



# Competitions Complaint Handling Regulation

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## PART I – DEFINITIONS

**“Affiliated Associations” means** those entities which are affiliated members of Netball Victoria in accordance with Netball Victoria’s constitution.

**“Affiliated Clubs” means** a member of an Affiliated Association, which may include teams, clubs or organisations (howsoever described).

**“Appeal Hearing” means** the process by which an appeal is heard and determined by an Appeal Panel.

**“Appeal Officer” means** an impartial and independent person appointed by an Organising Body to decide whether there are sufficient grounds for appeal.

**“Appeal Panel” means** the body appointed by an Organising Body which will conduct an Appeal Hearing and make a determination.

**“Appellant” means** the person seeking to appeal a decision made by a Complaints Manager or Hearing Panel.

**“Complaint” is** an allegation made by a person that another person has committed an Offence.

**“Complainant” means** the person who lodges a Complaint. This includes, but is not limited to, members of the Organising Body, an umpire, a coach, a team official or an official that has been so empowered by the relevant Organising Body.

**“Hearing” means** the process by which a Complaint is heard and determined by a Complaints Manager or Hearing Panel.

**“Complaints Manager” means** an impartial and independent person appointed by an Organising Body to hear and determine the Complaint.

**“Hearing Panel” means** the body appointed by an Organising Body which may conduct a Hearing and make a determination.

**“Natural Justice” is** the right to be given a fair hearing and the opportunity to present one’s case, the right to have a decision made by an unbiased or disinterested decision maker and the right to have that decision based on logically probative evidence detailing the particulars of the alleged Offence(s) as per Part III Offences (a) – (r) including when and where it is said to have occurred.

**“Offence” means** an action or actions that are not permitted within the Regulations as per Part III – Offences.

**“Organising Body” means** the organiser of a netball Tournament, Competition, Activity or Event including but, not limited to Netball Victoria, Affiliated Associations and Affiliated Clubs.

**“Region” means** those areas of Victoria recognised as regions by Netball Victoria from time to time.

**“Regulations” means** the Netball Victoria Competition Complaints Handling Regulations.

**“Respondent” means** the person, team or club who the Complaint is made about.

**“Tournament, Competition, Activity and Event” means** any netball tournament, netball competition, netball related activity or netball related event conducted by an Organising Body.

## **PART II – INTRODUCTION**

### **1. WHAT IS THE PURPOSE OF THE NV COMPETITION COMPLAINTS HANDLING REGULATIONS?**

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- 1.1 The purpose of the Netball Victoria Competition Complaints Handling Regulations (“the Regulations”) is to deal with Offences which may arise in the conduct of netball Tournaments, Competitions, Activities and Events throughout Victoria.
- 1.2 The Regulations set out the procedures to be followed in dealing with Offences in an effective, appropriate and timely manner.

### **2. WHAT IS THE STATUS OF THE REGULATIONS?**

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- 2.1 The Regulations are issued by the Board of Netball Victoria under Rule 36(1) of the Netball Victoria Constitution.
- 2.2 The Regulations are effective from 1<sup>st</sup> December 2017.
- 2.3 The Regulations may be amended from time to time by the Board of Netball Victoria in accordance with Rule 35(b) of the Netball Victoria Constitution.

### **3. WHO DO THE REGULATIONS APPLY TO?**

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- 3.1 The Regulations apply to the following organisations and individuals:
- (a) Coaches (including assistant coaches) who:
    - (i) Are appointed and/or employed by Organising Bodies (paid or unpaid); or
    - (ii) Have an agreement (whether or not in writing) with an Organising Body to coach at a facility owned or managed by the Organising Body;
  - (b) Umpires and other officials involved in the regulation of the sport appointed by an Organising Body or their member clubs;
  - (c) Netball Victoria registered members who enter any Tournament, Competition, Activity or Event which is conducted or sanctioned by an Organising Body;
  - (d) An Organising Body; and
  - (e) All members of an Organising Body; including Players.
- 3.2 For the avoidance of doubt, an Organising Body is bound to follow the procedures set out in the Regulations:
- (a) When participating in any Tournament, Competition, Activity or Event held by Netball Victoria; or
  - (b) When conducting any Tournaments, Competitions, Activities or Events.

### **4. WHAT DO WORDS IN THE REGULATIONS MEAN?**

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In the Regulations, words appearing with a capital shall have the meaning set out in Part I – Definitions which will form part of the Regulations.

## 5. RESPONSIBILITIES UNDER THE REGULATIONS

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- 5.1 An Organising Body must:
- (a) Comply with the Regulations;
  - (b) Recognise and enforce any penalty imposed under the Regulations;
  - (c) Publish, distribute and promote the Regulations (and any amendments made to it from time to time) to its members and make the Regulations available for inspection, or provide a copy when requested to do so;
  - (d) Appoint a Complaint Manger to be responsible for dealing with reports made under the Regulations. Netball Victoria must be officially notified of the appointment of a Complaints Manager in writing as per the Complaints Manager Nomination Form (**Attachment 1**); and
  - (e) Appoint an Appeal Officer to be responsible for dealing with appeals from determinations made under the Regulations. Netball Victoria must be officially notified of the appointment of an Appeal Officer in writing as per the Appeal Officer Nomination Form (**Attachment 2**); and
  - (f) Collect the contact details of the secretary/captain of each club/team entered into any Tournament, Competition, Activity or Event organised by the Organising Body so that the secretary/captain may be advised of any Complaint made under the Regulations.
- 5.2 The Committee of an Organising Body is responsible for taking all reasonable steps to ensure implementation, compliance and enforcement of the Regulation.

## PART III – OFFENCES

### 6. WHAT CONSTITUTES AN OFFENCE UNDER THE REGULATIONS?

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- 6.1 An offence under the Regulations includes, but is not limited to:
- (a) Disputing the decision(s) of an umpire
  - (b) Abuse of an umpire
  - (c) Unsportsmanlike behavior
  - (d) Breach(es) of Code(s) of Conduct including gross breach(es).
  - (e) Online breach of Code of Conduct as per the Netball Victoria Cybersafety Policy
  - (f) Attempting to trip, strike, elbow or kick
  - (g) Tripping, striking, elbowing or kicking
  - (h) Obscene gestures
  - (i) Offensive language (which may include abusive, obscene or insulting language)
  - (j) Fighting
  - (k) Spitting
  - (l) Threatening a person
  - (m) Deliberately endangering the health and safety of any player, spectator or official (incidents involving blood/body fluids)
  - (n) Failure to co-operate in, or hindering an investigation or Hearing under this Regulation.
  - (o) Failure by any person required to attend a Hearing without proper cause when notified
  - (p) Coaching, umpiring, playing or engaging in score bench duties while under suspension
  - (q) Failure to undertake all requirements of a penalty decision by the set date (r)
- Any other inappropriate or offensive behavior

## PART IV – COMPLAINTS PROCEDURE

### 7. HOW IS A COMPLAINT MADE?

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- 7.1 The Complaint may relate to a person, team or club which, in the opinion of the Complainant has committed an Offence under the Regulations.
- 7.2 The Complaint must relate to an Offence arising from a Tournament, Competition, Activity or Event conducted by an Organising Body.
- 7.3 The Offence may occur:
- (a) Before, during or after the conduct of the Tournament, Competition, Activity or Event;
  - (b) Within the confines or immediate surrounds of the venue to which the Tournament, Competition, Activity or Event is being held;
  - (c) Online, including but not limited to, email and social media outlets, as per Netball Victoria's Cyber Safety Policy;
  - (d) Elsewhere, if directly related to a Tournament, Competition, Activity or Event conducted by the Organising Body.
- 7.4 A Complainant who makes a Complaint under this Regulation shall enter the details of the alleged Offence(s) on the Complaint Form (**Attachment 3**), noting all the particulars in connection with the Complaint so that a clear account can be given to the Complaints Manager when the Complaint is to be dealt with. Where ever possible, witness statements and witness details should be provided with the Complaint Form.
- 7.5 A Complaint should be made as soon as possible (but in any case, within three (3) working days) after the Offence is alleged to have occurred and directed to the Complaints Manager of the Tournament, Competition, Activity or Event where the alleged offence occurred
- 7.6 Under the Regulations a Complainant shall lodge the Complaint Form with the Compliant Manager, or if that is not possible, leave the Complaint Form in a sealed envelope at the Tournament, Competition, Activity or Event venue, or at the office of the Organising Body, marked to the attention of the Complaints Manager.
- 7.7 Where an Organising Body or an official of an Organising Body believes an Offence may have been committed and no Complaint has been made, the Organising Body may submit a Complaint to the Complaints Manager as soon as possible (but in any case within three (3) working days) after the Offence is alleged to have occurred.
- 7.8 If there is uncertainty as to whether a Complaint should be dealt with under the Regulations, the Organising Body must notify Netball Victoria who will determine whether the Regulations apply or if the Complaint should otherwise be dealt with.

### 8. HOW IS A COMPLAINT DEALT WITH?

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- 8.1 Any Complaint Form received by an Organising Body must be forwarded to the Complaints Manager.
- 8.2 If the Complaints Manager is a party to the Complaint, another independent Complaints Manager must be appointed by the Organising Body.

- 8.3 All Complaints must remain private and confidential between the Complainant, Respondent, Complaints Manager and any other parties deemed necessary by the Complaints Manager. Club Presidents of the Claimant and Respondent should be confidentially advised of the initial matter and then the outcome.
- 8.4 Except as otherwise provided in the Regulations, the Complaints Manager shall keep the Complaint (including, but not limited to, the nature of the Complaint, information obtained before, during and after the Complaint has been resolved) confidential.
- 8.5 The Complaints Manager shall be indemnified by the Organising Body which appointed them, from any claim or action for loss, damages, or costs made against them arising out of, or in connection with, their function as a Complaint Manage under the Regulations.
- 8.6 Upon receipt of a Complaint Form, the Complaints Manager shall have the following duties:
- (a) Confirm that the Complainant has entered all the details of the alleged Offence(s) on the Complaint Form and that all the particulars in connection with the Complaint have been noted.
  - (b) Notify the Respondent, through the club secretary/team captain, that a Complaint has been made.
  - (c) Provide the Respondent with a copy of the Complaint Form and ask them to respond by completing the Respondent Form (**Attachment 4**) detailing their version of events within up to three (3) working days after receiving the Complaint against them.
  - (d) Assess the Complaint, together with any associated reports and correspondence, to determine whether any further investigation is required.
- 8.7 If the Complaints Manager determines that further investigation is required, the following steps are to be taken:
- (a) The Complainant will be interviewed and the information obtained from the interview documented in writing by the Complaints Manager.
  - (b) The information obtained from the interview with the Complainant will be conveyed to the Respondent in full. The Respondent will be interviewed and the information obtained in response to the Complaint documented in writing by the Complaints Manager.
  - (c) If there is a dispute over facts, statements from witnesses and other relevant evidence will be obtained.
- 8.8 The Complaints Manager will make a finding as to whether the Complaint is:
- (a) Substantiated (there is sufficient evidence to support the Complaint).
  - (b) Unsubstantiated (there is insufficient evidence to support the Complaint).
- 8.9 If the Complaints Manager makes a finding that the Complaint is substantiated, the Complaints Manager must determine what Offence(s) the Respondent is to be charged with under the Regulations.
- 8.10 Based on the finding of the Complaints Manager in clause 8.8, the Complaints Manager may:
- (i) Determine that no disciplinary action is required and dismiss the Complaint; or



- (ii) Decide in relation to the Complaint and impose the appropriate penalty in accordance with Part V of the Regulations; or
- (iii) Determine that the matter should proceed to a Hearing.

## 9. HEARING

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- 9.1 The purpose of the Hearing shall be to determine whether the Respondent has committed the Offence(s) as charged under the Regulations. If a charge is found proven, any one or more of the penalties set out in Part V of the Regulations may be imposed.
- 9.2 If a Complaints Manager determines that the appropriate course of action is to proceed to a Hearing the Complaints Manager shall as soon as possible do the following:
  - (a) Determine the composition of the hearing:
    - (i) Complaints Manager; or
    - (ii) Hearing Panel appointed by the Organising Body which shall comprise of three (3) individuals including the Complaints Manager, who must be members of the Organising Body or members of another Organising Body.
  - (b) Send to the Complainant and Respondent:
    - (i) A notice detailing the particulars of the alleged Offence(s) as per Part III – Offences 6.1 (a) – (r), including details of when and where it is said to have occurred;
    - (ii) A notice setting out the date, time and place for the Hearing which shall be as soon as reasonably practicable after receipt of the initial Complaint; and
    - (iii) A copy of all relevant documentation pertaining to the Complaint.
- 9.3 The parties to the Hearing shall include:
  - (a) The Complaint
  - (b) The Respondent and
  - (c) Any witnesses which the Complaints Manager considers necessary to participate in the Hearing
- 9.4 A Hearing must be held as soon as is practicable after receipt of the initial Complaint by the Complaints Manager, preferably within seven (7) days.
- 9.5 The Complaints Manager or Hearing Panel shall hear and determine the charge(s) in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with Natural Justice.
- 9.6 If the Complainant or Respondent fails to attend a Hearing without reasonable cause, the Hearing may proceed and a determination made by the Complaints Manager or Hearing Panel in their absence, provided that they are satisfied that all notification procedures under the Regulations have been carried out.

- 9.7 Both the Complainant and the Respondent are entitled to support throughout this process from a chosen support person.
- 9.8 No party to a Hearing may be represented by a barrister or solicitor. A party may be represented at a Hearing by an advocate who is not a barrister or solicitor.
- 9.9 Each party to a Hearing shall bear their own costs in relation to the Hearing.
- 9.10 The Complaints Manager or Hearing Panel shall give their decision at the conclusion of the Hearing to the parties involved.
- 9.11 The Complaints Manager or Hearing Panel will prepare a written statement outlining the decision and deliver it to:
- (a) The Complaint
  - (b) The Respondent
  - (c) The Organising Body; and
  - (d) Any other party represented at the Hearing.
- 9.12 The Respondent has the right to appeal any decision made by the Complaints Manager or Hearing Panel. The appeals process is set out in Part VI of the Regulations.
- 9.13 To the extent of any inconsistency between the hearing procedure set out in the constitution of the Organising Body and the hearing procedure set out in the Regulations, the Regulations shall prevail in relation to all complaints made under the regulation.

## PART V – PENALTIES

### 10. WHAT PENALTIES MAY BE IMPOSED?

- 10.1 Persons on a first offence shall have this considered when assessing the penalty to be imposed.
- 10.2 The Complaints Manager or Hearing Panel may consider the Respondent’s prior history in determining a penalty to be imposed provided the penalty does not exceed the maximum penalties assigned to offences under clause 10.5. In the event the offence occurs at a tournament, the complaints manager will contact the organising body the respondent represented at that event and seek information regarding any prior history.
- 10.3 If the Complaints Manager or Hearing Panel considers that a charge has been proven, any one or more of the following penalties may be imposed:
- (a) A warning;
  - (b) A monetary fine;
  - (c) Suspension;
  - (d) Disqualification; and/or
  - (e) Remedial penalties such as:
    - Written apology
    - Training and education
    - Rereading / re-signing Code(s) of Conduct(s)
  - (f) Any other such penalty as the Complaints Manager or Hearing Panel considers appropriate.
- 10.4 The range of penalties set out in clause 10.5 may be imposed at the discretion of the Complaints Manager or Hearing Panel. Clause 10.5 sets out the standard offences and maximum penalties to be applied by the Complaints Manager or Hearing Panel where a charge has been found proven. Whether a penalty is to be imposed shall be at the discretion of the Complaints Manager or Hearing Panel.
- 10.5 Should the Complaints Manager or Hearing Panel determine that a period of suspension is required, the Complaints Manager or Hearing Panel must not apply a period of suspension which would exceed the maximum penalty for an Offence as listed below.

	<b>Offence</b>	<b>Maximum Penalty</b>
(a)	Disputing the decision(s) of an umpire	Up to 2 weeks
(b)	Abuse of an umpire	Up to 4 weeks
(c)	Unsportsmanlike behaviour	Up to 4 weeks
(d)	Breach(es) of Code(s) of Conduct	Up to 3 weeks
	Gross Breach(es) of Code(s) of Conduct	Up to 6 weeks
(f)	Online breach of Code of Conduct as per the Netball Victoria Cybersafety Policy	Up to 10 weeks
(g)	Attempting to trip, strike, elbow or kick	Up to 4 weeks
(h)	Tripping, striking, elbowing or kicking	Up to 8 weeks
(i)	Obscene gestures	Up to 2 weeks

(j)	Offensive language (which may include abusive, obscene or insulting language).	Up to 2 weeks
(k)	Fighting	Up to 8 weeks
(l)	Spitting	Up to 4 weeks
(m)	Threatening a person	Up to 6 weeks
(n)	Deliberately endangering the health & safety of any player, spectator or official (incidents involving blood/body fluids)	10 weeks
(o)	Failure to co-operate in, or hindering an investigation or Hearing under this Regulation	Up to 4 weeks
(p)	Failure by any person required to attend a Hearing without proper cause when notified	Up to 4 weeks
(q)	Coaching, umpiring, playing or engaging in score bench duties while under suspension	Up to 6 weeks
	Failure to undertake all requirements of a penalty decision by the set date	Up to 3 weeks

- 10.6 If a Complaints Manager or Hearing Panel believe that exceptional circumstances exist whereby the penalty to be imposed should exceed the maximum penalty as outlined in clause 10.5, the Complaints Manager or Hearing Panel must contact Netball Victoria for approval to impose such a penalty
- 10.7 Any incident outside the Offences listed in the Regulations should be referred to Netball Victoria as stated in clause 7.8.
- 10.8 Where charges for Offences arising from one incident are heard together and the Complaints Manager or Hearing Panel finds the Respondent guilty of more than one offence, they may impose a single penalty, being not more than the maximum penalty for the most serious of the offences, or may impose individual penalties for each offence.
- 10.9 If the Complaints Manager or Hearing Panel is not satisfied that the charge has been proven, but is satisfied that a lesser charge has been proven, the Complaints Manager or Hearing Panel may apply the penalty applicable to the lesser charge.
- 10.10 The Complaints Manager or Hearing Panel has the right to direct that a person other than the Respondent be charged with an Offence under the Regulations on the basis of evidence presented before them during the course of conducting an investigation or Hearing.
- 10.11 A penalty imposed under this section shall commence from the date of the Complaints Manager or Hearing Panel's determination unless otherwise expressly directed by the Complaints Manager or Hearing Panel. Penalties should, wherever possible, be expressed in calendar weeks, as opposed to number of matches.
- 10.12 The Complaints Manager or Hearing Panel has the discretion to rule that a penalty be suspended for the number of weeks which may fall between a Tournament, Competition, Activity or Event.
- 10.13 Where a Complaints Manager or Hearing Panel imposes more than one period of suspension, they may direct that the suspension be served concurrently, cumulatively or part concurrent and part cumulative.

- 10.14 The Respondent shall be entitled to participate in any Tournament, Competition, Activity or Event conducted by an Organising Body until such time as the Complaints Manager or Hearing Panel has heard and determined the Complaint. In exceptional circumstances where the allegation of conduct or behavior is so serious it may be reasonable to still have the person(s) unable to participate until the process has been completed. In the instance of exceptional serious circumstance, support and clarification can be sought from Netball Victoria.
- 10.15 A Respondent who has been found guilty of an Offence and received a penalty under the Regulations shall not play, coach, umpire or otherwise take part in any Tournament, Competition, Activity or Event conducted by the Organising Body as directed by the Complaints Manager or Hearing Panel until the penalty has been served to the satisfaction of the Organising Body. If the offense occurred at a Tournament, Activity or Event the penalty will be imposed and carried out by the Organising Body the respondent was representing when the offense occurred and shall not play, coach, umpire or take part in any other activity or event conducted by them until the penalty has been served.
- 10.16 The Complaints Manager or Hearing Panel must give written reasons for their decision under the Regulations.
- 10.17 The Complaints Manager and Hearing Panel must keep a confidential record of the decision and notify the Organising Body of the decision within seven (7) days. If the offense occurred at a Tournament, Activity or Event the Complaints Manager will notify in writing their decision to the organising body the respondent was representing at the time the offense occurred and the original Complainant.
- 10.18 A Respondent shall only serve penalties imposed by the Complaints Manager or Hearing Panel within the Organising Body in which the Offence occurred with the exception of the offence occurring during a Tournament, Activity or Event, the penalty will be served in accordance with 10.15 of these regulations.
- 10.19 Netball Victoria may waive the operation of clause 10.15 if it deems it appropriate to do so. In this case:
- (a) Netball Victoria will notify the Complaints Manager and the Organising Body;
  - (b) If the penalty imposed by the Hearing Officer or Hearing Panel affects another Organising Body required to comply with the Regulations, Netball Victoria shall as soon as possible notify the relevant Organising Body of the penalty; and
  - (c) Every Organising Body to which the Regulations apply shall recognise and enforce any decision made by Netball Victoria under clause 10.19.

## PART VI – APPEALS

### 11. CAN A DECISION BE APPEALED?

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11.1 There shall be no appeal from a decision made by a Complaints Manager or Hearing Panel unless the Appellant (previously known as the Respondent) believes that one or more of the following grounds of appeal exist:

- (a) That significant new or additional evidence has become available;
- (b) That the penalty imposed by the Complaints Manager or Hearing Panel is not in accordance with the Regulations; or
- (c) That the Complaints Manager or Hearing Panel failed to follow procedures or requirements of the Regulations to the significant detriment of the Respondent.

11.2 Only the original Respondent shall have the right of appeal from a decision made by the Complaints Manager or Hearing Panel.

11.3 The Appeal Officer will determine one of the following:

- (a) That the Appellant has not established any of the grounds for the appeal; or
- (b) That the Appellant has established one or more of the grounds for the appeal;

11.4 If the Appeal Officer determines that the Appellant has not established any of the grounds for appeal, the Appeal Officer may dismiss the appeal and direct that the Appellant abide by the original penalty as imposed by the Complaints Manager or Hearing Panel.

11.5 If the Appeal Officer determines that the Appellant has established one or more of the grounds for the appeal they shall direct that the appeal proceed and that there be a rehearing of the charge (“Appeal Hearing”).

11.6 The Appeal Officer may direct that the penalty imposed by the Complaints Manager or Hearing Panel be deferred pending the determination of the appeal.

### 12. NOTICE OF APPEAL

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12.1 The Appellant must lodge a Notice of Appeal (**Attachment 5**).

12.2 The Notice of Appeal must state the full details of charge(s), the decision by the Complaints Manager or Hearing Panel and the grounds of appeal.

12.3 The Notice of Appeal must be lodged within fourteen (14) days of the notification of the decision of the Complaints Manager or Hearing Panel.

12.4 The Appellant shall be notified as soon as is reasonably possible after receipt of the Notice of Appeal as to whether an Appeal Hearing is to be granted and the time, date and place of the Appeal Hearing if it is granted. Notice must also be given to the Organising Body, the original Complainant and the Complaints Manager or Hearing Panel which made the original decision.

### **13. APPEAL HEARING**

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- 13.1 Where the Appeal Officer directs that an Appeal Hearing take place, the Organising Body must convene an Appeal Panel which shall comprise three (3) individuals including the Appeal Officer, who must be members of the Organising Body or members of another Organising Body.
- 13.2 The Hearing Officer or any member of the Hearing Panel which determined the original Complaint may not act as the Appeal Officer or be appointed to the Appeal Panel.
- 13.3 The Appeal Panel and any person appearing at an Appeal Hearing are bound by the same procedures under Part IV of the Regulations as if the Appeal Panel was hearing the matter in the first instance.
- 13.4 The Appeal Panel shall have the discretion to conduct the Appeal Hearing as a complete re-hearing or to limit the Appeal Hearing to consideration of the ground(s) of appeal relied upon by the Appellant.
- 13.5 The Appeal Panel shall have the power to:
- (a) Dismiss the appeal;
  - (b) Uphold the appeal;
  - (c) Impose any of the penalties set out in Part V of the Regulations; and/or
  - (d) Reduce, increase or otherwise vary any penalty imposed in the first instance by the Complaints Manager or Hearing Panel; in such manner as it thinks fit.
- 13.6 The Appeal Panel must give oral and written reasons for its decision.
- 13.7 At the conclusion of the Appeal Hearing, the Appeal Panel shall ensure that the Appellant, the original Complainant and the Organising Body are correctly informed of the determination of the Appeal Panel.
- 13.8 There shall be no right of appeal from a decision of the Appeal Panel. The decision of the Appeal Panel is final and binding on the parties.