

Case number: NST-E26-588

Case Title: Netball Victoria v Tracy Wallace (with Netball Australia)

Determination

National Sports Tribunal

Appeals Division

sitting in the following composition:

Mr David Grace AM KC, Chair

Dr June Smith, Panel Member

Ms Fiona Cameron, Panel Member

in the arbitration between

Netball Victoria

(Appellant)

Represented by Rebecca Costanzo, Head of Integrity and Compliance and Scott Traegar, Legal Representative

And

Ms Tracy Wallace

(Respondent)

Represented by Nick Terziovski, Legal Representative and Allister Powell, Legal Representative

And

Netball Australia

(NSO)

Represented by Amy Thorpe, General Manager Legal & Integrity

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PARTIES

1. This is an appeal brought by Netball Victoria (the **Appellant**) in relation to a Determination (the **Determination**) in the National Sports Tribunal (**NST**) made on 10 March 2026 in an Arbitration between Tracy Wallace and Netball Victoria and Netball Australia.
2. Netball Australia is a national sporting organisation specified in the National Sports Tribunal Sporting Body Policy and is the peak body for the sport of Netball in Australia. Netball Victoria is an affiliate member of Netball Australia. Netball Australia has referred the appeal to the Appeals Division of the National Sports Tribunal with the active party in the appeal being Netball Victoria.
3. Tracy Wallace is the Respondent to the appeal (the **Respondent**). She is a Relevant Person as defined by Netball Australia's Netball Integrity Policy Framework, Conduct & Disciplinary Policy (the **Disciplinary Policy**) version dated 1 February 2025 and version dated 1 February 2026. A Provisional Action issued on 11 February 2025 prevented her from participating in all Netball Victoria activities. Until then she was a full-time Netball Coach employed by Saint Albans Caroline Springs Netball Association (**SACSNA**) and its associated club, Westside Saints Netball Club (**Westside**). SACSNA and Westside compete in competitions and tournaments organised by Netball Victoria.

INTRODUCTION

4. Between 9 and 13 February 2025 Netball Victoria received three complaints about the Respondent's conduct.
5. Netball Victoria is empowered to investigate those complaints pursuant to the Disciplinary Policy.
6. On 11 February 2025, Netball Victoria issued Provisional Action against the Respondent pursuant to clause 11.5 of the Disciplinary Policy. As a result, the Respondent was prohibited from participating in all Netball Victoria affiliated activities.
7. In or about late February 2025 Netball Victoria appointed an independent investigator to investigate the complaints pursuant to clause 11.2 of the Disciplinary Policy. The independent investigator investigated 27 possible breaches between 2017 and January 2025 and made findings that 19 breaches had occurred. (the **Alleged Breaches**).
8. On 28 February 2025, the Respondent made an application to the NST to review the Provisional Action by means of an expedited hearing pursuant to clause 11.6.3 of the Disciplinary Policy. On 28 March 2025, Member O'Grady held that the Provisional Action was necessary and proportionate and dismissed the review.
9. On 4 April 2025, the Respondent received a letter from the Decision Maker at Netball Victoria setting out the findings of the independent investigator. Pursuant to clause 12.4.4 of the Disciplinary Policy, the Decision Maker issued a Notice of Breach Offer (the **Breach Offer**) to resolve the Alleged Breaches if the Respondent accepted the Alleged Breaches without a hearing.



10. The Breach Offer sanctions were:
 - (a) a 20-year ban from all netball activities in Victoria, ending in 2045, with the condition of being permitted to obtain a role with adults exclusively, provided there is no access to or interaction with children;
 - (b) a lifetime ban from all child related netball activities in Victoria; and
 - (c) removal of Netball Victoria memberships and inability to obtain membership until 1 January 2045 (the **Sanctions**).
11. On 7 April 2025, the Respondent disputed the Alleged Breaches and rejected the offer of the Sanctions, which resulted in the matter being referred to the NST General Division.
12. On 11 April 2025 an application was lodged with the NST pursuant to clause 14.2.1.2 of the Disciplinary Policy, seeking an arbitration about the Alleged Breaches, and a determination whether sanction(s) (if any) should be imposed. The Respondent sought a dismissal of all of the Alleged Breaches and for no sanction to be imposed. Netball Victoria and Netball Australia sought a determination that the Alleged Breaches be upheld and that the Sanctions remain in effect.
13. On 16 May 2025, the parties executed an Arbitration Agreement and agreed to the confidentiality of the proceedings. Procedural directions then ensued in relation to filing and serving written submissions and statements of evidence.
14. On 2 September 2025, Member Nolan KC was appointed to conduct the Arbitration. Member Nolan KC made various procedural directions and directed that the hearing commence on 1 December 2025 for a scheduled 5 sitting days. The directions given prior to the hearing included directions to preserve the confidentiality of witnesses, a number of whom were children. Pseudonyms were used in the Determination to minimise the risk of trauma and to protect the confidentiality of the children. The same protections will be made in this appeal Determination.
15. On 1 December 2025, the hearing commenced using a Microsoft Teams platform. The scheduled 5 day hearing was extended as the hearing could not be completed and continued on 8 and 9 December 2025. An extensive transcript was generated of the evidence given during the hearing.
16. On 15 December 2025, the parties made oral submissions and it was determined that Member Nolan KC would deliver written findings on each allegation before hearing submissions on any sanction.
17. On 29 January 2026, written findings were delivered by Member Nolan KC in respect of each allegation with the hearing then being adjourned to enable the parties to consider if any further oral or written submissions were required on any sanction. Further written submissions on sanctions were made and the parties advised that they did not require oral submissions.
18. On 10 March 2026, the Determination was delivered by Member Nolan KC. Of the 17 allegations that proceeded to adjudication (with a number being withdrawn prior to the hearing), Member Nolan KC found that he was comfortably satisfied that 13 allegations were proved and not



comfortably satisfied that 4 allegations were proved. The Respondent was sanctioned by being banned from all netball related activities including any junior or child's netball games or events conducted by or under the auspices of Netball Victoria, Netball Australia or any Member Associations of Netball Victoria, for a period of 10 years commencing 11 February 2025, and that her Netball Australia Coach accreditation and Netball Victoria Membership be cancelled and that she be prohibited from making applications for reaccreditation for a period of 10 years commencing 11 February 2025. It was also determined that the Respondent was entitled to attend senior netball events or games as a spectator.

19. The published Determination of the NST General Division bears Case Number: NST-E25-20-202460.
20. On 24 March 2026, Netball Victoria and Netball Australia (the **Appellant**) filed a written application with the NST Appeals Division to appeal three aspects of the Determination made by Member Nolan KC, namely:
 - (a) the finding that he was not comfortably satisfied that Allegation 1 had been proved;
 - (b) the banning of the Respondent from netball related activities for a period of 10 years; and
 - (c) the permission granted to allow the Respondent to attend open or senior netball events as a spectator.
21. On 19 May 2026, the Appellant sought leave to amend its Notice of Appeal filed on 24 March 2026 due to two errors in the Summary of Findings made by Member Nolan KC in paragraph 622 of the Determination. The two errors were the recording of findings of not being comfortably satisfied that Allegations 6 and 25 were proved, when in fact in the body of the findings, Member Nolan KC had found that he was comfortably satisfied that those Allegations had been proved. The Appellant had not, prior to 19 May 2026, realised the errors. The Appellant also referred to paragraph 656 of the Determination where Member Nolan KC had stated that he had found that 11 Allegations were proved to his comfortable satisfaction when in fact he had found that 13 Allegations had been proved. The Appellant sought to amend its Notice of Appeal to include those Allegations, submitting that the substance of these allegations strengthened its arguments in relation to the appeal ground related to the sanction.
22. By Submissions in reply dated 2 June 2026, the Respondent opposed the grant of leave and asserted that the Appellant was attempting to expand the appeal after the appeal had already been formulated in advance and that the prejudice to the Respondent was real and substantial. It was submitted, inter alia, that the Respondent is now confronted with a further appellate issue raised after the ordinary pleading stages have passed and that the burden of continued litigation was prejudicial and expensive and extensive submissions had already been filed by the parties. It was further submitted that the Determination must be read as a whole and that the substantive reasons set out Member Nolan KC's detailed findings on each allegation and that the errors identified were simply clerical, editorial or summary and should not form the basis for a new substantive ground of appeal. It was asserted that in the earlier written findings dated 26 January 2026, Member Nolan KC had stated that those findings would form a major part of the final Determination.



23. In those circumstances, the Respondent submitted that no further amendment was required as the Appeal Panel could consider the Determination in that context and that the errors made in the summary in total did not demonstrate material error affecting the sanction. This was exemplified by the fact that there was a global approach to sanctions rather than imposing sanctions for each allegation, and Allegations 6 and 25 in any event were not identified as amongst the most serious matters informing the level of the sanction.
24. The Panel has determined that it is in the interests of justice for the relevant Particulars in Ground 2 – the penalty – to be amended (see paragraph 28 below), by adding the relevant allegations to reflect the findings by Member Nolan KC.

NST JURISDICTION

25. Section 34 of the *National Sports Tribunal Act 2019* provides that a party to the Arbitration conducted in the General Division of the NST may appeal to the Appeals Division of the NST from the Determination made. Clause 15 of the Disciplinary Policy dated 1 February 2025 provides that an appeal must be heard in accordance with and subject to that clause. Clause 15.2.2 provides that a decision of the General Division of the NST may be appealed as set out in Clause 15 and that Netball Victoria and Netball Australia are competent persons entitled to appeal. Clause 15 of the Disciplinary Policy dated 1 February 2026 is in identical terms. Neither the 2025 Policy nor the 2026 Policy provide for how transitional matters are to be dealt with. The question of which one applies is of little moment. Both Policies provide that the decision of the NST General Division can only be appealed, pursuant to Clause 15.4, on grounds that the NST failed to abide by the Disciplinary Policy and/or the NST Legislation and that such failure resulted in a denial of natural justice, and/or no reasonable decision-maker in the position of the NST, based on the material before them, could reasonably make such a decision.
26. All parties have consented to the jurisdiction of the NST and no objection has been made to the jurisdiction of the Appeals Division of the NST to deliver this Determination.
27. The Chief Executive Officer of the NST appointed Mr. David Grace AM KC as the Chair and Dr. June Smith and Ms Fiona Cameron as Panel Members for the purposes of this hearing. No party objected to the composition of the Panel. All parties agreed for the matter to be determined on the papers without the necessity of an oral hearing and a Direction was made to this effect by the NST on 5 May 2026.
28. In relation to the three aspects of the Determination, outlined in paragraph 20 above, the Appellant appeals on the ground in respect of each matter that the finding made by Member Nolan KC was a finding that no reasonable decision-maker in the position of the Member, and based on the material before him, could have reasonably made. The specific particulars relied upon by the Appellant are as follows:

Ground 1 – Allegation 1

In circumstances where Member Nolan KC found:



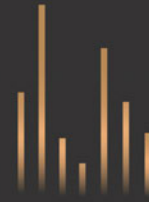
- (a) the evidence of Parent 17, Parent 5 and, in particular, Jade Fisher, was accepted in relation to Allegation 1 (at paragraphs [99] – [100] of the Determination);
- (b) the conflicting evidence of the Respondent relating to Allegation 1 was rejected (at paragraph [100] of the Determination);
- (c) his level of satisfaction on this issue was “very high” (paragraph [104] of the Determination); and
- (d) the standard of proof was the balance of probabilities taking into account the principles set out in *Briginshaw v Briginshaw* (1938) 60 CLR 336 (paragraphs [54] – [57] of the Determination);

Member Nolan’s finding that he was not comfortably satisfied that Allegation 1 had been proved was a finding that no reasonable decision maker in the position of the Member, and based on the material before him, could have reasonably made.

Ground 2 – The Penalty

In circumstances where, Member Nolan KC found that the Respondent had contravened the relevant policies by:

- (a) engaging in aggressive language and tone of voice in the presence of a child, including shouting, swearing and/or belittling them (Allegation 2);
- (b) engaging in inappropriate contact with a child in the form of telephone calls, texts or messages made or sent in a volume and/or at a time of day that exceeded her professional boundaries (Allegation 3);
- (c) engaging in inappropriate contact with a child in the form of telephone calls, texts or messages made or sent directly to a child, rather than their parents, that exceeded her professional boundaries (Allegation 4);
- (d) encouraging and engaging in conversations of a sexual nature with a child (Allegation 5);
- (e) making inappropriate comments about or in the presence of a child regarding weight (Allegation 6);
- (f) forcing a child to continue to play when they were injured (Allegation 11);
- (g) filming a child who exposed their buttocks in training and sharing the images with third parties (Allegation 12);
- (h) encouraging and assisting a child to take medication in the form of the morning after pill without the knowledge of her parents (Allegation 13);
- (i) threatening to negatively impact a child’s netball pathway if they did not meet her expectations in terms of playing and non-playing reasons (Allegation 17);



- (j) arranging for a child to attend a medical procedure (fillers) with her (Allegation 18);
- (k) punishing four children for behaviour on a 2025 pre-season camp by using inappropriate language, forcing them to swim underwater in a swimming pool in front of their peers, causing them to be humiliated (Allegation 20);
- (l) during the alleged 2025 camp punishment, forcing one of the 4 children to change their clothes in front of their peers (Allegation 21);
- (m) victimising or fabricating stories about a child after they had left her team with the intention to harm them (Allegation 25);

and where it was accepted (Determination paragraph 635(f)) that the conduct:

- (n) involved vulnerable children and multiple people;
- (o) occurred over many years;
- (p) involve a breach of trust as a coach;

and where Member Nolan KC further found:

- (q) the proved conduct was very serious (Determination paragraph [641]);
- (r) the Respondent was shown little, if any, remorse or contrition (Determination paragraph [647]);

and, further or alternatively (i.e. whether or not these further findings are made):

- (s) in circumstances where Member Nolan KC ought (consistent with Ground 1 above) to have found Allegation 1 proved;
- (t) where Member Nolan KC should have, but did not, find that the conduct of the Respondent put the safety of children at risk because it normalised grooming-type behaviour;

the banning of the Respondent from netball related activities for a period of 10 years was so lenient that it was a decision that no reasonable decision maker in the position of the Member, and based on the material before him, could have reasonably made.

Further, in circumstances where the evidence disclosed that children play, umpire and spectate in open age and senior netball competitions, the decision of the member to permit the Respondent to attend open or senior netball events as a spectator was a decision which no reasonable decision maker in the position of the Member, and based on the material before him, could have reasonably made.



FACTUAL BACKGROUND

29. The Respondent has been involved in the sport of Netball for approximately 50 years. She first started playing netball when she was in primary school, then played representative netball from the age of 16 years, and played State League Netball from 16 years of age until the age of 22 years. At 23 years of age, she started playing social netball and then at approximately 30 years of age started playing Premier League Netball. She retired from playing at the age of 42 years. At the age of 40 years, she started coaching netball with Altona Lightning for 5 years and in approximately 2012 started coaching netball at Westside and West Devils Netball Club until February 2025 when she was the subject of a Provisional Action. Westside is the representative team from SACSNA and West Devils is the local club for SACSNA.
30. Until the Provisional Action on 11 February 2025, the Respondent was a full-time netball coach and netball was her life and passion. As a result of the Provisional Action and subsequent Determination by the NST General Division, she has lost the ability to be gainfully employed as a netball coach. Due to her age (approximately 60 years), her ability to obtain gainful employment in netball after the period of prohibition imposed by the NST General Division expires must be doubtful.
31. Member Nolan KC made numerous findings in addition to the specific findings made in respect of each allegation.
32. In relation to club culture, Member Nolan KC found that between May 2017 and January 2025 (the time period of the allegations) a “*results driven*”, “*win at all costs*” culture permeated SACSNA. That culture was established by Ms Jan Schultz who was the President and driving force of SACSNA for 41 years and Mr. Darren Abela, the head coach until 2021, until he was replaced by the Respondent. The culture was implemented by the Respondent and central to the culture was the requirement that children and their parents must be “*loyal*” and show “*respect*” to SACSNA and Westside and the coaches, and that the children must follow the instructions of the coaches in all circumstances. Member Nolan KC found that the Respondent demanded that she be given unqualified respect and obedience.
33. Member Nolan KC found that the culture required acceptance by the parents and the children, that the coaches knew what they were doing and parents were encouraged to support the development of their children and to accept that the training and coaching techniques, including coach behaviour, would result in success. This culture did result in substantial success in competitions and tournaments and was also measured by the number of netballers who developed into elite players. If a parent or child objected to the methods used, the only practical alternative was to leave the club. Complaints about the treatment of children by the coaches were not encouraged or acted upon and it was futile to make complaints.
34. These findings were made as a result of the evidence before Member Nolan KC. He gave an example of the culture being evidenced by the outcome of a complaint made against the Respondent by a parent in May 2021. The complaint was also lodged with Netball Victoria and referred back to SACSNA for investigation where it was handled by Ms Schultz. Member Nolan KC found that it appeared that no investigation occurred as to the behaviour of the Respondent or her treatment of the children. Ms Schultz investigated the bad behaviour by the girls and found they showed no respect to the Respondent and that they were not welcome back at the club.



35. Member Nolan KC found that the success of SACSNA and Westside came at a cost as the culture created a toxic division in the netball community whereby on one side there were the coaches, parents and children who became disillusioned with the culture and left the club, and, in some cases the sport, and on the other side, the coaches, administrators, parents and children who prioritised the quest for success and accepted the price for that success was total and unqualified loyalty and support for the coaches including the Respondent.
36. Of significance, Member Nolan KC found that the Respondent, as head coach, adopted and embraced the culture described above and this was a relevant finding when considering the specific allegations.

Allegation 1

That the Respondent possessed, shared, or encouraged the sharing of images of a child engaging in a sexual activity or depicted in an indecent sexual manner

37. The particulars alleged by Netball Victoria were that:
- (a) in July 2022, Ms Wallace had in her possession, and showed or distributed, a sexually explicit video of Child 35 and called Child 35 a “s#!@\$k” and “s\$#!”;
 - (b) in April 2023, Ms Wallace showed the relevant video to Confidential Witness 1; and
 - (c) on at least two occasions in 2023 Ms Wallace admitted she had the video in her possession and made negative comments regarding Child 35.
38. Member Nolan KC found that it was common ground that:
- (a) in 2022 a video circulated amongst the youths of the Western Suburbs depicting Child 35 involving in a sexual act. At that time Child 35 was a child;
 - (b) the possession of the video and showing the video to children are potential criminal offences and also contrary to the Netball Victoria Policies;
 - (c) Child 35 had previously played with Westside and attended school with some of the then current Westside junior netballers; and
 - (d) in 2022 some of the then current Westside junior netballers watched the video whilst at training.
39. Member Nolan KC stated that the issues to be considered were whether the Respondent had possession of the video on her phone and showed the video to junior netballers.
40. The evidence relevant to this Allegation is set out hereunder. The evidence of the relevant witnesses is summarised. Jade Fisher and Parents 5 and 17 gave evidence in support of the allegation and were called to give evidence by Netball Victoria. The Respondent gave evidence denying the allegation and called Child 34 and Parent 12 to give evidence supporting her case. Initially, Netball Victoria sought to rely upon the evidence of Confidential Witness 1 (see Particular (b) in paragraph 37 above). An affidavit from Confidential Witness 1 was filed which contained



an assertion that the Respondent showed the relevant video to her. Confidential Witness 1 did not attend the hearing and as a consequence, Netball Victoria did not rely upon her affidavit or the particular that the Respondent had shown the relevant video to her.

41. Jade Fisher first met the Respondent in approximately 2013. The Respondent was a close friend of Jade's sister who was one of the head coaches at the Altona Lightning Netball Club. After a breakdown in the relationship amongst the coaches and the Respondent at that club, the Respondent left the club and joined Westside as did Jade's sister. Jade eventually followed her sister to Westside. In 2017, her sister and the Respondent had a major falling out and her sister withdrew from coaching. Jade stepped in to assist and began coaching at Westside and coached several teams between the years 2017 to 2023. Over that period of time, the Respondent and Jade Fisher had a close relationship with the Respondent often confiding to Jade about her concerns or complaints about particular players or their parents as well as other information and commentary circulating among players, parents and within the club more broadly. Jade stated that the Respondent used inappropriate and aggressive language both around and directly to the players frequently and it became common place where it was expected that the Respondent would use such language. Jade was often the person the players would come to after being upset by the comments made by the Respondent. Jade stated that the Respondent would frequently ask inappropriate questions of players at Westside who were under 18 with such questions often being of a sexually explicit nature and that the Respondent would exceed professional boundaries.
42. In July 2022, Jade Fisher became aware that the Respondent had procured a sexually explicit video of Child 35 who was under 18 years (and probably [REDACTED] years of age) from another girl who was also under 18. Child 35 depicted on the video had previously been a player at Westside under the Respondent but had left about [REDACTED] earlier. The Respondent would regularly make nasty comments to Jade and other under [REDACTED]'s players about Child 35. On 14 July 2022, the Respondent sent a text message (which was produced in evidence) saying "*think I forgot to tell you last term [Child 35] had nude pictures of herself circulating of herself*". Jade stated that, on 21 July 2022, she saw another child (Child 12) who was very friendly with the Respondent and with whom the Respondent had had many personal conversations with in the presence of Jade, approach the Respondent and say something to her following which the Respondent started laughing. The Respondent brought Child 12 over to Jade and asked her to repeat what she had just told the Respondent, with Child 12 then saying words to the effect of "*do you know [Child 35] had these videos of her floating around at school, people are sharing them*". The Respondent then asked Child 12 what the video was of and she proceeded to tell Jade and the Respondent that it was a sexually explicit video involving Child 35 inserting a hairbrush handle into her vagina and she also said that there were also photos being sent around and Child 35 was getting bullied at school because of the videos and photos being circulated. The Respondent said "*Oh, so you can actually see her doing that ? That's disgusting, what a s@t*".
43. Jade Fisher stated that the Respondent came up to her later that evening and said "*I got the video from Child 12, do you want to see it?*". Jade stated that the Respondent and her had never previously spoken about any other video, so she concluded that the Respondent was referring to the video involving Child 35. Jade told the Respondent that she didn't want to see the video and that it was absolutely gross that she had wanted to, and advised the Respondent that she was in possession of child abuse material and she could get into trouble for having such a video and should delete it. Jade then saw the Respondent walk over to a group of girls who had just



finished playing and showed them the video on her phone. Jade stated that she knew it was that particular video she was showing them and she heard the Respondent say Child 35's name and she then also heard the girls start laughing and say "gross" and "show me again".

44. Jade Fisher stated that at that point of time, Child 35 was on court directly opposite where the Respondent was showing the players the video and the Respondent and the players were pointing and laughing at Child 35.
45. In cross-examination, Jade was not confident about the particular date that she observed the incident the subject of the allegation but she believed the incident happened a week or two after the text message was received by her. She later clarified that as being a week to three weeks after the text message was received. She identified Child 12 who she observed approaching the Respondent and say something to her and stated that the Respondent brought Child 12 over to her and asked her to repeat what she had seen depicted on the video and the child explained what she understood was on it. She stated that the Respondent laughed and said "*That's disgusting. What a s#!@*", at which point Jade left the conversation.
46. Jade Fisher confirmed in her evidence the approach made by the Respondent later that evening as set out in her affidavit and confirmed telling the Respondent that it was a criminal offence to possess that sort of material. Jade agreed that she knew she could report the incident in accordance with proper procedures but she stated that she did not want to get the Respondent into trouble. She agreed that she drew the inference that the Respondent had showed some girls the video of Child 35 because she heard the Respondent or the group of girls refer to Child 35 by her name and they were laughing. She agreed that there were comments like "*that's gross, show me again*". She agreed that what made the inference irresistible was because the group of girls were pointing at Child 35 who was playing at the same stadium.
47. In further cross-examination, Jade Fisher was taken to a written complaint dated 13 February 2025 that she had made to Netball Victoria about the behaviour of the Respondent and she was questioned about discrepancies between that report and the contents of her affidavit. Jade agreed that the allegation that the Respondent received the video from Child 12 and the same night showed it to other players was not in her initial written complaint but was in the affidavit which was affirmed some 4 months later. Jade agreed that she said in her initial complaint that due to her work in child protection, she strongly advised the Respondent against possessing and sharing the video and outlined the criminal implications with having it on her phone.
48. Jade Fisher was familiar with legal terms and the nature of criminal offences that could be charged and prosecuted. Jade was challenged about the veracity of her evidence and maintained that she had told the truth as to what she had observed on the Thursday night in question and maintained that the incident happened on a Thursday night at Parkville when there was a match being undertaken, and that she had referenced the video to the text message that had been sent to her by the Respondent on 14 July 2022 to the effect that the video was doing the rounds at the time the text message was sent. Jade rejected the assertion that the video was shared from Child 12 to the Respondent and shown to others on a Monday night training session at Keilor, and rejected the assertion that it happened in any other calendar year other than 2022.

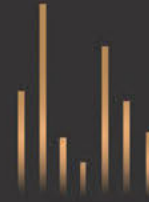


49. Jade Fisher had made complaints and gave evidence about other behavioural issues concerning the Respondent which formed the basis of a number of other allegations found to have been proved by Member Nolan KC.
50. Parent 5 was the mother of Child 5. The Respondent was Child 5's coach. Parent 5 affirmed in an affidavit dated 23 June 2025 that in her time at Westside she would regularly see the Respondent yell and scream at players across various age groups from under [redacted]'s to the open division. These comments, which included profanities, happened weekly. In her affidavit she gave examples of some of the comments that were made.
51. In relation to the sexually explicit video, in June 2023 she took Child 5 to the [A] stadium for a tournament. As she was walking into the stadium, she could see the [team] playing. As she and the Respondent were walking past the court where [the team] was playing, the Respondent nudged her and said "See that [redacted] girl over there? She's a dirty b#@ \$h, I will show you a video of her later". The Respondent was pointing to a [...] player and said that she had played for Westside the year prior but had left to play for [another team]. Parent 5 affirmed that she didn't know what the Respondent was talking about and just ignored the comment but has since been told by Child 5 that the video referred to by the Respondent was a sexually explicit video [...].
52. Parent 5 also gave evidence about the treatment by the Respondent of Child 5 in a particular game in which Child 5 was playing and injured her [redacted]. The Respondent forced her to go back onto the court after she had been removed due to her injury.
53. In her evidence, Parent 5 was questioned about when the conversation she had with the Respondent occurred. She maintained that it was at the [event] in 2023. She couldn't be definite as to when it occurred but she was definite about the situation and exactly what occurred. She was also definite about the girl that was pointed out by the Respondent and what was said. She stated that she was not aware at that time that there had been a video doing the rounds of that particular girl. She only became aware later when her daughter told her about it and she only realised about a year later that that was the girl that her daughter and the Respondent were talking about. She agreed that she had not made a report to the Department of Human Services about the Respondent's possession of the material but she was absolutely sure that the Respondent had told her that she had a video of the girl. Despite being challenged that her recollection of the conversation was fanciful, she maintained that *"It's absolutely the conversation I had with her at the time and that is typical behaviour that Tracy would demonstrate when she'd point a girl out and say some random piece of information about her on that day. That is what she said to me."*
54. It was put her in cross-examination that the truth of the matter was that she had no idea what the Respondent was talking about, if indeed she had uttered those words, to which Parent 5 replied that the Respondent did utter the words and she now knows exactly the video she was talking about. She agreed that she was drawing an inference based on the information that her daughter Child 5 had given her 2 months later. She went on to give evidence about other matters the subject of the further allegations.
55. Parent 17 stated in her affidavit dated 16 June 2025 that she was told by the Respondent that she had the relevant video in her possession. She stated that in early 2023 she had a



conversation with the Respondent during which the Respondent said she had possession of a video on her phone of a girl who used to play at Westside performing sex acts. Parent 17 says that she immediately shut down that conversation. In her evidence, she was asked why she did not report the matter. She answered that she did not know Child 35 and had not seen the video and did not want to be involved. She also stated that she did not know the age of Child 35 but she reaffirmed the conversation had occurred and that she had not made a complaint about it to anyone. In cross-examination she admitted that she did not raise the complaint with the independent investigator engaged by Netball Victoria after the complaints had been lodged with it.

56. Parent 17 disagreed in cross-examination that the conversation never occurred. It was put to her that if she had the conversation with the Respondent, [because of her occupation], she was required to do something about it. Parent 17 Respondent *“well no, because I didn’t know she was a minor and I hadn’t seen the video and my daughter was about to go on to play a netball game like and it was just prior to that, like, just as we were going onto the court. I don’t understand how you think I would become involved?”*
57. Parent 17 also gave evidence in relation to a number of the other allegations. In relation to the language that the Respondent used, in cross-examination she stated that she did not make any complaint about it because *“Tracy was so powerful at that time”* and that she did not believe the complaints would be properly investigated. Parent 17’s evidence also included a text message from her to the Respondent dated 24 October 2023 in which Parent 17 complained about the Respondent’s style of coaching and her *“win at all costs attitude”*. Parent 17 called out the Respondent yelling at the girls when they did not win and describing the damage and heartbreak the Respondent had inflicted on the children. Further, in Parent 17’s texts of the same date, she discussed the Respondent approaching her daughter at training and asking her to withdraw from the team with only 3 games left, saying the Respondent had diminished and possibly destroyed the confidence of the least good 5 players in the team: *“just because you want to win. Your coaching style is appalling.”*
58. Parent 17 stated that the Respondent rang her the next day and said it was extremely inappropriate of her to send a text to the coach and that the parents should not be questioning the decisions of coaches.
59. The Respondent gave evidence on her own behalf in relation to this allegation and in response to all the other allegations. The Respondent’s initial statement to the independent investigator appointed by Netball Victoria does not squarely address Allegation 1 but generally denies having ever received any videos from players other than one TikTok video which was not relevant to the allegation. She categorically denied the allegation in her response to the investigator.
60. The Respondent gave evidence in response to Allegation 1 by way of affidavit, in evidence and under cross-examination. In summary, the Respondent denied the allegation and said that the evidence of Jade in relation to the showing of the video to other players on 21 July 2022 could not have occurred as reported by Jade. She conceded that she was aware of such a video and had observed other players watching the video at training on one occasion and that she had sent a text message to Jade regarding Child 35 having *“nude pictures of herself circulating”*. However, she maintained that her response to these incidents was appropriate and contextual to communicating with Jade as a fellow coach. Her evidence appears to accept that she may have



spoken about the video beyond those two incidents, but seeks to categorise this as either “gossip” or “expressing concern for the child involved”.

61. The Respondent’s affidavit dated 16 September 2025 addresses Allegation 1 at paragraphs [7]-[13], extracted below:

- “7. I deny ever being viewing [sic] or being in possession of a video depicting a child placing a hairbrush handle into her vagina. I further deny that I ever disseminated a video containing such conduct and deny that I have ever mocked a child for creating such a video.
8. On or around 2022, I recall a video on the mobile phone of one of the players in my [REDACTED] team being held up and shown to the rest of the team. I recall it was at training on a Monday night at the Keilor Basketball Stadium. Several players in that team went to [REDACTED] High School and the girl involved in the video was from that school and had also previously played for Westside. I heard the girls talking about the video. I was a few metres away from the mobile phone and not wearing my glasses at the time, but I knew what they were watching giving [sic] what was being said. I told the girls to put their phone away because it was inappropriate.
9. I never had this video on my own mobile phone, nor did I ask anyone to provide me with a copy of this video. I did not make negative comments about this player when she left Westside. I did send a message to Jade Fisher saying, “Think I forgot to tell you last term [REDACTED] had nude pictures of herself circulating of herself”. This message was sent from one coach to another. I sent this message because as a coach this is something I thought another coach should be aware of given all players tend to talk about these things. Jade was also a coach of that age group, and it was common for coaches to pass information about players of the teams to one another.
10. While I cannot recall the date of [REDACTED] 2022 with specificity, I can say that I first became aware of this video at training as referred to above not at a game at Parkville. I did not ask a child to tell Jade Fisher about the existence of this video, nor did I laugh about it, or call the child involved a “s#%^”. I can also say that I did not obtain a copy of this video on my phone or ask Jade Fisher if she wanted to see it. I did not show this video to players in my [REDACTED] team and laughed while the child involved was on the opposite court.
11. I have obtained the records [REDACTED] keeps for which teams and players played on [REDACTED] 2022. [REDACTED]. The records show that the [REDACTED] team that played [REDACTED] did not include the child who, despite not been [sic] identified in the affidavits provided, I was aware was involved in the video referred to at [7] above. [REDACTED]



- [REDACTED]
12. Exhibited and marked 'TW-1' is a bundle of [REDACTED] records referred to in this affidavit.
13. *I did not at any stage offer to show this video to fellow parents or players. If I did speak about this video, it was partly because it was gossip that was going around among the players on my team and, at other times, I was expressing concern for the child involved in it.*

62. The Respondent was asked about the video the subject of Allegation 1 in her oral evidence. In summary, her evidence was that she thought she became aware of the video involving Child 35 at the start of 2023 (but was by her own admission confused about the year). She recalled attending training at Keilor Netball and Basketball Stadium on a Monday and observed a group of girls around the desk passing a phone around and gossiping, and said "*look, what's going on with Child 35.*" She was not able to see clearly as she was a few metres from the desk, but thought it was not a video but rather a photo, depicting a shower screen and a silhouette of a body. The girls told her that the person in the photo "*was doing something rude to herself*" but she could not see that, and "*made it very clear to the girls that that's disgusting. Put it away*" and that they went off to training. The Respondent knew Child 35 as a former Westside player. The Respondent denied asking Child 12 for a copy of the video, showing it to any other players, having a copy of the video, or telling any other persons that she had the video.
63. In cross-examination, the Respondent gave evidence that Child 35 had made a TikTok video about the Respondent and several Westside players including Child 12, which included lyrics referencing (in relation to Child 12) [REDACTED], and hating the Respondent. The Respondent said that she was disturbed by the video, mainly regarding what was said about [REDACTED]
64. The Respondent gave evidence that when she texted Jade on 14 July 2022 regarding Child 35, she was referring to photos, not video, and said that she had "*only ever known them to be photos both times*", and that she "*never knew there was a video*". The Respondent denied Jade's version of the conversation in July or early August 2022 involving Child 12 in which the Respondent was accused of referring to Child 35 as a "*s#!%t*", and denied later receiving the video from Child 12, offering to show it to Jade, or showing it to a group of [REDACTED] players.
65. Although the Respondent accepted that she and Parent 17 were friends, she denied referencing the video in conversation with Parent 17 in early 2023 at a [REDACTED] game. She also denied making comments about Child 35 and offering to show the video to Parent 5 in June 2023 at a game at Stadium A, but ultimately accepted that Child 35 was present on that occasion playing for [REDACTED] (against the Respondent's team).
66. Parent 12 is the father of Child 12. He affirmed an affidavit dated 16 September 2025. The affidavit does not address Allegation 1 directly however, he stated, inter alia, that his wife and him had observed the Respondent as a coach over many years and on occasions they had expressed to the Respondent that at times, she was too close to the players. They never



observed anything sexually inappropriate nor did they hear her abuse or swear at any of the players.

67. In his oral evidence, Parent 12 was asked about the video involved in Allegation 1. He said that he had spoken to Child 12 on several occasions about the video together with his wife and Child 12 vehemently denied having the video or passing it on. He checked Child 12's phone after speaking to a police officer friend about what to check for and stated that he was *"quite satisfied that she's never had that video"*. In cross-examination, he insisted that he did not think Child 12 was lying about having had nothing to do with it but he agreed that someone had told him that Child 12 had the video footage on her phone in about 2023. He stated that after he took the advice from the police officer friend in relation to checking Child 12's phone, he looked in the deleted items and in messages between Child 12 and her friends but he did not check social media or Snapchat.
68. Child 34 swore an affidavit dated 11 September 2025. The affidavit covered a number of the allegations made against the Respondent. In relation to Allegation 1, Child 34 stated that in 2022 there was a video that was circulating among several of her team mates in the [REDACTED] [REDACTED] at Westside. These players went to [REDACTED] High School and a girl at that school had taken a video of herself doing something sexually explicit. She recalled that on a Monday night they were training at the Keilor Basketball Stadium and one of the Westside players had the video on her phone and it was being shown around to the other girls at training. She stated that the Respondent came over to the group and said something along the lines of *"you are meant to be training and this is inappropriate for you to be watching"*. She stated that the Respondent did not ask to see the video and told them to put it away. She stated that the Respondent would have been standing approximately one metre away from the mobile phone when the video was being shown and that she never observed the Respondent laughing at the video. She stated that the video was not on the Respondent's phone, nor did she observe the Respondent ask for a copy of the video.
69. In her evidence, Child 34 stated that she wouldn't say that the Respondent came over to Child 34 and the other team mates and had a discussion. She stated that the Respondent told them to *"leave off"* because they were normally not allowed to be around the Officials' desk on their phones and they were asked to leave their phones on the desk by the Respondent. She stated that she could not recall an approximate date but believes she knew the name of the girl in the video and that she did not really know what the Respondent's attitude was towards that girl. She later confirmed she knew the identity of the girl and the girl was 2-3 years younger than Child 34. Child 34 conceded that Child 12 may have been at training at the same time as the girls were watching the video on their phones but as they did not train at the same time, she was not sure. She believed that Child 12 would have been at training after her. At that point in time, Child 34 was in the [REDACTED] team.
70. Child 34 could not really recall all the names of the girls that the Respondent came over and spoke to about the video but said *"there was a group, a lot of us"*. She remembered that they were [REDACTED] High School girls and they all went to the same school as the person in the video. She could not remember exactly the name of the Westside player who had the video on her phone and all she remembered was that there was the *"thing"* on the phone so *"I assumed it was one of the Westside players"*. When asked by Member Nolan KC that *"it's a pretty memorable event that happened that day wasn't it? Someone was showing this video"* Child 34

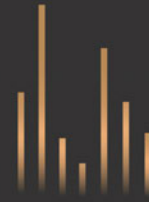


replied that she was 14 at the time so she didn't really want to look at it. When pressed further by Member Nolan KC, she said it was memorable because girls still talk about it but she couldn't remember who actually showed her the video as the phone was sitting on the bench and she didn't know whose phone it was. When pressed further, she could not remember the colour of the phone case and when asked how many girls were looking at the video, she responded that there could have been at least her [REDACTED] team there so there could have been 15 or 20 girls in a huddle around the desk.

71. When asked by Member Nolan KC to confirm that the Respondent saw what was on the video, Child 34 answered *"I don't believe so. I believe it had just been shared around [REDACTED] High School. Nearly half of our girls from Westside went to [REDACTED], so that was what every single girl at training was talking about"*.
72. Child 34 was asked whether the Respondent actually looked at the video or on the phone which it was on and Child 34 replied that she could not remember exactly. She just remembered girls yelling and talking about what was on the phone and then they were being told to move off. She stated that the Respondent didn't touch the phone but the girl whose phone it was closed up the phone and moved. She further stated that she got out of the way pretty quickly because she did not want to get into trouble.

Findings by Member Nolan KC in relation to Allegation 1

73. The Findings may be summarised as follows:
- (a) the allegations raised by Confidential Witness 1 could not be sustained and she was the only witness who asserted that she had seen the video on the Respondent's phone;
 - (b) there was a clear factual dispute in relation to the allegations concerning the admissions made by the Respondent as to her possession of the video. The evidence given by Jade, Parent 17 and Parent 5 was truthful, cogent and creditable. The evidence given by each of them was limited to their observations and conversations with the Respondent and they did not embellish the claims. There were two examples of that. Jade gave evidence that she assumed the video she discussed with Child 12 and the Respondent was the one which was then shown to the group of girls and it would have been easy for Jade to say that she had seen the video. Further, none of those witnesses had claimed that they had seen the video on the Respondent's phone and they confined their evidence to the statements made by the Respondent;
 - (c) the evidence that the Respondent told each of them that she had the video was accepted and the evidence by the Respondent that the conversations did not occur was rejected. Further, in relation to the conversations with Parent 17 and Parent 5, it was accepted that they were conversations with people who the Respondent regarded as friends;
 - (d) the statements that the Respondent had a video of Child 35 does not establish that she actually had the video and the possibility could not be excluded that the Respondent overstated her position and made gossip about Child 35;
 - (e) the evidence given by Jade about the involvement of Child 12 was accepted. Child 12 did not give evidence but the parent of Child 12 did (Parent 12). It was found to be apparent



that in 2023, prior to any complaint being lodged against the Respondent, numerous sources had informed the parents that Child 12 had access to the video on her phone and Parent 12 did not accept the denials given by his daughter and searched the phone. With his limited technical skills, however, he was unable to locate the video and the search conducted by him did not establish that the video was not on the phone, merely that he was unable to locate it. It was accepted that his daughter denied that she had access to the video however, no weight was played on those denials and it was noted that Child 12 was not called to give first-hand evidence on this critical issue;

- (f) it was unnecessary to reach a conclusion as to the location where the conversations occurred;
- (g) *“having considered all of the evidence, I am not comfortably satisfied that the allegation has been proven...these matters are very serious and my level of satisfaction is very high. It is likely that the conversations between Jade, Parent 17 and Parent 5 occurred. But these witnesses do not provide direct evidence that the video was actually on [the Respondent’s] phone. These conversations must be viewed in the context of social settings. I do not discount the possibility that [the Respondent] made these statements to impress her friends. In the circumstances, I am not comfortably satisfied.”*

Findings by Member Nolan KC in relation to the further allegations

74. Member Nolan KC was comfortably satisfied that the following specific allegations were proved:

Allegation 2

That the Respondent engaged in aggressive language and tone of voice in the presence of a child, including shouting, swearing and/or belittling them.

- 75. This allegation canvasses the Respondent's interactions with players and parents over an extended period between 2017 and 2025.
- 76. There are two overlapping elements to the allegation:
 - (a) a general allegation that aggressive language and tone was regularly used and this included shouting at, swearing at and or belittling the children; and
 - (b) specific events when it is alleged that aggressive language and tone was used which included shouting at, swearing at, and/or belittling the children.
- 77. The evidence of Parents 23, 21, 14, 17, and 5, together with Jade Fisher, and Children 5,17,19 and 21 were relied on by the Appellant.
- 78. In her affidavit Parent 23 deposed that she was a spectator at countless netball games over an 8 year period and that she regularly heard the Respondent courtside swearing or showing frustration when a player made a mistake, like accidentally throwing a ball out of bounds.



79. Parent 23 gave evidence that the Respondent would typically swear or act inappropriately when the team was losing or when she was not happy with the players' performance. This included specifically recalling comments such as "*what the hell was that*" or "*Oh f\$x&*".
80. During cross examination Parent 23 gave evidence that this conduct would occur approximately 16 or 18 times a year. She acknowledged however that umpires and court supervisors did not speak to the Respondent about her behaviour.
81. It was put to Parent 23 in cross examination that it was inconceivable that misconduct could occur without the court supervisors or referees intervening. Parent 23 disputed that and said:
- "Completely disagree. I witnessed that myself, so I'm very confident in that. This is not true. In terms of the supervisors and the umpires, supervisors aren't always courtside, that they sort of float throughout the Parkville venue, so there's not always a supervisor beside the court. So I think at times, language was used without the court supervisor being within the vicinity, so it was going unnoticed. I would also suggest that some of the umpires were quite young and so often intimidated by Tracy as well. I could see that as a spectator. And perhaps they weren't confident in saying anything or addressing it either."*
82. It was further put to Parent 23 that the conduct referred to in the affidavit never occurred. Parent 23 stated it absolutely happened and that she witnessed it happening.
83. Parent 21, the father of Child 21, deposed in an affidavit that his daughters had played for Westside between 2016 and 2022. He recalled countless occasions when he was watching games during which the Respondent exploded and screamed at her players for losing.
84. Parent 21's evidence at the hearing dealt with specific allegations about an under [REDACTED]'s netball tournament and an event on [REDACTED] 2022 at Parkville, which is discussed later.
85. He reiterated that the Respondent used inappropriate language "*too countless to recall, it was quite a frequent occurrence.*" He said that these incidents were likely to occur when the team was performing poorly. He stated that he did not make complaints to the umpires and explained:
- "It was my view that certainly Tracy gave the impression that she was quite looked well looked after [sic], certainly around the Parkville vicinity with netball. The perception was probably wrongly that there would have been little to no point of making those complaints."*
86. In Child 21's sworn affidavit she deposed that the Respondent would very easily become angry and frustrated and project that onto players. It was more common than not for the Respondent to swear and yell at players. It would happen "*basically anytime Westside were losing or underperforming*".
87. Child 21 gave evidence at the hearing that the Respondent was much more likely to have an outburst that would result in swearing at halftime, during the game or after the game in huddles, particularly if they were losing a game or playing badly at any point. She said it was not constructive.



88. During cross examination, Child 21 said that the behaviour would not happen often at training. She gave evidence of specific examples of the conduct at Parkville in May 2022 and at a Caulfield tournament in 2022, which are referred to later.
89. In her affidavit, Jade Fisher gave evidence that the Respondent used inappropriate and aggressive language both around and directly to the players frequently, many of whom were under 18. Westside became a place where it was simply expected by all that the Respondent would use such language.
90. Jade Fisher deposed that she had had many conversations with the Respondent conveying her concern about her inappropriate language towards the players. The Respondent would reply with words to the effect *“the players should be scared of me, if they’re not, they don’t respect me”*. Jade Fisher explained:

“Whenever anyone would raise a concern about the Respondent’s conduct directly to her, she would often send these messages to me or tell me about it, placing the blame on the parent or player rather than taking any accountability”.

91. During her evidence Jade Fisher said that complaints were made to court supervisors and that some had approached the Respondent to ‘calm down’ and that she was too loud and aggressive. Jade Fisher could not recall a specific occasion when a court supervisor spoke to the Respondent about the bad language, but that she had spoken to various umpires and court supervisors about the Respondent’s behaviour.
92. In Child 19’s sworn affidavit, she deposed that she was a Westside netball player [REDACTED] and beginning in about 2021 and up until 2022, [REDACTED], the Respondent’s swearing at players increased significantly, including saying:

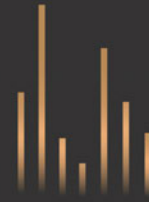
“Fx\$! this or that, at every training session. Tracy would yell and swear directly at players or the team nearly every week.”

93. Child 19 gave evidence:

“9. I felt Tracy’s swearing and frustration would be worse when we lost or were losing a game, and that it picked up even more towards finals or association championships when she appeared visibly more stressed.

10. I remember between 2021 and 2022, Tracy saying to players at training or at games comments to the effect:

- (a) you’re f!@\$ing useless*
- (b) what the fx@! was that*
- (c) you’re so f&!xing slow*
- (d) pull your head out of you’re a\$@.*



11. *It's difficult to say precise games or training sessions when Tracy made these comments. These types of comments were made repeatedly and offered weekly."*

94. Child 19 also stated that mean comments were often directed at players, including Child 16 and Child 4.

95. Child 19 stood by her evidence when cross examined, admitting that in her first season there was not a lot of swearing and that while she may have heard the Respondent swear, it was not at the players. However, she reiterated the swearing increased significantly over time and occurred at training and at games. She said she had raised this behaviour with Jade Fisher, but not to umpires or supervisors.

96. Child 19 gave a specific example:

"I remember one of the finals games. This is a specific example for me. She turned to me and said if you don't put up your f#@xing shots, we're losing this fx@!ing game and it will be all your fault. Another time she said pull your head out of your f!\$&ing a^e. Do something. These are all in breaks during the game. Yeah, they were like, move you're a#\$e, like stuff like that. Work your s#!@ out. Those were like, pretty basic ones that she would say to me yeah"*

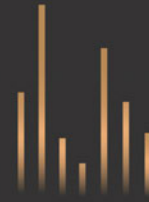
97. Child 30 gave evidence that in her experience playing under the Respondent was at times intimidating and imposing, particularly if they were not playing well.

98. Child 5 was both a player and a coach. In her affidavit she stated that from the outset of joining the club, she was surprised by the way the Respondent spoke to the players. It was by far the worst she had seen a coach treat their players. She didn't remember a training session or game where the Respondent didn't appear visibly angry or swear at players. Her evidence was it happened on a weekly basis, particularly if the side was losing or players weren't training to the Respondent's expectations.

99. Similar to Child 19, Child 5 gave evidence that the Respondent would yell the following comments at players:

- (a) "you're s&%#";
- (b) "you lost us that game";
- (c) "you're hopeless";
- (d) "you don't deserve to wear that uniform";
- (e) "what the f!@# was that";
- (f) "I can't even bear to look at you"; and
- (g) "you're embarrassing".

100. Parent 14 gave evidence that there was seldom a week when the Respondent did not swear at players, either at training or during games. Parent 14 explained "[i]t was just what you came to expect of Tracy."



101. Parent 14 said that at times, the Respondent would single out individual players ranging from under [REDACTED] to under [REDACTED]'s, with comments such as:
- (a) *"you don't pay attention to instructions";*
 - (b) *"you f!#@ing embarrassed me";*
 - (c) *"you don't f%\$!ing listen on court";*
 - (d) *"you're a f*&%ing fairy";* and
 - (e) *"you're the reason we lost."*
102. Parent 14 said she did not complain because the netball pathway of her child was threatened but that she had problems when the Respondent used aggressive language, together with her tone, the context, how the language was used and when it was used to diminish a child.
103. In her affidavit of 21 June 2024, Child 17 recalled very similar comments made to specific team members when she was [REDACTED] years old, normally after the team had lost a game.
104. Parent 17, the mother of Child 17, put the Respondent's inappropriate language down to a win at all costs attitude, with the Respondent regularly venting her frustration and anger in full view of the playing group and parents. It was such a regular occurrence that it became normal, though it was nonetheless embarrassing to witness.
105. Parent 17 could also recall specific comments made to players during games or yelling at them as a group afterwards to the effect outlined above.
106. Parent 17 gave evidence that she had not made any complaint about it, because the Respondent was *'so powerful at the time'*, she did not believe complaints would be properly investigated.
107. In her affidavit, Parent 5 identified similar comments made in similar circumstances. She gave evidence that she was afraid that a complaint would damage her daughter's netball pathway, but raised issues around language with the Respondent. She did not have a strong feeling about the Respondent's behaviour until the middle of 2024, but she was very intimidated by the Respondent.
108. In her evidence, the Respondent disputed most of the allegations made by these witnesses asserting in her Affidavit she did not make derogatory comments, abuse players or swear at them and that the evidence of umpires, supervisors, committee members, parents and players on her behalf, confirmed this conduct did not occur.
109. The evidence in support of the Respondent on these matters came from:
- (a) Ms Susan Flynn, Umpire Mentor at SACSNA and Competition Coordinator at Parkville 2020 – describing the Respondent as *"stern"*, *"loud but not abusive"*, and denied Ms W was aggressive.
 - (b) Mr Sean Steele, Court Supervisor at Parkville for 22 years – he had known the Respondent since 1997 and observed her 'over 100 times over a 10 year period'. He described the Respondent as having *"white line fever"* someone who was loud, hard, but never



disrespectful. He stated she may have been told to “*turn it down 2 or 3 times between 2022 and 2024*” but “*never observed her swear at or belittle a player*”. No complaints were received by him.

- (c) Mrs Jan Schultz, President SACSNA for 41 years before retiring in 2023. She deposed in her affidavit that she never heard the Respondent use bad language towards umpires or players.

“I might have heard Tracy swear in conversation but not at any of her players”.

“She only ever offered encouragement from the sidelines, you know, offered kids. ‘Keep going. Let’s try harder this time, you know’ and she never received complaints.”

- (d) In cross examination Ms Schultz conceded that Parent 22 had lodged a complaint about the Respondent’s conduct which specifically referred to verbal abuse, bad language and denigration of children at a training event.
- (e) Ms Schultz acknowledged the Respondent had admitted abusing a child in the presence of other children and that in relation to a complaint lodged by Parent 4, the Respondent had admitted to her that she told the girls that they were feral. Ms Schultz responded that she did not think this was appropriate at the time, but that she could imagine that both parties were “*very, very angry.*”
- (f) When pressed further by Member Nolan KC about why Ms Schultz did not do anything about the behaviour she stated:

“Tracy and I had words about as to why this unfolded. She was very remorseful for the words that she had used. And she said that she really lost her cool and it should never have happened and that. I asked Tracy about her language and she said she was so upset in the heat of the moment she can’t even remember anything that she was saying. She was just so angry with the girls that they would disrespect everybody and do what they did”.

- (g) Ms Allison Cram, Ms Josie Cini, Parents 12, 20, 10, 26 and 38, and Children 34, 10, 31 and 37, also gave evidence in support of the Respondent. Their evidence was similar and to the effect that they had never heard the Respondent belittle, abuse, or swear at players or personally attack players. Some however acknowledged that they had observed the Respondent raise her voice from time to time to explain to the team where they had gone wrong.
110. In her affidavit, the Respondent deposed to having a loud voice and yelling when she was coaching but denied ever swearing or abusing players about their performance, calling them useless or making other personal insults about them that was not part of constructive feedback.
111. The Respondent said she would express disappointment in her players, give them feedback “*and give them criticism*” but never engaged in personal attacks or swearing at players directly.



112. The Respondent conceded she had been spoken to occasionally to by umpires at games but in recent years never by a court supervisor. She denied that while players were on court during a game that she had yelled abuse or swore at them.
113. Member Nolan KC took a global view of all the evidence. He was comfortably satisfied that between 2018 and 2025, the Respondent had engaged in aggressive language and tone of voice in the presence of children, including shouting and swearing. He found that the Respondent humiliated, demeaned and belittled them, regularly yelling at children of all ages.
114. He accepted the evidence of the Appellant's witnesses that the Respondent's behaviour and in particular her swearing at the players, became worse after Mr Abela left in late 2021.
115. At paragraph 157 of the Determination, Member Nolan KC details contemporaneous records of the complaints about the Respondent's behaviour, including nine occasions where the Respondent had engaged in this specific conduct as follows:
- (a) a text message dated 9 December 2018 from Parent 27 asserting the Respondent screamed at, and publicly humiliated, a child for 10 minutes;
 - (b) a complaint made by Parent 4 dated 6 May 2021, lodged by email to the SACSNA where the Respondent "*unloaded*" on children and their parents, was rude, disrespectful and a bully;
 - (c) a complaint by Parent 22 dated 13 May 2021 that the Respondent verbally abused and caused fear and humiliation to a child who was completely distraught, by a torrent of foul language;
 - (d) a text message from coach Dominko dated 18 December 2021 asserting the Respondent abused players, leaving them shaking and crying. The Respondent then forwarded the text and described Ms Dominko as a 'silly b#@!%';
 - (e) a text message sent by Parent 28 to the Respondent asserting that the Respondent had "*a tantrum*";
 - (f) a text message from Parent 19 to the Respondent dated 2 December 2022, complaining that the Respondent had berated Child 19 and called her disloyal;
 - (g) a text message from Jade Fisher to Mr Abela dated 6 June 2023 in the following terms "*it's not my responsibility to hold a mirror up to her and get her to change, people have been telling her for years and she still does not see anything wrong with how she treats people. She won't change and I don't want to waste any more time waiting around for the impossible to happen*";
 - (h) a text message from Parent 17 to the Respondent dated 24 October 2023 complaining about her style of coaching and the win at all costs attitude, including yelling at the girls when they do not win and complaining about the damage and heartbreak being inflicted on children;



- (i) a text message from Parent 23 to the Respondent dated January 2025 advising that Child 23 would no longer be part of Westside effective immediately and complaining about the bullying and humiliation endured by Child 23 at camp.
116. At paragraph 159 of the Determination, Member Nolan KC rejected the evidence given by the Respondent that she did not swear at the children, finding that she regularly swore at and abused the children. What the Respondent described as constructive criticism was in fact belittling and demeaning behaviour. It was carried out for the purpose of scaring the children so that they would comply with her coaching instructions.
117. Member Nolan KC found the language occurred more frequently when the Respondent became upset or angry with the children, especially at tournaments and finals.
118. At paragraph 160, Member Nolan KC specifically rejected the evidence of the Respondent that this conduct could not have occurred because the umpires and supervisors who were present at the games would have reported it.
119. He accepted that the Respondent had a long standing relationship with court supervisors and the evidence of Mr Sean Steele that the role of the supervisors was to deescalate any matter when it arose. Other supervisors had given evidence that the Respondent was instructed to stop yelling out and that she complied. The Tribunal Member placed no weight on the evidence that no reports were made to the Appellant, as it was not the practise of the supervisors to make reports to that effect. In any event the conduct was directed at the children not the opposition or the umpires, meaning it was less likely to be brought to their attention by implication.
120. At paragraph 161 Member Nolan KC preferred the evidence given by the Appellant's witnesses and in particular the parents and children over the evidence given by the Respondent and her witnesses.
121. He was comfortably satisfied the Respondent engaged in aggressive language and tone of voice in the presence of children including shouting and swearing at children humiliating demeaning and belittling them.

Specific Allegations forming part of Allegation 2

The Respondent swore at and abused Child 14 (then a [REDACTED] coach) on [REDACTED] 2018

122. The conduct alleged arose on [REDACTED] 2018 when Child 14 was coaching a domestic [REDACTED] netball game at Altona. At that time the Respondent was the head coach at Westside. In her affidavit, Parent 14 who was a former coach at Westside and had been involved with the club for approximately [REDACTED] years, deposed that there was an incident where the Respondent was constantly yelling at the umpires. Child 14 told the Respondent to stop and shut up. The Respondent then took Child 14 aside and started screaming abuse at her, including "get the f@#! out of the stadium".
123. Parent 14 gave evidence she received a phone call from her distraught daughter making immediate arrangements to collect her. Parent 14 also produced a text message between her daughter and another player, Child 29, dated [REDACTED] 2018 which included statements allegedly



by the Respondent, *“she knows she shouldn’t have told me to shush. I’ll tell her to f#\$ off, I don’t care”*.

124. Under cross examination, Parent 14 admitted she relied upon what Child 14 told her had occurred and that Darren Abela had rung her and asked her to *“let it go.”*
125. The Respondent does not specifically deal with these allegations in her affidavit. At the hearing, the Respondent was asked about these events. The Respondent said *“I was my normal self, cheering along, yelling out, but certainly was not yelling at umpires”*. The Respondent said Child 14 aggressively asked her to be quiet and told her to shut up. The Respondent admitted saying to Child 14 *“You need to leave the stadium and take a breath and not speak to me in that manner, so go outside and have a breather.”*
126. In cross examination the Respondent denied swearing at Child 14, but admitted Child 14 had asked her on 2 occasions not to yell out. She gave evidence she felt it was necessary for Child 14 to leave the stadium because she was so angry. She thought the source of the anger was *“yeah probably, yes, yes, probably cause I was coaching her team and she probably thought I was overstepping”*.
127. Member Nolan KC found:
- (a) it was undisputed that the Respondent took it upon herself to call out instructions to the players when Child 14 was coaching, which was unacceptable as it undermined the position of a junior coach and belittled her;
 - (b) the Respondent had become upset about being challenged and ordered Child 14 to leave the stadium; and
 - (c) the Respondent had engaged in unacceptable behaviour by swearing at Child 14 and abused her.
128. Member Nolan KC accepted the text message provided supporting evidence of the propensity of the Respondent to use the word *“F%\$@”* directly to a child or about her, when communicating with other players. He rejected the Respondent’s evidence that her behaviour was acceptable and she was her normal self, cheering along and yelling out.

The Respondent swore at and abused the entire team at a tournament at Diamond Creek in 2021

129. In her Affidavit, Parent 23 described an event around 2021 at a tournament in Diamond Creek where the Respondent told the team, including one of Parent 23’s children:
- (a) *“that was a f!@#ed performance”*;
 - (b) *“that was f&!@ing disappointing”*; and
 - (c) *“you guys let me down”*.
130. It was asserted that the Respondent stormed off to her car and missed the medal presentations. During cross examination, Parent 23 said the Respondent’s behaviour was so alarming she would never forget it and denied that the event did not occur.



131. The Respondent denied making the comments. When pressed on her denial, she claimed she had no recollection of the game, but admitted she said words to the effect that *“you guys let me down”*, as that was something she had said before.

132. Member Nolan KC accepted the evidence of Parent 23, finding it was not appropriate to make those comments, even if they were part of what the Respondent described as constructive feedback. While it was not surprising that a professional coach who would have attended many tournaments may not be able to recall specific details of one tournament, the comments were belittling of an underage team and the conduct was in breach of relevant policies.

In 2021 the Respondent told Child 16 that she was “so s@#!”, asked how she did not know how to hold the “f*%!ing ball” and referred to her as ugly and a “slapper”

133. Allegations related to this issue appear in Child 19’s affidavit. In summary, Child 19 observed the Respondent regularly bullying Child 6 at training, including directing specific comments at Child 16 to the effect:

- (a) *“how do you not know how to hold a f@!#ing ball”*;
- (b) *“throw the f!@#ing ball”*; and
- (c) *“you’re so s!@#”*.

134. Child 19 also asserted the Respondent made offhand comments to other children about Child 16 to the effect:

- (a) *“she’s a slapper”*;
- (b) *“she’s a stick”*; and
- (c) *“she’s ugly, how on earth is she a [REDACTED]”*.

135. During cross examination, Child 19 admitted that some of the comments directed at Child 16 may have been appropriate for a coach to say, without using the swear words. However, it may still be unacceptable depending upon the way it was said and when it was said.

136. Child 19 gave evidence that Child 16 left the club as a result of the Respondent’s conduct.

137. The Respondent denied making specific comments either to, or about, Child 16, or even knowing what a *“slapper”* was. The Respondent said Child 16 was a player that she *“couldn’t speak to her like that”*.

138. The Respondent denied Child 16 left the club as a result of dissatisfaction with the Respondent’s behaviour.

139. Member Nolan KC preferred the evidence of Child 19 as cogent of what she saw and heard, including the manner in which the words were delivered. He found that the Respondent had not engaged in constructive criticism, but had engaged with the players in an aggressive manner.

140. Member Nolan KC found the Respondent had shouted and sworn at Child 16 in a loud and aggressive manner on numerous occasions, thereby belittling and demeaning her and had also made off hand comments to other children about Child 16.



In 2021, the Respondent said that Child 4 was a ‘big b\$#!’, she needs to go for run

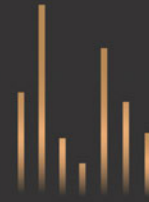
141. In Child 19’s Affidavit she deposed that she also remembered the Respondent picking on Child 4 in 2021, saying to a group of girls, including Child 19, huddled on the court at training, that Child 4 was “a big b!@\$%, she needs to go for a run”.
142. The Respondent denied making the comments, asserting she had a good relationship with Child 4. When asked on cross examination whether she made comments about the weight of players she admitted she would say things like “*oh that player looks like she’s put on some weight*” but said it did not make sense that she that she would say those things about Child 4, because she wouldn’t have thought she would need to lose any weight.
143. Member Nolan KC found this was a trivial matter and the member was not comfortably satisfied the allegation had been made out. There was no supporting evidence from other witnesses and the Respondent denied making the comment.

In December 2021, Coach “Jess” resigned after the Respondent abused players, leaving them shaking and crying

144. In Jade Fisher’s Affidavit she states:

“I had many conversations with Tracy conveying my concern about her inappropriate language towards the players. Tracy would reply with words to the effect of “the players should be scared of me, if they are not, they don’t respect me”. Whenever anyone would raise concerns with Tracy’s conduct directly to her, she would often send these messages to me or tell me about it, placing the blame on the parent/ player rather than taking any accountability.”

145. Annexure B contained a text message sent to the Respondent by a Coach on 18 December 2021, making a series of criticisms about the Respondent’s behaviour. It discusses walking into a game last week with players shaking and one crying after the Respondent had yelled at them. That text message was forwarded by the Respondent to Jade Fisher, who asked whether it was a text from the coach? The Respondent replied “yes, I just hung up from the silly b@#!\$”.
146. Member Nolan KC accepted:
- (a) Jade Fisher’s evidence that the Respondent behaved in a manner so that the children would be scared of her, as she regarded this as a way to get their respect;
 - (b) the evidence of numerous witnesses that children were in fact scared of the Respondent and would follow her instructions and not complain;
 - (c) there was contemporaneous and compelling evidence about the perception of the coaching techniques employed by the Respondent; and
 - (d) Jade Fisher’s evidence that the Respondent would not properly tolerate any complaints, but rather placed the blame on the parents or the child.



147. However, the Tribunal was not comfortably satisfied that the underlying facts had been proved given the Respondent denied the behaviour and no other witnesses substantiated it.

On [REDACTED] 2022 the Respondent abused players at an under [REDACTED] tournament in Knox for losing to [REDACTED]. The Respondent also abused a player and her mother when they arrived late

148. In Jade Fisher's affidavit, she deposed that there was a tournament at the Knox Regional Netball Centre on [REDACTED] 2022, where the under [REDACTED] team lost a game. The Respondent gathered the girls, abusing them by saying things to the effect:

- (a) "you're f#\$%!ing embarrassing,
- (b) "what the f@\$!% was that"; and
- (c) "you should be ashamed of yourself, they're all laughing at you an as they should, that was f@#!ing embarrassing".

149. At the same tournament Jade Fisher recalled the Respondent verbally abusing Child 16 and her mother for being late to the tournament, despite being told they were in a car accident that morning. Jade Fisher heard the Respondent say in response:

"Bulls@#!, you just think you and your kid's s\$%@ doesn't stink, let me tell you it does. Maybe you will learn a thing or two in the 2s."

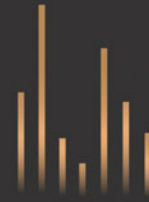
150. Jade Fisher gave evidence that Child 16 and her mother were both in tears and that the Respondent made Child 16 play in the [REDACTED] Number 2 team, despite being named in the [REDACTED] first team

151. The Respondent gave evidence that it was necessary to play Child 16 in the under [REDACTED]'s team because she was late. The Respondent asserted there had been an issue between Jade Fisher and the mother on that day which the Respondent had dealt with by asking one of the other parents to remove the mother from the court area where she was coaching and calm her down.

152. The Respondent denied the exchange with Parent 16 and stated it was Parent 16 who was upset. She further denied she had sworn at the children after the final game, but admitted she did say to the children word to the effect "*the winners are over there*".

153. Member Nolan KC was satisfied the Respondent swore at and abused the players as asserted by Jade Fisher. He rejected the evidence of the Respondent that Jade Fisher had not heard the conversation with the team. He was comfortably satisfied the Respondent had made the disparaging remarks and swore at Parent 16 and her daughter, as described. He further rejected the evidence given by the Respondent that the only reason she changed child 16 to the under [REDACTED]'s team was because they were late.

154. Member Nolan KC was comfortably satisfied the conduct described breached the 2017 Netball Victoria Child Safety in Netball Policy and the 2017 Netball Victoria Child Safety in Netball Code of Conduct. While it was appropriate for a coach to talk to players after a game and provide constructive criticism, this is not what the Respondent did. She chose to swear at players in an unacceptable way and give them a "*spray*".



At a tournament in Caulfield in 2022 the Respondent swore at and abused the under [REDACTED] Westside team after they had lost

155. Jade Fisher, Parent 21 and Child 21 gave evidence about a tournament in 2022 at Caulfield.
156. The Respondent accepted that the contravention was proven based on this evidence. Notwithstanding this concession the Tribunal made findings concerning the allegations as the Appellant asserted it was one of the factual matters to support the allegation that between 2018 and 2025 the Respondent constantly breached various netball Victoria policies.
157. Jade Fisher gave evidence that whilst coaching at the Caulfield tournament, the Respondent screamed at the players when a game ended making comments to the effect:
- (a) *“that was a disgusting performance,*
 - (b) *you're all s\$@!,*
 - (c) *what the f!@\$ was that,*
 - (d) *you're a f^&\$ing disgrace,*
 - (e) *wearing that uniform is a privilege that none of you deserve; and*
 - (f) *I don't want any phone calls from your parents complaining about what team you get put into when you'll be lucky to make any team at all after that f&^#ing display”.*
157. In his affidavit, Parent 21 deposed that he attended the Caulfield tournament to support his daughter and confirmed that the Respondent started yelling at the team on the side of the court, in front of the parents, with comments similar to the ones outlined in Jade Fisher's evidence.
159. Parent 21 gave evidence that he interjected, pulling the Respondent aside, advising that she could not speak to the team like that. He said the Respondent threw her hands up in frustration and said *“you have them”*. Parent 21 gave evidence that he then advised the children in front of their parents to not *“let the Respondent upset them, it's one game. Focus on what you can control. It's not okay that she speaks to you like that. I will coach you for the remainder of the day”*.
160. In her affidavit, Child 21 supported the evidence given by Jade Fisher and Parent 21 about the nature of the comments made by the Respondent after the game.
161. Child 21 disagreed on cross examination that the Respondent had merely given a critique of the game saying it was very much *“a spray”*.
162. The Respondent denied telling the team they were an embarrassment. She admitted she may have said *“wear the uniform with pride”*, but not that *“you don't deserve to wear the uniform”*. The Respondent denied swearing and yelling at the players, but conceded she may have referred to a disgusting performance.
163. Member Nolan KC accepted the evidence of Jade Fisher, Parent 21 and Child 21 and found that the Respondent's conduct was loud, belittling and abusive to children under [REDACTED].
164. He found she swore because she was angry at their performance and had lost self-control. He rejected the evidence of the Respondent that this was individual feedback and accepted the



evidence of Parent 21 that he had tried to de-escalate this situation, even though he did not make a complaint about her conduct because he believed it was pointless.

In 2022 the Respondent swore at and abused an under [REDACTED] team and each player in turn, including Child 19 when they lost to [REDACTED] by one point in the grand final of a tournament

165. Another example where Member Nolan KC was satisfied that the Respondent abused, swore and yelled at Child 19 after a netball match against [REDACTED]. He found the Respondent chose to belittle, abuse, swear at and yell at, Child 19 who at that time was [REDACTED] years of age. He was not satisfied on balance that the Respondent swore and abused the balance of the team at the tournament despite Child 19's evidence that the team was drilled. This was because there was no direct evidence of what the Respondent said or the way in which she said it to the team.

On [REDACTED] 2022 at Duncan McKinnon Reserve the Respondent abused Child 26 and threatened to tell her parents about things she said, knowing the parents inflicted physical punishment on the child

166. In her affidavit, Jade Fisher alleged that at this particular tournament Child 26 said she did not want to play in the under [REDACTED]'s first team because she didn't like the group of girls in the team. The Respondent's reaction was to shout at the player to the effect "you're so f##@!ing ungrateful, you're lucky you're in any teams at all, you need to watch yourself."

167. The Respondent then threatened to tell Child 26's parents about the incident, in circumstances where the Respondent knew the player came from a strict household where physical discipline was used. Despite Child 26 pleading for the Respondent not to tell her parents, the Respondent did so anyway, leaving Jade Fisher so upset that she chose not to initially give the Respondent a lift home that evening.

168. In her evidence the Respondent denied knowing that the parents were physically abusive and that she had coached two of Child 26's sisters and there were no signs of abuse. She did however admit in cross examination that Child 26 had broken down and cried when told that the Respondent was going to talk to her parents. She denied that Jade Fisher had told her she was out of line and stated Jade Fisher wanted the child to play in the second team because Jade Fisher was coaching that team.

169. Member Nolan KC accepted the evidence of Jade Fisher, being comfortably satisfied that Respondent swore at Child 26, degrading and belittling her, and told the parents about the incident causing the child to break down and cry. He rejected the evidence of the Respondent that Jade Fisher was upset because Child 26 would not play in her team. However, he rejected the evidence that the Respondent knew of the domestic situation with Child 26.

170. The Member found the conduct breached the 2017 Netball Victoria Child Safety in Netball Policy and the 2017 Netball Code of Conduct.

On [REDACTED] 2022 at Parkville the Respondent swore at and abused Child 21 after she made a mistake and the team lost a close game. Child 21 left Westside as result

171. The Respondent accepted that this contravention ought to be proven given the consistent evidence of Jade Fisher, Child 21 and Parent 21. Findings were made concerning the allegations



given it was one of the factual matters to support the allegation that between 2018 and 2025 the Respondent constantly breached the various Policies.

172. Parent 21 deposed that following the loss of an open competition netball game by one point where his child was playing [REDACTED] the Respondent jumped off the bench before the child was off the court, and started yelling:
- (a) “you’re f@!#ing hopeless”;
 - (b) “you’re f%\$@ing useless”; and
 - (c) “see that (pointing to the other team celebrating) that’s because of you”.
173. Parent 21 said his wife and he were so taken aback, they gathered their crying child and left the stadium immediately. Parent 21 notified the Respondent within 24 to 48 hours that Child 21 would play out the season but not return to the club after that because of the treatment.
174. When asked in cross-examination why he did not say anything at the time, he conceded he was not proud of it, but denied it did not occur as stated.
175. In her affidavit, Child 21 deposed she felt humiliated, defeated and embarrassed given she was playing with adult women and felt she had been targeted for the loss.
176. The Respondent denied abusing Child 21 or blaming her for the loss but agreed that the family had requested Child 21 be coached by a different coach.
177. Member Nolan KC specifically rejected as ludicrous the Respondent’s evidence that because this was an open competition with women playing, Child 21 needed to be more resilient.
178. He found that the Respondent engaged in conduct which was psychological abuse including unwarranted criticism, yelling, bad language and ridicule, contrary to clause 3.1.1.1 of the 2023 Child Safeguarding Policy.

On [REDACTED] 2022 at Parkville the Respondent abused Child 19 for inviting some girls, but not others, to a party calling her “disloyal” and stating other girls were “lying b#\$@!es” and “disgusting”

179. This is known as the party invitation event and concerned an altercation between Child 19 and the Respondent before a preliminary final about who was, or who should have been, invited to a farewell party to be held by Child 19, as she was relocating.
180. Jade Fisher deposed that the Respondent became enraged when she learned that Child 19 had invited Child 21 and Child 27 to the party, but the invitation had not been extended to all of the members of the under [REDACTED] first Westside team. Jade Fisher gave evidence that the Respondent screamed at Child 19, demanded she uninvite Child 21 and Child 27 and invite the rest of the team. This occurred both during and after the match, to the point where child 19 became visibly distraught, crying and shaking.
181. Annexure A of Jade Fisher’s affidavit contained a text message sent on 2 December 2022 from the mother of Child 19 to the Respondent. It describes that Child 19, as a [REDACTED] year old, felt

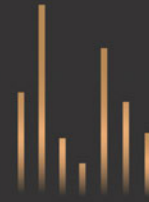


humiliated by the way she was treated, and was hurt and broken by the incident, in circumstances where she had been loyal to the Respondent and Westside. *“The way she was made to feel by your words was not ok.”*

182. Parent 21 described how the incident escalated when he and his wife were told about it by other parents on the night resulting in an ugly confrontation between them and the Respondent.
183. The Respondent gave evidence that prior to the game on that night, members of the team had become quite upset that they had not been invited to the party and she tried to explain to Child 19 that not inviting the girls was quite hurtful. She admitted that she told Child 19 that she should not invite Child 21 and Child 27 and described how the event escalated from there. She agreed that she had spoken to Child 19's mother and that there was an argument between Parent 21 and Parent 3.
184. When asked by the Tribunal Member why she had decided to become involved in social dealings of the children, she answered that there was animosity in the team at that point because of it and that was her problem, when they're not getting along on court.
185. The Respondent denied calling Child 21 disloyal or that the 2 girls were lying and f#@!ing disgusting. She also denied that Child 19 was upset, shaking and crying.
186. Child 34 gave evidence in support of the Respondent's evidence, which was rejected insofar as it was inconsistent with the evidence of Jade Fisher or Child 19.
187. Member Nolan KC accepted that the Respondent attacked Child 19 and her mother and of what was said before the game. He found that the Respondent berated Child 19 and attempted to bully her into uninviting Child 21 and Child 27 to the party. He did not accept the denials made by the Respondent but accepted the confrontation with the parents of Child 21 also corroborated what had occurred earlier in the night. He accepted the parents were furious that the Respondent had decided to become involved with their daughter again particularly when they heard that the Respondent had told the party host to uninvite their daughter.
188. Member Nolan KC found that it was entirely inappropriate for the Respondent to get involved in the private lives of [REDACTED] year old children and rejected her rationale then as head coach she had the right to become involved in any matter which may affect the performance of a team. No such right exists. He emphasised that the 2017 Netball Victoria Child Safety in Netball Policy and the 2017 Netball Victoria Child Safety in Netball Code of Conduct are directed to ensure that the private lives of children are protected from such intrusive conduct. The conduct was a form of social bullying which was expressly prohibited under the 2017 codes and policies.

At the end of 2022 the Respondent abused Child 19 saying she was useless and s\$%* at wing

189. This incident occurred shortly after the party invitation event at another game at Parkville at the end of 2022.
190. The evidence of all parties established that Child 19 suffered an ankle injury at this game. Member Nolan KC found the Respondent became upset when she discovered the ankle had not been strapped. While the Tribunal was satisfied that the Respondent had used the words “f\$!@ing strapped”, the language was not directed at the child to abuse or belittle her. He was



not comfortably satisfied that the use of the word in that context constituted a breach of the Policy or the Code of Conduct

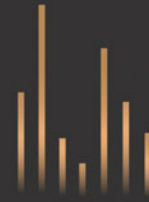
191. Member Nolan KC was satisfied that the Respondent made comments to Child 19 in circumstances where the Respondent knew that Child 19 was leaving the club, to the effect that Child 19 was:

- (a) *"f\$#!ing s!#@ at wing"*;
- (b) *"useless"*; and
- (c) *"not going to make it as a winger."*

192. The comments were intended to be belittling and negative and breached the 2017 Netball Victoria Child Safety in Netball Code of Conduct.

The Respondent abused the team after they lost on [REDACTED] 2023 at an under [REDACTED] s tournament at Caulfield

193. In her affidavit, Parent 2 deposed that her daughter (Child 2) played at Westside when she was [REDACTED] years old. She alleged she took her daughter out of the Westside teams as a result of the Respondent's behaviour at the second Caulfield tournament, alleging that her daughter, amongst other things, was denied food.
194. In addition, Parent 2 alleged that after one match, the Respondent took the team over to the side of the court under a tree and proceeded to yell and scream at the team for approximately 10 minutes. This was in view of parents and tournament organisers, who were waiting to present runner up medals to Child 2's team.
195. Parent 17 and Child 17 gave evidence that after the game the Respondent made comments to the team to the effect:
- (a) *"see the team over there (pointing to the winning team) they are winners and you are all a bunch of losers"*;
 - (b) *"you should be ashamed of yourselves"*; and
 - (c) *"you are an embarrassment to Westside"*.
196. Parent 17 said the girls all looked scared and shocked after the barrage and were even late to the medal presentation because of it. Parent 17 admitted that she did not make any complaints because she did not believe the complaints would go anywhere.
197. The Respondent agreed in evidence that she took the players from the court and went under a tree, but denied giving them 'a spray'.
198. Member Nolan KC found that it was entirely inappropriate for the Respondent to address [REDACTED] year old children in such a manner. In particular, he found that the Respondent was critical of the children including Child 2, shouted and swore at the children, was unduly critical of the children's performance, abused the children and gave the children an unnecessary and unwarranted *"spray"*.



On [REDACTED] 2023 the Respondent told Child 17 that she should leave the team because they want to win

199. In relation to this allegation Child 17 deposed in her affidavit that on [REDACTED] 2023 there were about three games left in the season and the under [REDACTED] team was on the verge of playing finals. During the training session at Keilor, the team coach Narena Baker approached her and said *“it’s best if you leave the team for the rest of the season, we want to win finals and need other girls playing. Tracy doesn’t want you to play.”*
200. Child 17 gave evidence that about 7:00 pm that night when she was home the Respondent called her on her mobile asking whether she was OK to withdraw from the team for the rest of the season as they really wanted to win finals and *“can’t with you”*. *“We only want players who are going to help us win.”*
201. These comments left Child 17 feeling extremely upset and her mother very angry. Parent 17 sent a text to the Respondent. The text message confirms the content of the conversation with Child 17, explains why Child 17 had not played in the last two weeks and states the win at all costs culture was not working.
202. The text goes on to accuse the coaches of diminishing and possibly destroying the confidence of at least five players in that team and asserting that the coaching style was appalling and inconsistent with coaching guidelines:
- “My daughter came home upset at what occurred at training and she no longer think she is good enough to play netball... perhaps you can both explain to her your strategy of doing all you can to win at all costs. Explain that you both damaged her confidence and apologise for the heartbreak you have caused. Every action has a reaction and your actions have caused considerable damage to a number of players in this team.”*
203. Parent 17 gave evidence that the Respondent rang her the next day and said it was extremely inappropriate to send the text to the coach and that Parent 17 should not be questioning the decisions of coaches. The Respondent denied asking Child 17 to leave the team.
204. This evidence was given in the context of a dispute between Parent 17 and the Respondent involving a new netball club, the Western Warriors and a dispute involving SACSNA. Parent 17 believed the real reason her daughter was asked not to return to the team for the finals was the result of what was happening at the Western Warriors.
205. The Respondent gave evidence that the reason Child 17 ended up not playing the rest of the 2023 season was because she had missed too many games due to sport clashes. She stated that she had suggested that Child 17 not play for the balance of the year because she was quite busy with school commitments which took priority.
206. The Respondent gave evidence she did not think it was appropriate to raise the issues with Parent 17 before discussing it with Child 17 because Child 17 was quite comfortable having a chat about it. The Respondent denied the real reason was that she wanted to win finals or that she had found a way to get back at Parent 17 because of the Western Warriors dispute.



207. Member Nolan KC was comfortably satisfied that on or about [REDACTED] 2023 the Respondent breached clause 3.1.1.1 of the 2023 Member Protection Policy and the 2023 Child Safeguarding Policy. In particular, he found that the Respondent told Child 17 that she should leave the team because they wanted to win. The way the statement was made was inappropriate and caused distress to the child and parent. The member was not satisfied the Respondent did not want Child 17 to play to get back at Parent 17, for the way she was treated at the Western Warriors.

In November/ December 2023, the Respondent yelled at and abused Child 7 (under [REDACTED]), regarding the calling of a timeout

208. These events are called the timeout event. They arise from an under [REDACTED] game at Parkville in November or December 2023. The team was coached by Child 5 who wanted to call a timeout so that a player substitution could be made. It was alleged that the Respondent yelled at and used very aggressive language towards Child 7.
209. In her affidavit, Child 5 deposed she was coaching the under [REDACTED]'s team at Parkville. The Respondent was at the game because she was head coach of Westside. During the game the Respondent asked Child 7 to approach the umpire to call a timeout. Child 7 was about [REDACTED] years old at the time. Child 7 asked one of the umpires for a timeout but because the ball was on the other side of the court the umpire said they couldn't call time. The Respondent kept yelling at Child 7 from the sidelines to call time with Child 7 responding that she was trying to.
210. Child 5's evidence was that the Respondent *"just went ballistic, screaming at her to get off the court. It was so aggressive. She continued to scream at Child 7 from the sideline saying "I don't care what the umpires say get off the f#@!ing court."*
211. Child 5 further deposed that Child 7 was petrified while the Respondent continued to yell at her saying get *"that f\$!@ing uniform off" "don't you ever f@#!ing speak to me again" "you are out of my club, get out."*
212. This resulted in an incident involving Child 7's sister and her parents which involved a lot of screaming between the parents and the Respondent. This version of events was supported by evidence given by Parent 5, who said that after the game some of the girls were very upset by the whole situation, as were the parents.
213. The Respondent gave evidence that Child 7 did not call a timeout and that Child 5 and Parent 5 asked for her help. She yelled out to Child 7 to call timeout, but Child 7's sister was yelling at her to stay on the court. When Child 7 did come off the court the Respondent says she explained to her that the behaviour was unacceptable at Westside. Parent 9 and Child 9 approached the bench and they were upset with what had occurred. The Respondent conceded she had a heated exchange with them but maintained that she did not abuse them. She maintained she did not tell Child 7 to get her uniform off or not to speak to her again, nor did she kick her out of the club. The Respondent in fact blamed Child 5 for becoming angry and yelling at Child 7 causing her to cry. Child 10 and Parent 10 gave evidence about the timeout event in support of the Respondent, but this was not accepted.
214. Member Nolan KC rejected the Respondent's evidence and was satisfied the Respondent became angry and then swore at and abused Child 7 in the manner described by Child 5 and her mother, Parent 5. He was further satisfied that Child 7 was upset and cried about what happened.



He believed the Respondent's conduct turned a minor issue, associated with the calling of the timeout, into an unnecessary saga about the improper use of power. He considered it was inexcusable that during a game an ■■■ or ■■■ year old child was sworn at, yelled at and spoken to in that way. The conduct was considered demeaning and degrading to Child 5 and Child 7 and breached the 2023 Member Protection Policy and 2023 Child Safeguarding Policy.

On ■■■■■ 2023 at half time of an under ■■■'s ■■■ team Grand Final against ■■■■■, the Respondent abused players and said they could not have water because of their performance

215. Child 5 gave evidence in relation to this allegation. She deposed in her affidavit that she was sitting as a spectator in the grandstand next to the court at the grand final. Westside was losing at halftime and she recalls the Respondent was visibly frustrated and speaking quite aggressively to the players. During the halftime break, Child 5 observed and could hear the Respondent say to the team, words to the effect, "you don't deserve any water after that performance".
216. During this break Child 5 observed Child 15, one of the players, pick up her drink bottle to have a drink of water. Child 5 then saw the Respondent slap Child 15's arm, grab her drink bottle and say something like "I told you not to have any water." Child 5 says the Respondent then marched the girls as a group into a tunnel area next to the court, continuing to yell at them things like:
- (a) "you're s@#!";
 - (b) "you're embarrassing"; and
 - (c) "you should be ashamed of your performance".
217. The Respondent denied during cross examination she had ever refused players access to water or to take breaks to have water, nor that she ever denied players water as punishment. She further denied she snatched Child 15's water bottle off her as a form of punishment. She relied on the evidence of Child 15's mother who said this never took place.
218. The Respondent maintained that she had two minutes to go somewhere private with the team in air conditioning (which is why she chose the tunnel) to give them a talking to where she did not want everyone to hear.
219. Member Nolan KC found:
- (a) The Respondent abused players at half time. She was clearly angry at the performance of the players in the first half, decided to take the children to a private area and give them a "spray". The Respondent yelled at the children, berated them for their poor performance in the first half and swore at them. He rejected the Respondent's evidence that she had never sworn at players. What she regarded as feedback, was in fact abuse.
 - (b) He was not comfortably satisfied that the Respondent made physical contact with Child 15. While he accepted it was possible the event as described by Child 5 occurred, that evidence was not supported by any other witness.
 - (c) He was not comfortably satisfied that the Respondent denied the children water at half time. While he accepted it was likely she told them to follow her to the tunnel so she could speak to them privately, she only had two minutes to do so and there was no evidence the



players were deprived of water after they returned to commence the third quarter. Even if she had told the children to come immediately and not get their water bottles, he was not satisfied this conduct was a punishment. At its highest the children were deprived of some water for no less than two minutes.

- (d) He was not comfortably satisfied that the Respondent told players they did not deserve water.
- (e) The way the Respondent gave feedback by yelling, swearing at and abusing ■ year old children was demeaning and degrading and breached the 2023 Member Protection Policy and 2023 Child Safeguarding Policy.

Allegation 3

That the Respondent engaged in inappropriate contact with a child in the form of telephone calls, texts or messages made or sent in a volume and/or at a time of day that exceeded professional boundaries in breach of Section 1 of the Child Safe Practices.

Allegation 4

That the Respondent engaged in inappropriate contact with a child in the form of telephone calls, texts or messages made or sent directly to a child, rather than their parents, that exceeded professional boundaries in breach of sections one and or five of the Child Safe Practices.

220. Member Nolan KC dealt with allegations 3 and 4 together. The Appellant made a series of allegations against the Respondent under these allegations, including that:

- (a) the Respondent repeatedly contacted players, including Child 14, Child 12, Child 19 and Child 5, to discuss matters unrelated to netball, without including the parent in such contact;
- (b) in 2017 the Respondent maintained a fake social media account of a child “Alex Fang”, to obtain information about players and parents;
- (c) in 2018 the Respondent maintained a “dirt account” or dirt file, on parents and players that she could use if they upset her;
- (d) the Respondent contacted Child 14 at all hours including when the child was at school and late at night;
- (e) between 2021 and 2023 the Respondent contacted Child 12 for schoolyard gossip, matters related to relationships with boys and other matters, and encouraged the child not to tell parents, claiming they were “best friends”;
- (f) Between 2021 and 2022 the Respondent contacted Child 19 at all hours, including late at night about various matters and general gossip;
- (g) Between 2021 and 2024 the Respondent contacted Child 5 at all hours including about matters not related to netball;



- (h) In 2024, after Child 5's mother told the Respondent the Child 5 did not want to go to a Victorian Netball league match, the Respondent contacted Child 5 to say that she had abandoned her, and was not loyal; and
- (i) on 23 October 2024 the Respondent sought to contact Child 5 on numerous occasions. The Respondent told Child 5 that if she did not answer her calls then Child 5 could not coach.

221. The Appellant asserted that the conduct breached:

- (a) clauses (b) and (f) of the 2017 Netball Victoria Child Safety in Netball Code of conduct;
- (b) clause 2.1.2 of the 2023 Policy and in particular clauses 2(a) (8), (6) and 5(a) of the 2023 Child Safeguarding Policy; and
- (c) clause 3.1.3 of the 2024 Policy and in particular clauses 1(b) (6) and 5(a) of the 2024 Safeguarding Children and Young People Policy.

222. In her evidence, the Respondent accepted that she had had contact with each child, but in relation to Child 12 and 19, she maintained that the contact related to netball related matters. She acknowledged that in relation to Child 5 there was extensive personal social interaction and contact including social interaction in breach of the relevant policy. The Respondent also admitted that the Appellant had proven that a fake social media account using the name "Alex Fang" existed and that she had used that account to look up different things that came up, mainly about opposition teams. She maintained that the account had been set up by her son.

223. Parent 14 deposed that the Respondent told her about the fake account in 2017 and the dirt file in 2018. This evidence included a print out of the Facebook account. The Respondent conceded that she had probably told Parent 14 about the account. However, she denied that she had told Parent 14 that she kept a dirt file.

224. The Respondent was unable to give a satisfactory explanation as to why the account was established using the identity of a fictitious person who resided in South Korea. She agreed that she had followed some of her players on Instagram and that she had sent a text to Parent 14 about Child 33, who was then [REDACTED] years of age, and a boy at [REDACTED].

225. Member Nolan KC was comfortably satisfied that the Respondent used a fake Facebook account in the name of Alex Fang, that she told Parent 14 about this account in 2017 and that she used the account to stalk players and their parents.

226. Evidence was given at hearing about the nature of the relationship between the Respondent and Child 5. Child 5 said that in about 2023 the Respondent discovered that Child 5's father was acquainted with the Respondent's partner and that some interaction between the families occurred. The Respondent said that Child 5 and her were "*close family friends*" and that she saw herself as a second mother to Child 5.

227. Child 5 gave evidence that the Respondent had tried to establish a friendship with her, which became obsessive, making the child feel very uncomfortable. Child 5 claimed the Respondent had telephone conversations with her multiple times a day, which included gossip sessions and had conversations of a sexual nature with her including about Child 5's personal and sexual relationships.



228. Child 5 described her attempts to have her mother and Parent 1 stop the Respondent making the constant telephone calls. In early 2025 when the scope of the relationship was disclosed to Child 5's mother this resulted in complaints being launched with the Appellant.
229. Member Nolan KC found that the Respondent in fact sought to establish a friendship with Child 5, becoming involved in every aspect of her life. This involvement included constant contact and treating Child 5 as a friend and that the conduct became obsessive. He found that while he could not explain why the Respondent would want this close relationship with a 16 year old, this was precisely the type of conduct prohibited under the Policies and was comfortably satisfied that between 2022 and December 2024 the Respondent engaged in inappropriate communications with Child 5, contrary to the 2023 and 2024 policies.
230. Jade Fisher deposed to allegations concerning Child 14 and Child 12. This included that the Respondent would excessively ring Child 14 at all hours of the day and in the early hours of the morning, in relation to non-netball matters. In addition, Jade Fisher deposed that the Respondent had excessive and non-netball related communications with Child 12 and that Jade Fisher was present during some of the calls when the Respondent asked Child 12 about non-related netball matters such as school gossip, boyfriends and sexual experiences.
231. Jade Fisher gave evidence that the Respondent and Child 12 described each other as “*best friends*”. When she confronted the Respondent about the inappropriate nature of the communications she was told “*I’m friends with the girl’s parents so she is like a daughter to me*”. Jade Fisher spoke to the parents of Child 12 and was informed that they had asked the Respondent to cease these communications without their permission.
232. Parent 12 confirmed that he was aware that Child 12 and the Respondent had a close relationship and spoke a lot and that the Respondent was like a second mother to her. He gave evidence he was unaware of the telephone conversations between his wife and Jade Fisher concerning communications between the Respondent and his daughter.
233. The Respondent agreed she had significant communications with Child 12, generally on FaceTime occurring when her parents were present. Many of the conversations were because both the Respondent and Child 12 were involved in volunteer work for animals. While the Respondent admitted Jade Fisher had spoken to her about getting too close to players, she denied the conversation was about Child 12.
234. Member Nolan KC found that the conversations occurred in circumstances where Child 12’s parents were aware of the frequency of the conversations and treated them as appropriate. He was not comfortably satisfied that the allegations of inappropriate communications with Child 12 had therefore been proved.
235. Member Nolan KC also found that allegations of inappropriate communications with Child 14 were at best hearsay and that while Jade Fisher may have been told about conversations by Child 14, that did not establish they had actually occurred. He was not prepared to draw an inference that the conversations breached professional boundaries or that Parent 14 was unaware of those conversations.
236. Member Nolan KC was however comfortably satisfied that the Respondent engaged in inappropriate conduct with Child 19, who was then aged approximately [REDACTED] years of age. He found that the Respondent had conversations directly with Child 19 about non-netball matters and rejected the Respondent’s evidence that these calls related solely to matters such as training plans, attendances and player performance.



237. Having reviewed all of the evidence, Member Nolan KC was satisfied that the Respondent had a propensity for trying to establish friendships with children, and that this type of social communication regularly occurred with children, their parents and other coaches. He was comfortably satisfied that the Respondent engaged in inappropriate contact with children, thereby breaching the relevant policies and codes in relation to her communications by social media, text and phone contact with Child 5 and Child 19.

Allegation 5

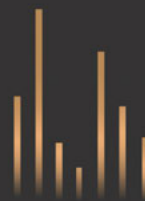
That the Respondent encouraged and engaged in conversations of a sexual nature with a child, in breach of sections one and or two of the Child Safe Practices.

238. These allegations concerned contact between 2018 and 2020 when the Respondent discussed sexual matters and intimate affairs about children, with the children she coached.
239. The Appellant relied upon the evidence of Child 21, Child 19, Child 5, Parent 14 and Jade Fisher in relation to these allegations. The Respondent relied upon her own evidence and the evidence of Parent 38, Parent 26, Parent 20, Child 37 and Child 31.
240. Member Nolan KC found that the Respondent had encouraged and engaged in a conversation of a sexual nature about Child 31 with a group of underage children and that she had had a conversation with Parent 14 about that. This was supported by the evidence of Parent 14 who said she had heard the conversation and told the Respondent that she could not ask about those types of matters. This included asking the group of [REDACTED] girls whether Child 31 was having sex.
241. Member Nolan KC also found that the Respondent had conversations as alleged by Child 19 that the Respondent asked questions about whether the girls knew if Child 40 was having sex, including asking the question “*did you know Child 40 was having sex in her school bathroom?*”
242. The Respondent admitted that she engaged in conversations about sexual matters in the presence of a [REDACTED] year-old child when she spoke to Child 47 about her sexual experiences. The Respondent further admitted that she answered questions about losing her own virginity and that the conversation should have been shut down immediately. Member Nolan KC inferred from the evidence that the Respondent thought it was acceptable to have conversations about sexual matters with children and there was nothing wrong in having such conversations, despite their inappropriate nature.
243. Member Nolan KC was also comfortably satisfied that the Respondent engaged in numerous conversations about sexual matters with Child 5, including conversations about kissing boys, asking other sexual questions, a conversation with Child 5 in 2024 about sexual intercourse and the incident concerning the morning after pill (which is the subject of Allegation 13). The Respondent admitted she had conversations with Child 5 about her sexual experiences including the time when she lost her virginity and another sexual relationship, however the Respondent gave evidence that Child 5's mother was present when these conversations occurred.

Allegation 6

That the Respondent made inappropriate comments about or in the presence of a child regarding weight, in breach of Section 2 of the Child Safe Practices

244. This allegation concerned comments purportedly made by the Respondent in relation to the size and weight of Child 4 and Child 17.



245. Member Nolan KC was not satisfied that in 2021 the Respondent said about Child 4 that she was a “big b#\$@! she needs to go for a run”.
246. The allegation relating to Child 17 was that the Respondent told her she was “too fat” and needed to “lose weight” if she had any hope of playing [REDACTED] again, in breach of the 2017 Netball Victoria Child Safety in Netball Policy, the 2017 Netball Victoria Child Safety and Netball Code of Conduct and the 2023 Child Safeguarding Policy.
247. Child 17 gave evidence that in late 2022 or early 2023 after a team loss, the Respondent approached her at a training session and said words to the effect that she was not playing goal attack anymore and that she was too fat and needed to lose weight if she wanted to play in that position or be put on the court. Child 17 said she felt incredibly sad about the comments, started to eat less so that she would lose weight and told her mother about the comments. Parent 17 deposed that she told the Respondent she found the comments incredibly inappropriate, but was told by the Respondent she would never make such comments to a child.
248. Parent 17 deposed that she found it very disturbing and worrying that the Respondent’s comments had had such an impact on Child 17 because despite her mother’s comments that there was nothing wrong with her weight and that the child should ignore the Respondent, Child 17 in fact lost considerable amount of weight throughout the course of 2023 driven by the comments the Respondent had made.
249. In her evidence, the Respondent denied ever making these comments to Child 17 but said that she had emphasised to Child 17 that it was important for her to work on her overall fitness and to be open to learning to play a new position, due to her height not being suitable for the position she was playing at the next level. The conversation was said to be part of ensuring Child 17 continued to progress and realise her potential.
250. Member Nolan KC was comfortably satisfied that in late 2022 or early 2023 the Respondent did tell Child 17 that she was too fat and had to lose weight and that it was likely the Respondent also told her to get fitter. Member Nolan found that this constituted body shaming which was a breach of Netball Victoria’s policies including the 2017 Child Safety in Netball Code of Conduct. This expressly states that use of language and tone of voice used in the presence of children and young people should not be harmful, derogatory, belittling or negative, for example by telling a child or a young person they are too fat.
251. It was unclear to Member Nolan KC whether the breach occurred in late 2022 or early 2023. If the conversation occurred in 2022, the Respondent breached the 2017 Netball Victoria Child Safety in Netball Code of Conduct and the 2017 Netball Victoria Child Safety in Netball Policy. If the conversation occurred in 2023, it breached the Child Safe Practices 3(b).

Allegation 11

That the Respondent forced a child to continue to play when they were injured

252. It was common ground before the Tribunal that on [REDACTED] 2024 Child 5 suffered a [REDACTED] injury whilst playing in an open team coached by the Respondent. Child 5 was in pain from the injury and crying, and was assisted to the bench and received first aid treatment. Later during the game, Child 5 returned to the court but her [REDACTED] almost immediately and she was forced to withdraw. The injury was in the nature of an [REDACTED] which required reconstructive surgery.
253. Despite the Respondent’s evidence that she did not ask Child 5 to go back on court or put pressure on her to do so, she accepted in cross-examination that she wanted Child 5 to go back on court and was responsible for the health of the players, and that she got it wrong by allowing



Child 5 to return to the court. The Respondent belatedly accepted responsibility for contravention of the 2024 Safeguarding Children and Young People Policy in relation to Allegation 11 in submissions by counsel made on her behalf.

254. Member Nolan KC found that Child 5 had suffered what appeared to be a serious injury of which the Respondent was aware, but nevertheless decided to allow Child 5 to return to the court, placing her desire to win over the physical well-being of the child. On this basis, Member Nolan KC found that Allegation 11 was established to his comfortable satisfaction.

Allegation 12

That the Respondent filmed a child who exposed their buttocks in training and shared the images with third parties

255. Member Nolan KC accepted (contrary to the Respondent's evidence) that the Respondent used her phone to make a video of Child 4 and Child 24 behaving poorly during a training session, without the consent of their parents, to show the head coach, Mr Abela. Whilst she was videoing the girls, one of them "moonied" her by pulling down her pants and showing her buttocks in the video. The Respondent flew into a rage at what she perceived to be a sign of disrespect and abused the girls in front of the other children at training, calling them "*disgusting trash*" and "*bush pigs*". The Respondent sacked Child 4 and Child 24 from the club effective immediately, and also abused Child 22 and sacked her from the club for asking what the children had done.
256. Member Nolan KC also accepted (on the evidence of Jade Fisher and Child 19) that in the video the Respondent had "zoomed in" on the child exposing their buttocks. He accepted that the Respondent then failed to delete the video as soon as she became aware that it depicted a partially naked child, showed the video to Child 19, and circulated the video to Child 18 (who showed the video to Jade Fisher).
257. This deliberate act by the Respondent of zooming in to film the child's exposed anal or genital regions was found by Member Nolan KC to be contrary to the *Crimes Amendment (Sexual Offences) Act 2016*.
258. We would interpolate that under s 51A of the *Crimes Act 1958* (Vic), child abuse material is defined as material that depicts or describes (among other things) the genital or anal region of a person who is, or who appears or is implied to be, a child. Under the same provision, distribution in relation to such material includes exhibiting, communicating, sending, supplying or transmitting the material to any other person. The production, distribution and possession of child abuse material are criminal offences contrary to ss 51C, 51D and 51G (respectively) of that Act.

Allegation 13

That the Respondent encouraged and assisted a child to take medication in the form of the morning after pill without the knowledge of her parents

259. It was not in dispute that the Respondent had acquired the morning after pill for Child 5, nor that Child 5's parents were not informed at the time, however the circumstances were disputed before Member Nolan KC.



260. Member Nolan KC accepted the evidence of Child 5 (in preference to the evidence of the Respondent to the contrary) that in March 2024, during a conversation at Keilor Stadium, the Respondent asked if Child 5 had had sex. Child 5 said that she had, and the Respondent told her that she needed to take the morning after pill and would arrange this for her, and that Child 5 should not tell her mother. Child 5 took the morning after pill having been given it by Child 18 (another coach), because the Respondent had told her to.
261. Although the Respondent sought to explain the behaviour by asserting that she had a close relationship with Child 5 and her family, Member Nolan KC held that this was not the case and the Respondent pursued an inappropriate friendship with Child 5, failing to maintain professional boundaries.
262. The Respondent's conduct was found to be a further breach of the 2023 Child Safeguarding Policy, which specifically prohibited supplying any medicine to a child without the consent of the parent, and of the 2024 Safeguarding Children and Young People Policy.

Allegation 17

That the Respondent threatened to negatively impact a child's netball pathway if they did not meet her expectations in terms of playing and non-playing reasons

263. Member Nolan KC accepted the evidence of Parent 21, Jade Fisher, Child 19, Child 5 and Parent 14, who gave evidence to the effect that the Respondent made threats, and in fact took steps, to impact players' pathways in netball if they did not meet her expectations. That conduct included (among other things) threatening to use (or in fact using) the Respondent's asserted influence with Netball Victoria to block a player's progress, speaking poorly of past players, delaying transfers to other teams to prevent former Westside players from playing against Westside, and threatening to remove Child 5 from a coaching position if she did not respond to the Respondent's extensive phone calls.
264. Although the Respondent denied the allegations, Member Nolan KC rejected those denials and found that the Respondent made the statements attributed to her to intimidate and scare the parents and children, and to instil a culture of unqualified compliance to the demands of the coaches.
265. Member Nolan KC did not specifically address in his reasons whether this conduct was in breach of the relevant policies (being the 2017 Netball Victoria Child Safety in Netball Code of Conduct, the 2023 Child Safeguarding Policy and 2024 Safeguarding Children and Young People Policy). However, we infer that this was the effect of his findings in contrast to him having specifically addressed one aspect of the conduct (clapping in the face of Child 2 when she made a mistake on the court) as not being in breach of the relevant policies (at [561]-[562] of the Determination).

Allegation 18

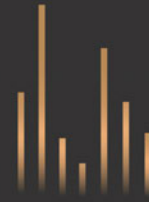
That the Respondent arranged for a child to attend a medical procedure (fillers) with the Respondent

266. There does not appear to be any section of the reasons of Member Nolan KC which specifically addresses Allegation 18. In the summary of the Tribunal's findings it is recorded that Member



Nolan KC was comfortably satisfied that the allegation was proved. We note that the absence of reasons for this finding is not the subject of any ground of appeal we are asked to determine. Nevertheless, for completeness we have summarised below the evidence before Member Nolan KC supporting that finding.

267. The evidence was that the incident the subject of Allegation 18 occurred in December 2023 and involved Child 5 (being the same child who was the subject of Allegations 11 and 13). Child 5 gave a sworn affidavit in which she stated that the Respondent telephoned her on a weekend *“randomly and asked if I was doing anything”*. She said when she told the Respondent she was studying, the Respondent said that she had a present for Child 5 and was going to take her out for a surprise, and was already on her way to pick up Child 5 from her home. Child 5 stated that her mother was not home at the time and didn’t know, but Child 5 didn’t feel she could say “no” to the Respondent.
268. Child 5 stated that on arriving at a beauty salon, the Respondent told her to come into the room where the Respondent was receiving a separate treatment (fillers). Child 5 says she said words to the effect of *“no, needles make me squeamish”*, but that the Respondent told her it wasn’t that bad and not to be scared, and that it would be good for Child 5 to see because the Respondent would be taking her to do it one day. Child 5 says she told the Respondent again that she did not want to watch the injections and left the room.
269. In cross-examination, Child 5 agreed that the Respondent had previously offered to take Child 5 for a facial as a Christmas present. She also agreed that upon arriving at the salon, she was told that the therapist who would perform Child 5’s treatment was not yet ready for the appointment. However, Child 5 was firm in her evidence that she was told by the Respondent to wait in the room where the Respondent was receiving treatment rather than being given the option to wait outside, notwithstanding her protests that she did not like needles.
270. The Appellant submitted that this conduct was in breach of clause 1(b)(6) of the Child Safe Practices (which are Appendix 4 to the Child Safeguarding Policy), as it involved having one on one contact with a Child outside of authorised sport activities, and in breach of clause 3.1.2.1 of the Child Safeguarding Policy in that it constituted age-inappropriate conduct and therefore Harmful Behaviour Towards a Child.
271. The Respondent gave evidence regarding the incident in her witness statement. She stated that she and Child 5 were close and socialised outside of netball. She said that she decided to gift Child 5 a facial treatment for her Christmas present in 2023, and made an appointment for that purpose at a beauty salon. The Respondent’s evidence largely accords with that of Child 5. The Respondent’s evidence is that the therapist doing Child 5’s treatment was not ready, so she asked Child 5 whether she wanted to wait outside or come into the room. The Respondent gave evidence that Child 5 came into the room and sat in the corner but did not say anything while the Respondent received her treatment, and specifically denied Child 5 raising any complaint regarding needles or the other comments attributed to the Respondent by Child 5.
272. Having regard to the other allegations in which Member Nolan KC accepted the evidence of Child 5 in preference to the evidence of the Respondent where it conflicted, and Member Nolan KC’s statement in the summary that he was comfortably satisfied that Allegation 18 was proved, it



seems clear that Member Nolan KC did not accept the Respondent's denials of having pressured Child 5 to sit in on the procedure.

273. Even on the undisputed aspects of the allegation, we agree that Allegation 18 represented a breach of the relevant policies by the Respondent.

Allegation 20

That the Respondent punished 4 children for their behaviour on a 2025 pre-season camp by using inappropriate language, forcing them to swim under water in a swimming pool in front of their peers, causing them to be humiliated

Allegation 21

That during the alleged 2025 camp punishment, the Respondent forced one of the 4 children to change their clothes in front of their peers

274. Allegations 20 and 21 are addressed together in the reasons of Member Nolan KC, given that they occurred during the same pre-season training camp in January 2025.
275. Member Nolan KC found that on the day in question, four of the girls at the camp had been misbehaving. The Respondent had been made aware of their behaviour and spoke to them about it. During the conversation, the girls said that they did not want to go in the pool (as the others present had already done) and would prefer to sunbake. The Respondent was upset and angry at the four girls for not taking the camp seriously and being disrespectful to her.
276. The Respondent decided to discipline the four girls, yelling at them in front of the others and demanding that they get into the pool as punishment notwithstanding that they did not want to. She demanded that the girls hand over their phones, and that they swim under water and get their hair wet. This conduct was in breach of the 2024 Safeguarding Children and Young People Policy.
277. Member Nolan KC also found that the Respondent further breached the Safeguarding Policy by forcing Child 30 to change into a sports bra in front of the others at the pool, embarrassing her in front of her peers.
278. The evidence given by Child 6, Child 23, Child 36 and Child 30, and the complaints submitted by their parents in respect of these events, was found to provide compelling evidence of the significantly detrimental psychological effect the training camp had on the children. Member Nolan KC concluded that the Respondent's behaviour was intended to embarrass, humiliate and punish the four girls in front of younger children, to reinforce her authority over the children at the training camp. He found he was comfortably satisfied the allegation was proved.

Allegation 25

That the Respondent victimised or fabricated stories about a child after they had left her team with the intention to harm them



279. This allegation is related to Allegation 3(c), relating to the Respondent retaining a “*dirt file*” of adverse information about parents and players. In addition to the allegation that she retained such a file, in Allegation 25 she was alleged to have told Parent 14 in 2019 that she had such a file and could use it if parents or players were disloyal to her or left Westside. Further, she was said to have made disparaging remarks about a former player’s body odour, called another a “*s@!t*” and other denigrating names (being Child 35, the subject of the video concerned in Allegation 1), and called other former players “*disloyal*”, “*lying b@#!%es*” and “*disgusting*”.
280. The Respondent accepted in cross-examination that she had made the comment regarding a former player’s body odour to other [REDACTED] players on the Westside team. Member Nolan KC noted that the Respondent provided no satisfactory explanation as to why she thought such remarks were appropriate, and that the comment was intended to belittle and denigrate the former player (Child 11), in breach of the 2017 Netball Victoria Child Safety in Netball Policy and the 2017 Netball Victoria Child Safety in Netball Code of Conduct.
281. Consistently with Member Nolan KC’s acceptance of the evidence of Jade Fisher and Parent 5 in the context of Allegation 1, he found that notwithstanding the Respondent’s denials, she had in fact called Child 35 a “*s#!t*” and a “*dirty b\$%#@*”, thereby seeking to demean and denigrate the child.
282. The final set of comments were also found to have been made by the Respondent, based on the evidence of Jade Fisher and Child 19, when she became angry having found out only two members of the team had been invited to a party by Child 19 and other former players had been invited. In describing Child 19 as “*disloyal*” and the other girls as “*lying b@#!\$%es*” and “*disgusting*”, She was found to have demeaned and denigrated Child 19, Child 27 and Child 21 in breach of the 2017 Netball Victoria Child Safety in Netball Policy and the 2017 Netball Victoria Child Safety in Netball Code of Conduct.

APPLICABLE RULES

283. The relevant Codes and Policies for the Breaches the subject of the allegations are:
- (a) from 1 January 2017 to 31 December 2022, the Netball Victoria Child Safety in Netball Policy (**2017 Netball Victoria Child Safety in Netball Policy**) and the Netball Victoria Child Safety in Netball Code of Conduct (**2017 Netball Victoria Child Safety in Netball Code of Conduct**);
 - (b) from 1 January 2023 to 31 January 2025, the Netball Australia member Protection Policy 2023 (**2023 Member Protection Policy**);
 - (c) from 1 January 2023 to 29 February 2024, the Netball Australia, Child Safeguarding Policy dated 1 January 2023 (**2023 Child Safeguarding Policy**);
 - (d) from 1 March 2024 to 31 January 2025, the Netball Australia, Safeguarding Children and Young People Policy dated 1 March 2024 (**2024 Safeguarding Children and Young People Policy**); and
 - (e) since 1 February 2025, the Netball Australia Safeguarding Children and Young People Policy (**2025 Safeguarding Children and Young People Policy**).



284. The Arbitration in the General Division and this Appeal are conducted under the Disciplinary Policy and *the National Sports Tribunal (Practice and Procedure) Determination 2024* (the **NST Determination**).
285. The Appeal Determination is made pursuant to the Disciplinary Policy.

MAIN SUBMISSIONS OF THE PARTIES

Appellant's Submissions

Allegation 1

286. The Appellant accepts that to succeed in respect of any of the grounds of appeal, the Appellant is required to demonstrate that the relevant decision made was one which, on the material before the Tribunal, was so unreasonable that no reasonable decision-maker could have made that decision (see Clause 15.4.1.2 of the 2025 Disciplinary Policy or Clause 15.3.1(b) of the 2026 Disciplinary Policy – those Clauses are in identical terms). The concepts of law involving unreasonableness in administrative law are well known. The most concise statement is to be found in *Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332 at [76] where it was held that a decision would be said to be legally unreasonable if it “*lacks an evident and intelligible justification*”.
287. In relation to Allegation 1, it was submitted that there was no dispute that if the Respondent possessed or shared the relevant video then it was a very serious infringement of the relevant Policy.
288. The evidence has been extensively summarised above. Jade Fisher, Parent 5 and Parent 17 gave evidence in support of the allegation that the Respondent was in possession of the video. It was submitted that that evidence was accepted by Member Nolan KC as “*truthful, cogent and creditable*”. The Respondent’s evidence to the contrary effect was rejected. The Appellant relied on Jade Fisher’s evidence as being critical to the appeal ground and it was reinforced by the evidence of Parents 5 and 17. The Appellant also relied upon evidence that the Respondent and Child 12 were very close and had led to parents, including Parent 12, telling the Respondent that she was too close to some of the players including Child 12.
289. Further, the Appellant submitted that the Respondent and Child 12 had a history with Child 35 (who was the subject of the video). Child 35 had posted a video online about Child 12 and the Respondent in which certain lyrics related to Child 12 [REDACTED] and apparent further lyrics about “*hating you*” with the Respondent’s name appearing. The Respondent became aware of the video and Child 35 subsequently left Westside.
290. In relation to the offending video being on the phone of Child 12, it was submitted that although Parent 12 gave evidence that he could not find the video on Child 12’s phone, it was emphasised that Member Nolan KC did not accept the hearsay evidence that Child 12 did not have the video, only that Parent 12 could not find it on the phone.
291. It was further submitted that the Respondent consistently failed to maintain appropriate boundaries with players and engaged in a type of school-yard gossip with a number of the children under her care. Further reliance was placed upon hearsay evidence given by Child 5



that she was told by at least 4 players that the Respondent had shown them the video, but that the Respondent had not shown the video to Child 5. The failure by Member Nolan KC to refer to this evidence was relied upon also.

292. It was submitted that given that Jade Fisher's evidence was accepted, the only finding open was that the Respondent had the video in her possession and had shown it to other children. It was submitted that a finding that the Respondent was trying to impress her friends, or was just gossiping was not open on the evidence and was in fact inconsistent with the evidence as found because the Respondent had told Jade Fisher she had the video and had asked her whether she wanted to see it and further, Jade Fisher had seen the Respondent walk over to a group of children and show them a video accompanied by the Respondent saying Child 35's name and words like "*gross*" amongst laughter and pointing at Child 35. It was submitted there was no evidence that it could have been some other video.
293. The Appellant submitted that the suggestion that a person would claim to have a sexually explicit video involving a child as a means of impressing their friends is bizarre and non-sensical. And in any event, the Respondent never gave evidence that she made the statements but was seeking to impress her friends or was gossiping. Rather, she denied the conversations occurred, which denial was expressly rejected by Member Nolan KC.
294. It was submitted that even if there was some room for residual doubts in respect of Jade Fisher's evidence, those residual doubts were overcome by the evidence of Parents 5 and 17 and there was no reason to think that those parents would be "*impressed*" that the Respondent had child abuse material or that the Respondent would think that they would be impressed by a claim that she had child abuse material on her phone.
295. It was submitted that, in any event, even if it was possible that the Respondent might have claimed to have the video as a misguided and bizarre attempt to impress her friends, this was not the most likely explanation and the Appellant did not have to exclude all reasonable possibilities (much less all possibilities) consistent with innocence. It was submitted that the bizarreness of the proposed alternative suggestion (a false offer to show child abuse material to friends in an attempt to impress them) strongly suggests against it being the more likely inference from the evidence.
296. Finally, it was submitted that Member Nolan KC applied a (much) higher standard than the balance of probabilities and that it was emphasised by him stating that his level of satisfaction was "*very high*" but not high enough to be comfortably satisfied that the allegation was proven. Such an approach, it was submitted, was legally flawed.

Penalty – Duration

297. The Appellant submits that if Ground 1 is upheld, then the penalty would have to be reconsidered. As Member Nolan KC found, if Allegation 1 had been proved, then in all likelihood the Respondent would have been banned for life.
298. The Appellant submits that even if Ground 1 is not made out, the penalty imposed on the Respondent is one that was so unreasonable that no reasonable Tribunal could have come to such a decision because the conduct proved was very serious, a blatant breach of the various Policies adopted by Netball Victoria to provide a safe and inclusive environment for children, that



the conduct constituted child abuse as well as emotional or psychological abuse and further, that the Respondent had not shown any contrition or remorse that suggested her behaviour would change if she was permitted to coach children in the foreseeable future. These were findings made by Member Nolan KC which, the Appellant submitted, were not reflected adequately in the penalty imposed.

299. The Appellant submitted that because the sanction imposed in this matter is likely to have significant precedential value and that the primary consideration in any sanction imposed must be the protection of children, having regard to the significant and sustained harm the Respondent has caused to the children under her care. In order to achieve general deterrence, anything less than a lifetime ban is so lenient that no reasonable decision-maker in the position of Member Nolan KC could have come to such a decision.
300. The Appellant relies upon five matters in support of the principal submission. Firstly, that the proven conduct was undeniably extremely serious and occurred in contemptuous disregard for the policies and child safeguarding obligations that apply to coaches of junior athletes. Secondly, that the Respondent had not demonstrated any insight or contrition and there was no reason to infer that she would not return to her old ways if she was permitted to coach children again. Thirdly, the damage she did to children under her care was substantial with some of the witnesses giving evidence they were required to seek psychological assistance in an attempt to undo the damage that she had inflicted upon them. Fourthly, that the penalty did not adequately take into account the breadth or depth of the infringements and the fact that they affected some very vulnerable children. There were a large number of infringements which extended over many years and affected many children and even though it was appropriate to impose one penalty rather than a number of penalties for each infringement, the penalty had to take into account all of the infringements. It was submitted that if the only infringement found against the Respondent was the abuse of children, the penalty that would have been imposed would not have been lower than 10 years which implies that little or no penalty was imposed for the other offences.
301. Fifthly, the very significant danger that the Respondent's overstepping of professional boundaries exposed children to was not taken into account. The Respondent's conduct (of talking with children without their parents' knowledge outside of netball related activities and involving intimate matters such as their sex lives) regularly took the form that one would expect of a paedophile engaged in grooming behaviour and in undertaking this behaviour, the Respondent normalised it. Children, having been exposed to this type of behaviour would have been less likely to guard against it if they faced the same type of behaviour by a paedophile and given the prevalence of such conduct in society and the large number of children that the Respondent coached over many years, the increased risk was substantial. It was submitted that this was one of the reasons that coaches are expected to maintain professional boundaries from the children they coach.

Penalty – Permission to be a spectator at adult games

302. It was submitted that there was ample evidence before Member Nolan KC that children played in senior competitions and that juniors trained with seniors and that children also umpired senior games. It was submitted that the evidence disclosed that child umpires were also intimidated by the Respondent and in those circumstances it was entirely unreasonable that the Respondent



be permitted to spectate those games. There was nothing to stop her intimidating or yelling at children playing in or umpiring the senior teams participating in those games.

303. Further, it was submitted that a number of the witnesses in the case either are, or will shortly be playing in open competition and with the Respondent being able to attend those games it was entirely unreasonable to expect those witnesses to have to deal with the Respondent in and around those games and allowing her to do so runs contrary to the protective aim of any sanction that is to be imposed. The “*carve out*” to permit the Respondent to spectate senior games was submitted to be unworkable because they are frequently held at the same time and in the same location as junior games and permitting the Respondent to attend and spectate senior games will of necessity also allow her to attend junior games. In conclusion, it was submitted that given the unworkability of it, and the false underlying premise that there is a clear distinction between senior and junior competitions, the exception permitted for the Respondent to spectate senior games was an exception that no reasonable Tribunal could have reasonably permitted.

Respondent’s Submissions

304. The Respondent submitted that caution should be exercised in disturbing factual and evaluative findings reached after a lengthy hearing, extensive witness material, oral evidence and submissions, as occurred when the matter was heard before Member Nolan KC. His Determination records that the parties prepared revised tables of allegations and responses, extensive and comprehensive oral and written submissions being made and the hearing occupied 7 sitting days with the Court Book reaching 768 pages.

Allegation 1

305. The Respondent submits that the issue on appeal is not whether the Appellant can point to evidence that might have supported a different conclusion; the issue is whether the conclusion actually reached by Member Nolan KC was so unreasonable that no reasonable decision-maker could have made it. The seriousness of the allegations and the gravity of consequences were relevant to the fact-finding exercise as emphasised by the applicable standard, being the balance of probabilities. In submissions before Member Nolan KC, Allegation 1 was described as the most serious allegation faced by the Respondent and was one potentially involving criminal conduct, with submissions directed to the need for an exactness of proof and careful reasoning in relation to such an allegation. In that context, it was plainly open for the question to be approached with care and to decline to make the finding sought unless Member Nolan KC was affirmatively persuaded on the evidence.
306. It was submitted that the Appellant’s formulation of Ground 1 relied on selected parts of the Determination said to accept some evidence and reject some of the Respondent’s evidence, but selective acceptance or rejection of aspects of the evidence did not compel the conclusion that the ultimate allegation had to be found proved. The Appellant relied upon the fact that Member Nolan KC’s fact-finding task remained one of evaluating all of the material and deciding whether the allegation was established to the required standard. It was emphasised that the test on appeal is whether the ground of unreasonableness is proven, not whether another Tribunal might have preferred a different outcome. It was emphasised that the hearing involved extensive submissions, witness statements, oral evidence and cross-examination, and that Member Nolan



KC considered comprehensive submissions when making his findings and that the conclusion he made was an evaluative finding reached after hearing the case in full.

307. It was submitted that the conclusion reached by Member Nolan KC was not legally unreasonable and that the appeal ground should be dismissed.

Penalty - Duration

308. It was submitted that the sanction imposed upon the Appellant should be framed around the basis of unreasonableness of the decision not mere disagreement with the severity of the sanction.
309. It was submitted that the sanctions are already very serious in nature. The Respondent has been banned from all netball related activities including any junior or child's netball for a period of 10 years and any Netball Australia Coach Accreditation and Netball Victoria Membership has been cancelled. Further, given the Respondent's age, it is entirely likely that she will never coach junior netball again, instead choosing to retire. Further, given the Respondent's long history of coaching, the Determination to ban her from all coaching for 10 years, given it has been her sole source of income, should not be taken lightly.

Penalty – Permission to be a spectator at adult games

310. The Respondent submits that the decision in relation to permission to spectate adult games does not render the sanction irrational or outside the range reasonably open. It was submitted that even if there may be occasions where children are present at open age or senior competition, that does not mean that the decision to allow the Respondent to spectate those events was one no reasonable decision-maker would make. It was submitted that at most, it raises a practical submission about overlap, which falls well short of establishing legal unreasonableness and Member Nolan KC specifically drew a distinction between junior and senior games. His decision was made only after he had heard the evidence, made findings and received sanction submissions. It was accepted that the Disciplinary Policy expressly contemplates that sanctions may be varied on appeal, but only within the confined appellate framework and without re-hearing the case. It was not the test that the Appeal Division was entitled to submit its own preferred sanction without establishing unreasonableness.

General Considerations

311. It was submitted by the Respondent that the Appeal Tribunal should exercise restraint before interfering with the Determination on the basis that the appeal is confined and does not challenge all findings, the appeal standard is narrow and directed to legal unreasonableness, the Appeals Tribunal must not re-hear the matter or the facts and the hearing was lengthy and evidence-heavy, with a substantial Court Book and multiple hearing days and that those matters strongly support dismissal of an appeal that seeks, in substance, to revisit evaluative conclusions reached after a substantial hearing.
312. Accordingly, it was submitted that all appeal grounds be dismissed and the Determination of Member Nolan KC be affirmed.



MERITS

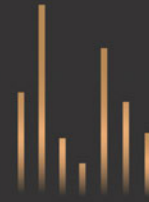
313. While the Panel has considered all the facts, allegations, legal arguments and evidence considered by the NST General Division and all the legal arguments and submissions before the Appeal Division, it refers in its Determination only to the legal arguments, submissions and evidence it considers necessary to explain its reasoning in respect of each ground of appeal.

Ground 1: Allegation 1

314. The Submissions of the Appellant and the Respondent are set out above. The Appellant submits that the finding of Member Nolan KC that he was not comfortably satisfied that Allegation 1 had been proved was a finding that no reasonable decision-maker in the position of the Member, and based on the material before him, could have reasonably made.
315. A decision will be legally unreasonable if it lacks an evident and intelligible justification – see *Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332 at [76]. Further, as was held in *Myers v Medical Practitioners' Board of Victoria* (2007) 18 VR 49, where an appeal court finds that the finding by the first instance Tribunal of an essential fact for its decision is so unreasonable that no reasonable Tribunal could have arrived at it, the incorrect finding of fact will be said to constitute an error of law.
316. The test to be applied by the Panel, given the restriction on this Panel as to the basis upon which an appeal may be upheld, is not to determine the matter on the basis of what the Panel might have determined if it was deciding the matter at first instance. That would be an incorrect application of the test contemplated by the Disciplinary Policy. The Panel's function is narrowly confined and directed to legal unreasonableness. The Panel must give full weight to the findings of fact made by Member Nolan KC, who had the benefit of seeing and hearing witnesses give evidence before him and considered a large volume of written materials. Full weight must be given to his observations of witnesses and his findings as to credibility, truthfulness, cogency and the like.
317. The argument for the Appellant essentially is to seek the conclusion that it was not open for Member Nolan KC to find that it could not be established on the balance of probabilities (even at the higher standard as suggested by *Briginshaw* and required in this case), that the Respondent had the relevant video on her phone.
318. Member Nolan KC set out the relevant legal issues in detail at paragraphs [43] – [60] of his Determination. The Panel respectfully adopts that analysis by Member Nolan KC, which in turn adopts in large part the analysis of Member Heath KC in *Member v Sporting Body NST-E23-375291*, where Member Heath KC found that the *Briginshaw* rule has direct application to all Arbitrations conducted by the NST. The Panel further endorses Member Nolan KC's interpretation of Clause 9.9.2 of the Disciplinary Policy as a re-statement of the *Briginshaw* rule and Section 140(2) of the *Uniform Evidence Act*. The evaluation of the evidence of witnesses and the assessment of credit by Member Nolan KC have to be given substantial weight. In our view, the 13 propositions applicable to the assessment of credit and the character of witnesses in civil proceedings and the indicators of unsatisfactory witness evidence as set out by Justice Croft in the Supreme Court of Victoria in *LL UP Pty. Ltd. v Kegland Distribution Pty. Ltd.* [2024] VSC 651 were correctly applied by Member Nolan KC.



319. The evidence in support of Allegation 1 is set out in detail at paragraphs [38] – [72] above. The findings by Member Nolan KC are set out at paragraph [73] above. Member Nolan KC analysed the evidence at paragraphs [76] – [104] of his Determination.
320. The crucial issue on which Member Nolan KC had to be satisfied to the applicable standard was whether the Respondent had possession of the video on her phone and showed that video to the junior female netballers. The fact to be established was whether the video was on her phone, and not the consequences of the video being on her phone. No witness gave evidence that they saw the video on the Respondent's phone. The highest the evidence got to was the discussion between the Respondent and Jade Fisher. Jade Fisher had a discussion with the Respondent during which the Respondent stated that she had obtained the video from Child 12. After Jade Fisher warned the Respondent about having the video and that she should delete it, she saw the Respondent walk over to a group of junior female netballers and show them a video on her phone and then heard the girls start laughing and make some comments. Jade Fisher inferred it was the video of Child 35 because of the reaction of the girls. Parent 17 gave evidence that the Respondent told her she had possession of a video on her phone of a girl who used to play at Westside performing sex acts. Parent 5 deposed to a conversation with the Respondent where the Respondent told her that she would show her a video of a girl that she had pointed out. In her evidence, Parent 5 stated that she didn't know that the Respondent absolutely did have the video rather than that that was a comment that she made.
321. The Respondent denied ever being in possession of or viewing the video. She gave evidence of the circumstances as to how she became aware of it. She denied the evidence given by Jade Fisher. She denied the conversations with Parent 17 and Parent 5. Parent 12 gave evidence about enquiries he had made with his daughter Child 12 who was alleged to have had the video on her phone or had sent the video to the Respondent. Parent 12 could not locate the video on Child 12's phone.
322. At paragraphs [99] – [100] of the Determination, Member Nolan KC analysed this evidence and came to the conclusion that the Respondent had told each of Jade Fisher, Parent 5 and Parent 17 that she had the video. He rejected the evidence given by the Respondent that the conversations did not occur. He accepted the evidence given by Jade Fisher about the involvement of Child 12 (who did not give evidence). In relation to the evidence of Parent 12 who searched his child's phone and was unable to locate the video, he concluded that the search conducted by Parent 12 did not establish that the video was not on the phone, merely that he was unable to locate it, but he accepted that Child 12 denied she had access to the video. Member Nolan KC did not place any weight on those denials. In relation to the location and timing of when the various conversations occurred, particularly the conversation with Jade Fisher (which was the subject of quite extensive cross-examination and submissions and the tendering of evidence indicating that Child 35 was not present at the time of the particular discussion between the Respondent and Jade Fisher about the video), Member Nolan KC did not find it necessary to reach a conclusion on that issue.
323. In relation to his conclusion at paragraph [104] of the Determination, the Panel is of the opinion that where Member Nolan KC stated "*these matters are very serious and my level of satisfaction is very high*", he meant to convey that "*these matters are very serious and my level of satisfaction is **required to be** very high*".



324. The Panel is of the opinion that because no witness was able to provide direct evidence that the video was actually on the Respondent's phone, it was open to Member Nolan KC to reach the conclusion that he did that the allegation could not be proved to the high standard required on the *Briginshaw* test. Although we do not necessarily endorse the possibility that the Respondent made the statements to the various witnesses about having the video "*to impress her friends*" (as postulated by Member Nolan KC), we do not find that the finding was so unreasonable that no reasonable Tribunal could have made it. The Panel reiterates that the crucial absence of evidence as to any witness seeing the video on the Respondent's phone left open the conclusion made by Member Nolan KC. Accordingly, we dismiss this Ground of Appeal.

Ground 2: Penalty

325. We have carefully considered the reasons of Member Nolan KC below and the submissions of the parties regarding penalty. Notwithstanding that we have dismissed the appeal on Ground 1 relating to Allegation 1, we nevertheless consider that the penalty imposed below was so unreasonable that no reasonable Tribunal could have come to such a decision. We have reached this conclusion for the following key reasons.
326. Firstly, although Allegation 1 was extremely serious in its nature given it alleged the possession and sharing by the Respondent of what was undoubtedly child abuse material contrary to the provisions of the *Crimes Act 1958* (Vic), as we have referenced in the context of Allegation 12, many of the other established allegations against the Respondent are equally or similarly serious and share a number of extremely concerning features. We note in particular:
- (a) Allegation 12 involved the production, possession and distribution by the Respondent of what was also ostensibly child abuse material and probably contrary to the *Crimes Act 1958* (Vic). It is not clear why Member Nolan KC did not find Allegation 12 to be amongst the most serious proven allegations, alongside Allegations 2, 3, 4, 5, 13, 20 and 21 (at [641] of the Determination). The Panel is of the opinion that Allegation 12 is a most serious allegation and finding;
 - (b) Allegations 5 and 13 involved the Respondent engaging in inappropriate conversations of a sexual nature with a child under her care;
 - (c) Allegations 13 and 18 involved the Respondent significantly breaching professional boundaries and applicable policies in respect of Child 5, by procuring medication for Child 5 without her parents' knowledge and consent, and taking Child 5 to witness a medical procedure performed on her without Child 5's parents' knowledge and consent and against Child 5's wishes;
 - (d) Allegation 11 involved clear disregard by the Respondent for the physical wellbeing of one of her players;
 - (e) Allegation 20 involved imposing physical punishment on four players by forcing them to swim underwater; and
 - (f) many of the established allegations shared features of abusive and inappropriate behaviour intended to bully, belittle, denigrate and humiliate both present and former



players, and to assert the Respondent's control over players and their parents. Many of the victims were vulnerable children and suffered psychological and emotional abuse.

327. Secondly, having regard to Member Nolan KC's findings, particularly concerning Allegation 2, the Respondent routinely engaged in abusive and inappropriate conduct towards the children under her care in the presence of other players, parents and officials over a period of approximately 8 years, especially at tournaments and finals.
328. Thirdly, the Respondent expressed no contrition regarding her behaviour. Instead, throughout her evidence she largely denied the conduct alleged, and insofar as it was accepted, sought to diminish its seriousness by explaining it as simply part of her coaching role, responding to the behaviour of others, or based on what she perceived as close personal relationships with the children or their families. These denials and attempted justifications reinforce the conclusion that the Respondent has no appreciation for the important limits placed on her conduct as a coach by the applicable Policies, nor the standard of care expected of her as a coach with responsibility for children in sport.
329. Fourthly, although we agree that the applicable principles in determining the appropriate sanction are as set out by Member Nolan KC (at [623]-[629] of the Determination below), we would emphasise the importance in this case of the protective function of sanctions in professional discipline. As observed by Member Nolan KC, the policies adopted by Netball Victoria and Netball Australia have the straightforward aims of enforcing a zero-tolerance policy to child abuse and neglect in any form, and of safeguarding and promoting the welfare of children in Netball by (among other things) providing a safe and inclusive environment. We add to this that the relevant Policies emphasise that all children have the right to feel safe and protected from all forms of abuse, harm and neglect. Children have the right to take part in sport in a safe, positive and enjoyable environment.
330. The Policies seek to ensure that everyone involved in the sport of Netball are aware of their rights and responsibilities in relation to children and the Policies set out the standards of behaviour expected of those involved and the behaviours that are not acceptable under the definition of Prohibited Conduct. The Panel finds that the Respondent engaged in an extended period of egregious conduct. That conduct had far-reaching effects on the individuals who were subject to it. There was no excuse for that conduct. It is in the worst category of conduct when taken as a whole. Any sanction in a case like this is required to have the necessary precedential value and a generally deterrent effect so that those involved in the sport are fully aware of their responsibilities and the protective nature of the various Policies and the serious ramifications for breaches.
331. It is not acceptable that a person who has engaged in the conduct described in this Determination, with no insight into or contrition for the inappropriateness of that conduct, have any possibility of returning to the sport in which she has been a participant for over 40 years. As Member Nolan KC correctly observed, there is nothing in the Respondent's evidence to suggest that her behaviour would change if she was permitted to coach children in the foreseeable future. On this basis, we consider that the only appropriate penalty was to impose a lifetime ban on the Respondent from participating in all Netball related activities. Far from being punitive, a lifetime ban in the circumstances of this case is necessary to protect those in the sport from the unacceptable risk of harm which would otherwise exist, were the Respondent to return to



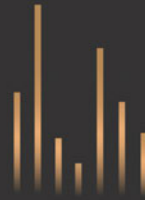
coaching at the expiry of the 10-year ban imposed by Member Nolan KC. The primary role of the sanction is to protect the community and the welfare and reputation of the sport.

332. We also consider that the circumstances mandate that this ban extends to precluding the Respondent from spectating senior or open netball events. Member Nolan KC's finding that "*It is difficult to imagine her attendance as a spectator at senior or open events [would] pose any risk to children*" is contrary to the uncontested evidence before him below that children participate in such events and that children who were subjected to the Respondent's behaviour may play in senior games that she may be a spectator at in the future. In light of the findings below that the Respondent on numerous occasions became angry during matches and abused other players, parents and coaches "*in the heat of the moment*", and evidence relied upon by the Respondent herself regarding her having "*white line fever*" as somehow justifying this conduct, the evidence instead points to findings that:

- (a) children may well be present at senior or open netball events; and
- (b) the Respondent is unlikely to be capable of controlling her behaviour at such events.

Further, there is a real possibility that if the Respondent was to be able to attend open Netball events she would come into contact with children she has abused and mistreated who were the subject of proven allegations against her and who gave evidence against her before Member Nolan KC. The real possibility of adverse comments being made by the Respondent to them cannot be discounted.

333. It is necessary for the protection of participants and the integrity of Netball as a whole that the Respondent not be permitted to continue her involvement in the sport in any capacity.
334. A lifetime ban is the appropriate penalty as to involvement in any capacity as a coach or as a spectator. The Orders below are reflective of the intent and coverage of the lifetime ban.



THE TRIBUNAL THEREFORE DETERMINES:

1. Ground 1 is dismissed
2. Ground 2 is allowed.
3. Tracey Wallace is banned for life from all Netball activities conducted by Netball Victoria and Netball Australia and is not permitted to attend as a spectator any Netball competition or training activity conducted under the auspices of Netball Victoria or Netball Australia and their affiliated Clubs and Member Associations.
4. The coaching accreditation of Tracey Wallace is cancelled.
5. Any membership held by Tracey Wallace with Netball Victoria or affiliated Clubs or other member Associations is cancelled.

Date: 24 June 2026



Mr David Grace AM KC



Dr June Smith



Ms Fiona Cameron