that a level of insight and remorse into what was done is portrayed and understood by the Applicant, and received in good faith by the umpire.

For the sake of completeness, the sanctions imposed on the Applicant in clause 17 (b) and (c) of the 5 August letter stand. The sanctions against the club (Belmont) and others noted in clauses 18, 19 and 20 of the 5 August letter are matter for the Respondent to impose.

Finally, I have been asked to address costs. I note that section 46 of the National Sports Tribunal Act makes specific provision for the making of rules for and in relation to the CEO of the National Sports Tribunal charging one or more of the parties to an arbitration for the costs in conducting the arbitration and apportioning the charge between one or more of the parties and waiving the whole or part of the charge. It is therefore inappropriate for me to make any order or award as to the costs of the arbitration. If I had the power to do so on costs and party expenses, I would, given the nature of my determination declare that each party should bear their own in this matter.

42. It will be noted that in the summary of the operative part of the determination I addressed, as requested, the matter of costs. I reiterate what was said therein but also note what was agreed by both Parties on costs in clause 9 of the Agreement and specifically clause 9.5 of the Agreement: "the Parties agree that the apportionment of the cost of the Arbitration between the Parties will be paid as directed by the NST CEO."

43. It will be noted the in the summary of operative part of the determination I addressed, as requested, the matter of confidentiality, I reiterate what was said therein but also note what was agreed by both Parties on confidentiality and publication in, respectively, clause 10.14 (Parties agree to the confidentiality of the proceedings) and clause 10.15 (Parties note the NST's determination will be published in accordance with sections 56 and 57 of the NST Practice and Procedure).

44. The summary of the operative part of the determination was given to the Parties on the understanding that clauses 10.16 and 10.17 of the Agreement (in italics below) applied to it as they do to this full and final reasoned determination:

10.16. Subject to any applicable rights of appeal, the NST's determination will be final and binding on the Parties.

Intention to be bound

10.17. The Parties intend by their signing of this agreement to be bound by these terms, and to resolve or otherwise the matter under the jurisdiction of the NST. The Parties acknowledge that the outcome of the Arbitration – the decision of the NST Member – will be binding and enforceable.

Reasons

45. The above stated reasons (at para [41]-[44]) stand as the reasons underpinning this determination and I only add the following for further explanation and clarity.

46. The Applicant's initial contention in their submissions was that there was no case to answer i.e., such was the lack of specificity and particularity in the charges laid by the Respondent that it severely hindered the Applicant's capacity to challenge such charges and the related sanction. But this was clearly not the case. In clause 12 of the Sanction Letter, the Respondent fully outlined the specific provisions in the GDFNL Netball By-Laws that had been breached and then put, and related, those specific breaches in and to their wider policy context both at state and national level.

47. Moreover, in clauses 1-11 of the Sanction Letter, the Respondent impressively laid out (particularised) why the matter had been referred, the context in which it happened and the nature of the incident itself. It is difficult to perceive, and especially given the regional, community and volunteer-led nature of the Respondent, what more could be expected of them in this procedural regard. If anything, the Respondent somewhat over-explained the nature of the charges and reference to the By-Laws alone would have sufficed, but that is a minor criticism.

48. Similarly, the point made in the Applicant's Reply (outlined at para 35 above) that the Respondent should not be permitted to rely on named articles in its constitution in order to justify and explain the basis of its actions, was an odd perspective for the Applicant to take on the obligations of the Respondent in this regard. The point being made in the Respondent's submissions was simply that what they did by way of the Sanction Letter adhered to their constitution, and nothing more; it was not another basis, as the Applicant seemed to assert, on which to retrospectively charge the Applicant.

49. On the Applicant's second point, that of procedural fairness; natural justice is of paramount importance in any sports disciplinary scheme. The Member agrees with the Applicant that the more serious the charges laid, the more tightly wrapped any accompanying procedure must be with natural justice – a point made recently to good effect at the NST in *Applicant v National Sporting Body* (NST-E24-400771, 27 Nov 2024). In this matter, the context is one where the matter relates to a community, volunteer-led organisation seeking to punish a social media breach, and not (as in NST-E24-400771) a matter on referral from the police to a National Sporting Body in the context of a safeguarding matter. Relevant to this matter's context and nature, the Respondent applied an appropriate level of natural justice.

50. Moreover, the Member in NST-E24-400771 held that the level of procedural unfairness was such that the decision-making process followed by that National Sporting Body had fundamentally miscarried. In that matter, the National Sporting Body should, in the Breach Notice sent to the Applicant, have included the particulars of the facts that ground the Notice's various assertions against the Applicant; instead, the National Sporting Body merely made general reference to the police matter, thus hindering the Applicant's right and capacity to respond to the charges laid against them i.e., the fact that the Applicant did not have due and full notice of the chargers against them was a material, procedural error. In contrast, the Sanction Letter here gave due and full notice of the particulars of the facts underpinning the matter at hand.

51. The above is not to say that there were aspects of that investigatory process etc that could have been handled better by the Respondent. The investigatory process undertaken by the Respondent largely followed that provided in clauses 33.5 and 33.6 of the GDNFL By-Laws and clauses 11 and 12 of the NA Conduct and Disciplinary Policy**.** Nevertheless, it would have been preferable if the Respondent at the investigatory stage had offered a show cause type facility (asking the Applicant to respond, her side of the story etc) – such as that provided for in clauses 8.6(b) and (c) of the NV Competitions Complaint Handling Regulation. As has been stated by the general courts on numerous occasions with regard to basic propositions about the applicable common law principles of natural justice where a person's interests are likely to be affected by an exercise of power.

> "First, such a person "must be given an opportunity to deal with relevant matters adverse to [their] interests which the repository of the power proposes to take into account in deciding upon its exercise". Second, the person whose interests are likely to be affected does not have to be given an opportunity to comment on every adverse piece of information, irrespective of its credibility, relevance or significance. However, "in the ordinary case where no problem of confidentiality arises an opportunity should be given to deal with adverse information that is credible, relevant and significant to the decision to be made". At least in some contexts, the affected person must be given the opportunity to respond to such information obtained from third parties even if it was not expressly relied on, or proposed to be relied on, by the decision-maker (*AB (a pseudonym) v Independent Broad-based Anti-corruption Commission* [2024] HCA 10 (13 March 2024) at [25] citing *Kioa v West* [1985] HCA 81, footnotes not included)."

52. I also reiterate the point made in my 5 Sept summary as to the manner in which the Applicant's efforts to internally appeal the Sanction Letter were so readily dismissed by the Respondent. I note (again) that in the Respondent's Submissions (RS, para 3) that they acknowledge that they acted peremptorily in this regard and they now accept that "to strengthen governance and ensure transparency, members should be afforded the right to appeal to an independent Tribunal."

53. I also reiterate that the above procedural irregularities were not however so material as to strike down the sanction(s) imposed on the Applicant and in any event may be taken to now be cured by the appellate nature of this NST hearing operating *qua* an appeal under clause 33.7 of the GDNFL By-laws and clause 15 of the NA Conduct and Disciplinary Policy – the latter being fundamental (in clause 10.1) to the Agreement signed by both Parties.

54. Finally with regard to the proportionality of sanction, the Member explained his position on this in the 5 Sept summary. Generally, in assessing whether a sporting sanction is considered,

consistent and proportionate, the Member is guided by the principles in *Pateman and Barton v Racing Victoria* [2023] VCAT 490 and namely a synthesis of:

a. the underlying purpose or objection of the rule or regulations alleged to have been breached;

b. the nature, extent and gravity of the culpable conduct, the circumstances in which it took place and the deliberateness of the contravention;

c. the Applicant's level of cooperation with any investigation;

d. the principle of deterrence, both general and specific;

e. the (un)characteristic nature of the Applicant's conduct;

f. mitigating factors;

g. aggravating factors

h. comparison to other like cases

55. Given the above, the Member reduced the original sanction by one-third and considered half of that original sanction to have been served. In this, the Applicant partially succeeds.

56. The above was conditional on a letter of apology. While the Applicant did (a) as per her submissions, apologise to her playing group and her club for her actions and (b) in her reply submission did say that in the context of a sideline incident that she "understands and respects" the umpires, the Member found little to no evidence of direct remorse from the Applicant and, similarly, little insight. On the latter and even allowing for the adversarial nature of such matters, the Member was surprised at the forcefulness of the Applicant's arguments (in her Reply submissions) seeking to dismiss the Respondent's attempts to submit what they described as a victim impact statement on the umpire. The Member did not read the statement nor take it into account but the fact that the Applicant (as is her right) sought in mitigation to submit character references and make submissions on the impact that this matter has had on her personally and reputationally (again, as is her right) but at the same time sought to dismiss any submission from the Umpire as to the effect on him (presumably at a personal and reputational level as well) portrayed to the Member a distinct lack of insight by the Applicant into what occurred.

57. At heart, this matter was about the posting on social media of a clip designed to hold an umpire and his decision making up to public ridicule and comment. As is often the case in sports disciplinary matters, while arguments on procedure and proportionality usually generate the most heat; in contrast, a prompt, measured and sincere apology is often the most effective (in time, cost and impact) and enlightened remedy of them all.

THE TRIBUNAL THEREFORE DETERMINES:

1. The Application is partially upheld.

2. The penalty in clause 17(a) of the Sanction Letter served by the Respondent on the Applicant and dated 5 August 2025, is reduced from six (6) weeks to four (4) weeks. Three (3) of the four (4) weeks are, as of 5 September 2025, considered served.

3. The one week of ineligibility remaining to be served can be completed on the weekend of 6/7th September 2025. Thereafter the Applicant is eligible to play and coach, including in any remaining 2025 Finals matches under the auspices of the Respondent, on condition that the Letter of Apology provided for in clause 17(d) of the Sanction Letter, is served by close of business on Monday 8th September.

4. The sanctions imposed by the Respondent on the Applicant in clauses 17(b) and (c) of the Sanction Letter stand unaffected.

Date: 12 September 2025

Place: Melbourne

Signature: *Jack Anderson*

Professor Jack Anderson