

A Case Categorisation system establishes a transparent, objective and consistent basis for evaluating allegations of Prohibited Conduct relating to Homophobia, Biphobia and or Transphobia, and determining the appropriate Assessment process under the Netball Australia Integrity Framework.

The case system comprises of three main components:

- Case Categorisation
- Aggravating and Mitigating Circumstances
- Sanctions and Related Measures.

Matters within scope of the Netball Australia Integrity Framework are categorised through a 3-tier system, based on the nature of the alleged conduct, perceived level of harm, and complexity. Each matter should be considered on its merits in light of these categories.

## CASE CATEGORISATION

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### CATEGORY 1: BLUE – LOW

Category 1 matters do not usually require an extensive Assessment.

Category 1 matters include (but are not limited to):

- Low level Homophobic, Biphobia and or Transphobic derogatory or disrespectful comments.
- Aggressive tone, disrespectful Homophobic, Biphobia and or Transphobic comments, or a heated altercation, in the absence of malice, vilification or bullying or other egregious behaviour.
- Lewd Homophobic, Biphobia and or Transphobic jokes

## ■ CATEGORY 2: AMBER – MEDIUM

Category 2 (Amber) matters allege Prohibited Conduct violations, and may involve the risk of moderate or reasonable harm, or repeated, more severe or more complex Category 1 allegations.

Category 2 matters may also allege more severe prohibited conduct violations, or complicating factors, having regard to frequency, intensity, number of reported incidents or complaints received, or where the circumstances indicate a reasonable possibility for escalation (and may require referral to law enforcement).

The presence of any complicating factors may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, aggravating factors (as set out in Aggravating and Mitigating Circumstances), an uncooperative Respondent or risk to the sport.

Category 2 matters include (but are not limited to):

- Repeated or more severe Category 1 matters, including the risk of reasonable harm.
- Athlete to athlete Homophobic, Biphobia and or Transphobic bullying.
- Mocking an athlete's gender appearance.
- Harassing behaviours, including unwanted sexual interest.
- Inappropriate jokes, including Homophobic, Biphobia and or Transphobic insensitive jokes.
- Egregious or severe acts of prohibited conduct, including repeated use of Homophobic, Biphobia and or Transphobic demeaning or bullying language.
- Homophobic, Biphobia and or Transphobic degrading initiation, intimidation and or harmful conduct.
- Repeated or multiple incidents of offensive conduct based on gender or gender preference.

## ■ **CATEGORY 3: RED - HIGH**

Category 3 (Red) matters may involve criminal behaviour and /or immediate risk of harm, and includes sexual abuse and includes sexual misconduct, as well as serious assault.

Category 3 matters may include more severe Category 1 or 2 allegations where there is the presence of significant complications. Whether a matter is more severe is determined on the specific circumstances, including the frequency, intensity, number of reported incidents or complaints received.

The presence of any complicating factors may escalate a matter to a more severe Category. Complicating factors include a real risk of harm, criminality, aggravating factors (as set out in Aggravating and Mitigating Circumstances), an uncooperative Respondent or risk to the sport.

Category 3 matters must be reported to law enforcement. Restrictive measures or provisional safety plans may be imposed as appropriate.

Category 3 matters include (but are not limited to):

- Sexual misconduct.
- Touching of genitals, breasts, buttocks (One off tapping of the buttocks as a sign of encouragement or bonding by fellow athlete may be more appropriately Categorised differently, depending on the circumstances). Repeated or more severe Category 1 matters, including the risk of reasonable harm.
- Serious assaults including striking or punching.

## **AGGRAVATING AND MITIGATING CIRCUMSTANCES**

The following guiding principles are intended to outline the aggravating and mitigating circumstances that should be taken into account when evaluating and assessing a matter under the Case Categorisation System and before determining the appropriate response.

The relative level of aggravating and mitigating circumstances may impact on the ultimate re-categorisation of a matter as well as the appropriate sanction (if any).

In addition to aggravating or mitigating circumstances, there may be other factors to consider that increase the relative complexity of a matter.

## Aggravating Circumstances Considerations

- Actual or threatened use of violence.
- Victim's vulnerability, for example people from the LGBT+ community.
- Behaviour that is malicious, or targets vulnerable people from the LGBT+ community.
- Behaviour that is coordinated or operating as part of a group.
- Behaviour that targets multiple parties from the LGBT+ community or results in multiple victims.
- Breach motivated by sexual identity or gender.
- Gratuitous cruelty.
- Injury, emotional harm, loss or damage was substantial, including the level of embarrassment, distress or humiliation by the victim.
- Previously similar conduct or related breaches, previous sanctions.
- Failure to comply with provisional action.
- Breach whilst on probation or a sanction.
- Ongoing and sustained offending over a period of time.
- Abuse of position of power or trust.
- Attempting or disposing of evidence.
- Lack of cooperation.
- The breach was premeditated (rather than spur of the moment).
- The Respondent has previously undertaken education in relation to the particular type of conduct.

## Mitigating Circumstances Considerations

- First time breach.
- Unplanned, spur of the moment behaviour.
- Youth and age of the person breaching.
- Limited role played in the breach.
- The Respondent had taken reasonable steps, prior to commencing an Assessment, to settle the disagreement or dispute.
- The Respondent was not fully aware of the consequences of his or her actions because of the Respondent's age or any disability.
- Accepting responsibility and level of remorse /contrition.
- Level of cooperation.
- Harm suffered by the victim or the sport was not substantial
- The presence of provocation, persuasion, or coercion by others.
- Mental illness.
- Risk of loss of employment.
- Whether the prohibited behaviour was uncharacteristic including:
  - the length of service, balancing a previously unblemished record against the expectation of greater awareness of behavioural requirements
  - whether there are records of previous counselling or breaches of the Netball Australia Integrity Framework about related issues, – the extent to which there is evidence that the behaviour is atypical
  - to assess this, the behaviour over a longer period may need to be examined e.g. any records of discussion with the individual within the last two years. Relevance of previous behaviour diminishes over time,
  - the individual's attempts to manage any external personal issues impacting on the conduct, such as accessing welfare help

## SANCTIONS AND RELATED MEASURES

Where a Respondent is found to have committed a breach of an Eligible Policy, the Decision Maker, NST and Hearing Tribunal have absolute discretion to determine the appropriate sanction imposed on a Respondent, including as to whether a combination of measures is to be imposed, and the terms and period of any measures.

The purpose of this guide is to provide Affiliates an appropriate range of sanctions and related measures that may be applicable in a particular type of integrity matter as part of assisting affiliates to develop and manage a robust integrity framework. Netball Victoria may also provide advice to affiliates in individual cases as to whether particular conduct fits within the range of measures set out in this guidance.

### Sanctions

Rather than seeking to punish, sanctioning misconduct is primarily aimed at protecting an individual from harm with a secondary aim of protecting the integrity of sport.

Sanctions are also designed to provide a clear message that the behaviour was unacceptable, thereby acting as a deterrent. **Netball Victoria recommends at the very least any breach should include LGBT+ awareness and education training, where homophobia, biphobia and or transphobia has been identified.**

The decision about whether to apply a sanction needs to be considered carefully on the facts and context of each case having regard to the following:

- the seriousness of the conduct
- whether it was a one-off incident or a part of an overall pattern of behaviour
- whether it was an honest and reasonable mistake
- the potential impact on public confidence in the integrity of the sport
- the views, if any, of the Complainant (for example, merely seeks an apology).

Aggravating and Mitigating circumstances (as set out in Aggravating and Mitigating Circumstances) should be taken into account before determining the appropriate sanctions, if any. Aggravating circumstances refers to the factors particular to a breach, the victim or the offending party that increase the severity or culpability.

**Important Note** – In a matter where Homophobia, Biphobia and or Transphobic breaches have occurred the Decision Maker should contact the Netball Victoria Gender Diverse & Transgender Support Group for guidance.

In the event a matter goes to a Hearing Tribunal contact the Netball Victoria LGBT+ support group and a subject matter expert will be appointed to make up part of the Hearing Tribunal.

The Netball Victoria LGBT+ Support Group has been established to assist our netball Community set a standard for the inclusion of members of the LGBT+ community. Guidance and support will be

provided that allows everyone to participate as their true and authentic selves and to participate in a safe, respectful, and welcoming environment.

[Click Here](#) to contact a member of the LGBT+ Support Group.

**Range of Sanctions and Related Measures** include but not limited to one or a combination of any of the following:

## **CATEGORY 1 BREACHES**

The following range of measures may be appropriate:

- Awareness of the Netball Australia Integrity Policies.
- Mandatory LGBT+ awareness and education training.
- Formal Warning and /or Reprimand.
- Requiring an apology – Written or Verbal.

## **CATEGORY 2 BREACHES**

The following range of sanctions could be considered (in conjunction with Category 1 measures):

- Formal conciliation or mediation.
- Counselling.
- Suspended sentence and/or good behaviour period.
- Restricted duties or access.
- Supervision and mandatory oversight.
- Mandatory LGBT+ awareness education and programs.
- Temporary suspension from relevant event /entity /club.

## **CATEGORY 3 BREACHES**

The following range of sanctions could be considered:

- Formal and mandatory awareness and education requirements.
- Formal Reprimand.
- Requiring an apology.
- Formal conciliation or mediation.
- Counselling.
- Role change /restricted duties or access.
- Supervision and mandatory oversight.
- Mandatory LGBT+ awareness education and programs.
- Temporary suspension from relevant event /entity /club.
- Removal of accreditation
- Permanent suspension /exclusion from the event /entity /club.
- Return of awards.