



**BASKETBALL**  
**AUSTRALIA**

**BASKETBALL AUSTRALIA**  
**National Framework for Ethical Behaviour**  
**and Integrity in Basketball**  
**(‘The National Integrity Framework’)**

Document title	National Framework for Ethical Behaviour and Integrity in Basketball
Contact details	Head of Integrity
Approved by	Board of Basketball Australia
Date approved	19 April 2024
Document review	Every three years

Version	Date	Author	Changes made
	23 August 2023		Previously: BA Integrity Policy
	25 July 2016		Previously: Ethical Behaviour By-law
1.0	3 April 2017		First version
1.1	2 December 2022		Review, changes to Integrity Committee Hearing Panel, Appeal Tribunal and definitions
2.0	19 April 2024	Lauren Halliwell	Review, change to Complainant's identification
2.1	16 December 2024	Anne Coleman	New template

Acronyms	Full form
BA	Basketball Australia
FIBA	means the International Basketball Federation, the world governing body for basketball.
IWBF	International Wheelchair Basketball Federation, the world governing body for wheelchair basketball.

## Contents

Purpose.....	3
Australian Basketball Values and Principles of Ethical Behaviour .....	4
1. Introduction.....	5
2. Jurisdiction .....	5
3. Scope.....	6
4. Application to the Anti-Doping Policy, Member Protection Policy, Child Safeguarding Policy and Complaints Policy .....	6
5. Integrity Unit.....	7
6. Review of Framework.....	7
7. Who is bound by the Framework? .....	7
8. Recruitment.....	8
9. Guiding Principles.....	8
10. Education.....	9
11. Prohibited Conduct .....	9
12. Reporting Process .....	9
13. Investigations .....	11
14. Provisional Suspension .....	13
15. Provisional Suspension – Urgent or Exceptional Matters.....	14
16. Criminal Offences.....	15
17. Composition of Hearing Panel.....	16
18. Procedure of the Hearing Panel .....	16
19. Agreed Sanction .....	17
20. Hearing Panel Decision and Standard of Proof .....	19
21. Sanctions .....	19
22. Appeals to Appeals Tribunal .....	21
23. Appeals to National Sports Tribunal .....	23
24. Privilege .....	23
25. Confidentiality and Reporting.....	24
26. Requirement to cooperate .....	25
27. Mutual Recognition.....	25
28. Interpretations .....	26
29. Associated Policies .....	26
30. Definitions .....	27

## Purpose

Basketball Australia's *National Framework for Ethical Behaviour and Integrity in Basketball By-Law* (the "**Framework**") is the umbrella policy that sets out Basketball Australia's national integrity framework. The Framework must be adopted in full by each state and territory basketball association and applies to all Participants in Basketball Activities approved and recognised by Basketball Australia or a state or territory basketball association, including the National Basketball League.

Basketball Australia acknowledges that the sport of basketball, like many other sports, is not immune from the risks of corruption, match-fixing, doping, illicit drug use and other inappropriate conduct that jeopardise the integrity or reputation of the sport. Basketball Australia therefore seeks to take a proactive approach to mitigate the risks and provide a safe, fair and trustworthy environment for all participants at all levels of the sport.

This Framework is a comprehensive response to current and emerging risks to the integrity of basketball. It incorporates values, principles and a code of conduct that will guide our operations and promotes the development and implementation of clear education and communication strategies. It also implements a robust set of reporting, investigatory and sanctioning provisions to deal with conduct that is likely to be detrimental to the integrity of the sport or bring the game of basketball into disrepute. Basketball Australia is committed to the Framework and education and communication programs to support the implementation of this Framework.

The safety and wellbeing of members is also of the utmost importance. It is Basketball Australia's strong view that the conduct of all participants should reflect the values of our sport and that this will help to strengthen our capacity to manage integrity risks.

Basketball Australia also acknowledges that many of the issues covered by this Framework may also constitute criminal offences or be covered by other government regulation. Basketball Australia will therefore cooperate and work closely with law enforcement and regulatory agencies in the application of this Framework.

The Framework sets the broad expectations for the conduct of all Participants. It also incorporates detailed policies that regulate specific behaviours to ensure action can be taken against those who fail to adhere to appropriate behavioural standards and expose the sport to undue risk.

The matters covered by this Framework include:

- Standards of Behaviour and Conduct
- Anti-Doping
- Illicit Drugs and the Improper Use of Drugs and Medicines
- Gambling and Match-Fixing
- Member Protection
- Child Safeguarding
- Courtsiding

Policies within the Framework may also contain specific procedures, prohibited conduct, penalties and sanctions that are separate or in addition to those contained in this Framework, and all Participants should familiarise themselves with Basketball Australia's full suite of policies.

## Australian Basketball Values and Principles of Ethical Behaviour

This Framework has been developed on the premise that all basketball participants and employees should act honestly and in good faith at all times and in the best interests of the sport.

It is also important that we provide a safe, fair, welcoming and inclusive environment that is free from corruption for our athletes, officials, coaches and all other valued participants and fans.

In order to achieve our objectives, Australian Basketball will be guided by the following principles and action statements, which are intended to supplement FIBA's "Golden Rules":

### **We are the custodians of the sport of basketball**

We manage the game for the benefit of our members and will make decisions that help basketball meet its full potential and that are in the best interests of the sport.

### **We are ethical, honest and trustworthy**

We act with integrity and are committed to fair play both on and off the court. We respect, promote and enforce standards and rules in a consistent manner.

### **Basketball is a source of national pride**

All Australians should be proud of how we play the game and conduct ourselves both on and off the court. We play to win fairly and within the rules and accept defeat with dignity.

### **Basketball is for everyone**

Basketball is "Everyone's Game" and we have a responsibility to remove barriers, make it accessible, provide opportunities and encourage all Australians to enjoy the game.

### **Basketball provides a sense of community**

We will create opportunities for people to get together and engage in a positive and welcoming environment based on a shared sense of purpose, cooperation and respect.

### **We support excellence at all levels**

We will provide opportunities for all our participants to achieve their best. Everyone who is involved in our sport should be encouraged to do their best and make their communities proud. We will acknowledge the efforts and achievements of all participants.

### **Basketball provides a fun and safe environment**

We will provide and promote an environment that is fun, welcoming, supportive and conducive to the safe enjoyment of basketball.

## 1. Introduction

- 1.1 Basketball Australia, Member Organisations and Authorised Providers are obligated to uphold and maintain the integrity of basketball and to protect the health and wellbeing of all Participants in the sport.
- 1.2 Australian Basketball is committed to the highest standards of conduct and ethical behaviour in all of its activities by promoting and supporting a culture of honest and ethical behaviour both on and off the court.
- 1.3 Integrity in basketball means preserving the core values of basketball and upholding the principles that define the essence of Australian sport: fairness, respect, responsibility and safety.
- 1.4 This Framework has been developed to ensure that Australian Basketball is able to adapt and respond to any new or emerging threats to the integrity of the sport.
- 1.5 This Framework sets out procedures for managing the reporting, investigation and determination of potential breaches. These procedures are distinct in nature from criminal or civil proceedings.
- 1.6 Investigations into integrity matters may require specialist expertise. Basketball Australia, Member Organisations and Authorised Providers will engage necessary technical expertise to administer, monitor and enforce this Framework and related policies as required.
- 1.7 Without in any way limiting the operation and application of this Framework, Basketball Australia will develop and maintain from time-to-time an integrity webpage to publish relevant material related to this Framework ([www.australia.basketball/integrity](http://www.australia.basketball/integrity)).

## 2. Jurisdiction

- 2.1 This Framework is made by Basketball Australia as a By-Law under Clause 21 of Basketball Australia's Constitution and is binding on all Member Organisations, Authorised Providers, Participants and Clubs. This Framework may be amended by the Basketball Australia Board at its sole discretion from time-to-time.
- 2.2 The Basketball Australia Board may in its sole discretion, delegate any or all of its powers under this Framework, including but not limited to the power to adopt, apply, monitor and enforce this Framework.
- 2.3 As a By-Law of Basketball Australia, Member Organisations are required to adopt this Framework, including any amendments or new appendices, in full, without amendment, as a By-Law under their constitution, as soon as reasonably practicable, but in any event, within three (3) months of the date it is adopted by the Basketball Australia Board.
- 2.4 The NBL is bound by this Framework pursuant to agreements in place between Basketball Australia and the NBL and the FIBA Internal Regulations. For the purposes of this Framework, the NBL is an Authorised Provider.
- 2.5 By virtue of their ongoing membership, employment, contractual, licence or other relationship with Basketball Australia, each Member Organisation, Authorised Provider, Participant and Club is bound by this Framework and required to comply with all of its provisions.

### 3. Scope

- 3.1 This Framework incorporates the Basketball Australia Policies included as appendices and any future Policies endorsed by Basketball Australia and applying to the conduct of Member Organisations, Authorised Providers, Participants and/or Clubs. These Policies may be amended by the Basketball Australia Board in its sole discretion from time-to-time as appropriate and any amendments will be incorporated into this Framework after being adopted by the Basketball Australia Board in accordance with the Basketball Australia Constitution.
- 3.2 Nothing in this Framework limits the rights or obligations under any other Basketball Australia By-Law, Policy, other code of conduct or any other relevant agreements.
- 3.3 A Participant or Club investigated under this Framework may also be investigated and sanctioned under any other applicable Basketball Australia, Member Organisation or Authorised Provider By-Laws, agreements, rules or policies. However, Basketball Australia must not be constrained from initiating action under this Framework and any Policies by any other by-laws, agreements, rules or policies.
- 3.4 Where FIBA, the IWBF, a Member Organisation, An Authorised Provider or a Club have determined to initiate an investigation or disciplinary action against a Participant or Club for conduct that may also constitute a breach of this Framework, Basketball Australia may elect whether to commence its own proceedings under this Framework or any Policy.
- 3.5 The conduct prohibited under this Framework may also constitute a criminal offence or a breach of other applicable laws or regulations. This Framework is intended to supplement such laws and regulations. It is not intended, and should not be interpreted, construed or applied, to prejudice or undermine in any way the application of such laws and regulations. Participants must comply with all applicable laws and regulations at all times.
- 3.6 For the avoidance of doubt, nothing in this Framework limits the application of Commonwealth, State and Territory laws, the laws of any other applicable jurisdiction or the ability of Basketball Australia to refer such issues to the police or other relevant authorities.

### 4. Application to the Anti-Doping Policy, Member Protection Policy, Child Safeguarding Policy and Complaints Policy

- 4.1 This Framework includes Basketball Australia's Anti-Doping Policy (Appendix 4), which has distinct provisions regarding all of the reporting, investigation and management of incidents, including the determination and resolution of issues, as well as its own definitions of terms.
- 4.2 In the event of any inconsistency the provisions of Basketball Australia's Anti-Doping Policy shall prevail over the provisions of this Framework in all instances. For the avoidance of doubt, any allegation relating to a breach or possible breach of Basketball Australia's Anti-Doping Policy will be dealt with in accordance with its Anti-Doping Policy.
- 4.3 Matters arising under the Basketball Australia Member Protection Policy (Appendix 5) and the Basketball Australia Child Safeguarding Policy (Appendix 6) shall be dealt with in accordance with the Complaints Policy (Appendix 7), which has distinct provisions regarding all of the reporting, investigation and management of incidents, including the determination and resolution of issues.
- 4.4 In the event of any inconsistency between this Framework and the Member Protection Policy or the Child Safeguarding Policy or the Complaints Policy, the Basketball Australia Integrity Unit shall determine which procedures will apply having regard to the objectives of the Framework.

## 5. Integrity Unit

- 5.1 This Framework shall be managed by the Basketball Australia Integrity Unit.
- 5.2 The Basketball Australia Integrity Unit shall generally comprise at least three Basketball Australia staff members with appropriate skills and qualifications as determined necessary and as nominated by the Basketball Australia Chief Executive Officer from the time-to-time.
- 5.3 The Integrity Unit shall prepare and table a report on any matters arising under this Framework at each Basketball Australia Board meeting, subject to the need to maintain any confidential intelligence, investigation and hearing processes.

## 6. Review of Framework

- 6.1 This Framework and all included policies shall be reviewed on a biennial basis in consultation with Member Organisations, Authorised Providers and the Australian Basketball Players' Association.
  - 6.1.1 Individual Policies should also be reviewed when a new or revised template is released by a Relevant Government Agency.

## 7. Who is bound by the Framework?

- 7.1 This Framework shall apply to all Member Organisations, Authorised Providers, Participants and Clubs. Each Policy shall indicate the relevant provisions specifically applicable to each person or entity.
- 7.2 Each Member Organisation and Authorised Provider must ensure all Directors, Employees, Volunteers and Participants within Competitions or Events they manage or operate are bound by this Framework through membership, registration, contract, volunteer, licence or other agreements and that these Participants submit to the authority of Basketball Australia as a National Member Federation of FIBA for the purposes of this Framework.
- 7.3 Unless a Participant officially retires from the sport or relocates to another country, any applicable membership, registration, contract or other agreement should remain in place during any offseason period to ensure ongoing Participants in Australian basketball are bound by the Framework throughout the calendar year.
- 7.4 Notwithstanding clauses 7.1, 7.2 and 7.3, all Participants and Clubs are bound by and required to comply with all the provisions of this Framework that are applicable and relevant to their participation in basketball. Accordingly, by participating all Participants and Clubs shall be deemed to accept all terms set out in this Framework and have agreed that it is their personal responsibility to:
  - 7.4.1 familiarise themselves with and be knowledgeable of all the requirements of this Framework, including what constitutes Prohibited Conduct;
  - 7.4.2 comply with anti-doping policies applicable to them and be mindful of the World Anti-Doping Code, understanding that action required under this Framework may be addressed under Basketball Australia's Anti-Doping Policy;
  - 7.4.3 act in a discreet and confidential manner in discharging their obligations under this Framework;

- 7.4.4 submit to the authority of the Basketball Australia Integrity Unit as the delegated authority of Basketball Australia, to adopt, apply, monitor and enforce compliance with this Framework;
  - 7.4.5 agree to provide any information and documents reasonably requested during any investigation under this Framework, including, but not limited to, physical possession, or copies of, or access to telephone records, bank statements, internet services records, computer hard drives, electronic devices, mobile devices or other information storage equipment;
  - 7.4.6 submit to the jurisdiction of any Hearing Panel or Appeal Tribunal convened under this Framework or the National Sports Tribunal (if determined by Basketball Australia) to hear and determine allegations of any Prohibited Conduct; and
  - 7.4.7 comply with any decisions and/or Sanctions imposed under the Framework.
- 7.5 By registering to participate in any Competition or Event, a Participant shall be deemed to have consented to the collection, processing, disclosure and use of personal information relating to themselves and their activities, to the extent expressly permitted under the terms of this Framework and in accordance with Basketball Australia's privacy policy.
- 7.6 Any Participant, Club, Member Organisation or Authorised Provider who has engaged in alleged or actual conduct that may amount to Prohibited Conduct while bound by the Framework remains bound by the Framework until the conclusion of any investigation or disciplinary process established under the Framework or any Policy.
- 7.7 Children and vulnerable persons may be represented by a parent, guardian or carer for any matters arising under this Framework or any Policy.

## 8. Recruitment

- 8.1 Recruitment and induction procedures for all Employees and Volunteers should include adequate background checks appropriate to the position to which they are to be appointed.
- 8.2 For the avoidance of doubt, all relevant background checks should be completed by the hiring manager prior to a letter of offer being issued to the prospective Employee.
- 8.3 Induction processes for new Employees and Volunteers shall include education on this Framework, all Policies and the completion of relevant integrity education. This Framework includes a Code of Conduct for the Good Administration of Basketball to guide the behaviour of Administrators (Appendix 1).
- 8.4 Contracts for Basketball Australia, Member Organisation and Authorised Provider Employees and Contractors must include clauses that require compliance with this Framework and Policies.

## 9. Guiding Principles

- 9.1 Basketball Australia acknowledges that integrity in sport is underpinned by good governance and ethical behaviour at all levels of sport.
- 9.2 Basketball Australia has developed principles and values of ethical behaviour to guide the implementation of this Framework.

## 10. Education

- 10.1 Basketball Australia, in consultation with Sport Integrity Australia, will develop and maintain an education plan that incorporates material addressing relevant matters covered by this Framework.
- 10.2 Participants shall be required and directed to undertake education programs that are relevant and proportionate to their level of participation in the sport and their vulnerability to integrity risks.

## 11. Prohibited Conduct

- 11.1 For the purposes of this Framework, Prohibited Conduct means:
  - 11.1.1 any conduct defined or described in this Framework as 'Prohibited Conduct';
  - 11.1.2 any breach or failure to comply with any obligation in, or provision or part of, this Framework or any Policy that forms part of or is referred to in this Framework;
  - 11.1.3 failing to provide further information or documentation as requested as part of the reporting process or an investigation under this Framework or any Policy that forms part of or is referred to in this Framework, including a failure to fully and in good faith participate in any interview; and
  - 11.1.4 obstructing any investigation or knowingly providing any inaccurate and/or misleading information during the course of any investigation or proceedings under this Framework or any Policy that forms part of or is referred to in this Framework.
- 11.2 Each Policy to which this Framework applies shall state what constitutes Prohibited Conduct under that Policy and Prohibited Conduct will be dealt with in accordance with the provisions of this Framework and the relevant Policy.
- 11.3 Participants and Clubs are required to report Prohibited Conduct in accordance with this Framework or the provisions of the Complaints Policy for matters arising under the Member Protection Policy or the Child Safeguarding Policy. For the avoidance of doubt, failure to report will itself be considered Prohibited Conduct and may result in sanctions against the Participant or Club.

## 12. Reporting Process

- 12.1 Except as otherwise specified in the Anti-Doping Policy, the Complaints Policy, the Member Protection Policy or the Child Safeguarding Policy, a Participant must immediately report, to the Basketball Australia Integrity Unit, any suspected Prohibited Conduct as soon as reasonably practicable after becoming aware of that Prohibited Conduct, including (but in no circumstances limited to) if they:
  - 12.1.1 are interviewed as a suspect, charged, or arrested by police in respect of conduct that might or would amount to Prohibited Conduct under this Framework or any Policy;
  - 12.1.2 are approached by another person to engage in conduct that is Prohibited Conduct under the Gambling and Match-Fixing Policy, Anti-Doping Policy or would constitute a criminal offence;
  - 12.1.3 know or reasonably suspect that another Participant or Club has engaged in conduct, or been approached to engage in conduct that is Prohibited Conduct under the

- Gambling and Match-Fixing Policy, Anti-Doping Policy or would constitute a criminal offence;
- 12.1.4 have received, or are aware or reasonably suspect that another Participant or Club has received, actual or implied threats of any nature in relation to past or proposed conduct that is Prohibited Conduct under the Gambling and Match-Fixing Policy; or
  - 12.1.5 have received a report of Prohibited Conduct under the Gambling and Match-Fixing Policy from another Participant.
- 12.2 A report by a Participant under this clause 12 must be made:
- 12.2.1 directly to the Integrity Unit;
  - 12.2.2 to the Independent Reporting Hotline (via phone, email, online, mobile app or via post which at the discretion of the Participant may be made anonymously if there is a genuine concern of reprisal); or
  - 12.2.3 in accordance with the Complaints Policy (where applicable for matters arising under the Member Protection Policy or the Child Safeguarding Policy).
- 12.3 While anonymous reports may be made, they may have significant limitations that inhibit a proper and appropriate inquiry or investigation of the allegations. Therefore, Basketball Australia encourages reports to contain contact details and full details of persons involved where possible.
- 12.3.1 The Participant making the report also has the option of disclosing their identity to the Independent Reporting Hotline but remaining anonymous from Basketball Australia.
  - 12.3.2 The Respondent may need to be informed of the Complainant's identity. Not sharing the Complainant's identity may limit BA's ability to manage the Complaint.
- 12.4 Reports made to the Independent Reporting Hotline will be passed onto Basketball Australia's nominated Disclosure Officer(s).
- 12.4.1 Where a Participant has made an anonymous report, the matter will be reported to the Disclosure Officer without any personal details.
- 12.5 Any report by a Participant under this Clause 12 will be dealt with confidentially by Basketball Australia unless disclosure is otherwise required or permitted by law, under this Framework, in the relevant Policy, in agreements regulating betting, or if the allegation of the Prohibited Conduct is already in the public domain. However, the information reported by a Participant may be considered by the Basketball Australia Integrity Unit and provided to the Hearing Panel.
- 12.6 A Participant has a continuing obligation to report any new knowledge or suspicion regarding any conduct that may amount to Prohibited Conduct, even if the Participant's prior knowledge or suspicion has already been reported.
- 12.7 All information provided must be honest, complete and accurate.
- 12.8 If a report is made to another Participant, that Participant should report the matter in accordance with this Clause 12, noting the fact that it was reported to them by a third party.
- 12.9 Potential breaches of the Anti-Doping Policy, the Member Protection Policy or the Child Safeguarding Policy should be reported in accordance with the provisions of those Policies.

## 13. Investigations

- 13.1 This clause 13 applies to Prohibited Conduct arising under any Policy other than the Anti-Doping Policy, the Member Protection Policy or the Child Safeguarding Policy. Matters arising under the Anti-Doping Policy, the Member Protection Policy or the Child Safeguarding Policy shall be dealt with in accordance with the provisions of those Policies.
- 13.2 The Basketball Australia Integrity Unit shall have the power to conduct investigations in whatever lawful manner it thinks fit into the activities of any Participant or Club who is suspected of having engaged in Prohibited Conduct.
- 13.3 The Integrity Unit is responsible for ensuring all investigations conducted under the Framework or any Policy are in compliance with all applicable laws and regulations and that affected parties are communicated with and kept informed as appropriate throughout the process.
- 13.4 A report lodged pursuant to Clause 12 will be referred to the Basketball Australia Integrity Unit to conduct a preliminary investigation to determine if it is credible and whether there is a reasonable basis that this Framework or any Policy has been breached.
- 13.5 The Basketball Australia Integrity Unit shall then determine the next steps, including but not limited to whether to initiate a formal investigation, retain the information in a confidential manner for intelligence purposes that may be relevant in a subsequent investigation or dismiss the report.
- 13.6 The Basketball Australia Integrity Unit may also initiate any investigation in the absence of a report if there is information or evidence upon which to form a reasonable suspicion or belief that a Participant or Club may have engaged in Prohibited Conduct.
- 13.7 The Basketball Australia Integrity Unit may at its discretion engage an Independent Investigator to conduct an investigation on its behalf.
- 13.7.1 The Independent Investigator shall be impartial, free from any actual or perceived bias or conflict and have the full authority to conduct the investigation and be required to report back to the Basketball Australia Integrity Unit and provide all information and evidence they have collected during their investigation.
- 13.8 For the avoidance of doubt, the Basketball Australia Integrity Unit, or Independent Investigator, may in the course of an investigation:
- 13.8.1 inquire into, monitor and investigate any reports or suspicions that a Participant or Club may have engaged in Prohibited Conduct;
- 13.8.2 interview any Participants or other persons who may have information relevant to the investigation including taking statements, requesting written accounts or inviting Participants to participate in recorded interviews;
- 13.8.3 request copies or possession of all documents, records, articles or things, including but not limited to mobile devices, electronic transmissions, telephone records, banking and financial statements, internet service records and computer and other electronic information storage, in the possession or control of a Participant or Club that it thinks are reasonably required to assist or further the investigation; and
- 13.8.4 where they establish a reasonable belief that evidence may be located on a premises, require access to those premises occupied by, or in the control of, a Member Organisation, Authorised Provider, Participant or Club for the purposes of any investigation.

- 13.9 If the Basketball Australia Integrity Unit is satisfied that the report is credible and there is sufficient prima facie evidence that an Alleged Offender has engaged in any Prohibited Conduct, they will issue a Notice to the Alleged Offender detailing:
- 13.9.1 the alleged Prohibited Conduct, including any available details of when and where it is alleged to have occurred and the rules, regulations, Policies or Framework alleged to have been breached, if any;
  - 13.9.2 whether the alleged Prohibited Conduct will be heard by a Hearing Panel or referred to the General Division of the National Sports Tribunal;
  - 13.9.3 if the alleged Prohibited Conduct is to be heard by a Hearing Panel, the date, time and place for the proposed hearing of the alleged Prohibited Conduct, which shall be as soon as reasonably practicable, but no sooner than fourteen (14) days, subject to the requirements of procedural fairness, after the Alleged Offender receives the Notice;
  - 13.9.4 if the alleged Prohibited Conduct is to be heard by a Hearing Panel, information advising the Alleged Offender of their rights (including the right to be represented at the hearing (at their own expense), to address the panel in person, to provide written submissions and to call witnesses) and the format of proceedings; and
  - 13.9.5 the potential penalties in the event that a finding is made that the Alleged Offender engaged in the Prohibited Conduct.
- 13.10 All reports or information (including the Notice) and any documentary or other evidence that is available to the Basketball Australia Integrity Unit relating to the alleged Prohibited Conduct must be referred to the Hearing Panel if the alleged Prohibited Conduct is to be heard by the Hearing Panel in accordance with Clause 18.
- 13.11 Within seven (7) days of the date of receipt of the Notice (being deemed to be the date a Notice is sent by email or three (3) business days after a Notice is sent by post), the Alleged Offender must provide the Basketball Australia Integrity Unit with notice in writing (the "Confirmation") of whether or not the Alleged Offender wishes to contest the alleged Prohibited Conduct.
- 13.11.1 If the Alleged Offender does not wish to contest the alleged Prohibited Conduct and accedes to the imposition of a penalty, the Alleged Offender must specify that in the Confirmation, in which case no hearing will be conducted and the Hearing Panel will consider the matter and determine an appropriate penalty.
  - 13.11.2 If the Alleged Offender does not wish to contest the alleged Prohibited Conduct, but wishes to make submissions seeking to mitigate the potential penalty, he or she must specify in the Confirmation either:
    - 13.11.2.1 that he or she wishes to make those submissions at a hearing before the Hearing Panel, in which case, the hearing will proceed in accordance with Clause 18 below; or
    - 13.11.2.2 that he or she wishes to make those submissions in writing, in which case the Hearing Panel will, on receipt of those submissions, consider the matter and determine an appropriate penalty (giving due consideration to those written submissions and any other matter).
  - 13.11.3 If the Alleged Offender does not wish to admit or wishes to contest the alleged Prohibited Conduct, the Alleged Offender must specify that in the Confirmation and by virtue of doing that the Alleged Offender is deemed to have consented to the determination of the alleged Prohibited Conduct and, if the Hearing Panel or

National Sports Tribunal (as the case may be) finds that the Alleged Offender engaged in Prohibited Conduct, to the imposition of a penalty.

- 13.12 Where the Alleged Offender wishes to rely upon documents or other evidence in a hearing before the Hearing Panel, they must provide copies of such material to the Hearing Panel no later than seven (7) days prior to the scheduled hearing. Material provided after this time will result in such documents not being permitted to be used, relied on or referred to at the hearing except with leave of the Hearing Panel, in its absolute discretion.
- 13.13 If the Notifying Party fails to receive the Confirmation from the Alleged Offender within seven (7) days of the date of receipt of the Notice, the Alleged Offender shall be deemed to have:
- 13.13.1 waived their entitlement to a hearing in accordance with this Framework and/or the relevant Policy;
  - 13.13.2 admitted to the Prohibited Conduct specified in the Notice; and
  - 13.13.3 acceded to the imposition of a penalty, which shall be determined by the Hearing Panel.
- 13.14 Notwithstanding any of the above, an Alleged Offender shall be entitled at any stage to admit that he or she has engaged in any or all of the alleged Prohibited Conduct specified in the Notice and to accede to penalties determined by the Hearing Panel or the National Sports Tribunal (as the case may be).
- 13.15 This Framework and the procedures set out in this Framework apply to all Employees of Basketball Australia, member Organisations and Authorised Providers subject to any inconsistent provision in an applicable employment contract, industrial instrument or the Fair Work Act 2009 (Cth).
- 13.16 Nothing in this Clause 15 prevents Basketball Australia from:
- 13.16.1 enforcing any other rules and regulations; and
  - 13.16.2 referring the alleged Prohibited Conduct to the General Division of the National Sports Tribunal in accordance with the NST Act as an alternative to a referral to the Hearing Panel, provided the Prohibited Conduct involves a type of dispute that may be dealt with by the General Division of the National Sports Tribunal.
- 13.17 Any hearing of the General Division of the National Sports Tribunal referred by Basketball Australia will be commenced, conducted and determined in accordance with the NST Act, the NST (Practice and Procedure) Determination 2020 and any direction of a member of the National Sports Tribunal. The standard of proof shall be whether the members of the General Division hearing the matter are satisfied on the balance of probabilities that the Alleged Offender has engaged in Prohibited Conduct.

## 14. Provisional Suspension

- 14.1 If a Notice has been issued to an Alleged Offender pursuant to Clause 13, Basketball Australia or the Hearing Panel may provisionally suspend the Alleged Offender from any Event, Competition or activities sanctioned by or involving Basketball Australia, a Member Organisation and/or any Authorised Provider, including their employment or contract for services, until a decision is reached by the Hearing Panel or General Division of the National Sports Tribunal (as the case may be) as to whether the Alleged Offender engaged in any Prohibited Conduct.

14.2 Subject to the terms of any relevant employment contract, if the Alleged Offender is an NBL or WNBL player then any provisional suspension in accordance with clause 14.1 shall be with pay at the Alleged Offender's then current rate which shall continue so long as the provisional suspension is in effect, provided the player continues to perform all obligations under their contract that they are required and permitted to perform.

## 15. Provisional Suspension – Urgent or Exceptional Matters

15.1 Where the Basketball Australia Integrity Unit considers there are urgent or exceptional circumstances involving or allegedly involving any Prohibited Conduct by a Participant that require an immediate response to protect the integrity or reputation of the sport, the matter may be referred immediately to the Basketball Australia Board (or their delegate), who may provisionally suspend the Alleged Offender pending an outcome of any determination by a Hearing Panel or General Division of the National Sports Tribunal (as the case may be) under this Framework.

15.2 For the purposes of Clause 15.1, urgent or exceptional circumstances may include, but are not limited to, circumstances where in the opinion of the Basketball Australia Integrity Unit:

15.2.1 there is likelihood that prima facie evidence can be obtained that a Participant has engaged in Prohibited Conduct during an ongoing Competition or Event and their continued participation in that Competition or Event jeopardises the integrity of the Competition or Event or Basketball Australia or the sport of basketball in Australia; or

15.2.2 a Participant has been arrested and/or charged with a criminal offence related to violence, abuse or sexual assault of a female, or child under the age of 18 years; or

15.2.3 a Participant has been arrested and/or charged for a serious criminal offence, being an offence that is punishable by imprisonment for a maximum of five years or more, by a law enforcement authority in any jurisdiction, in each case in relation to an offence under any relevant criminal or other law in respect of facts or circumstances that may also constitute Prohibited Conduct; or

15.2.4 there is a real and immediate risk of harm to other Participants; or

15.2.5 there is a real and immediate risk to the reputation of the sport of basketball, Basketball Australia, a Member Organisation or an Authorised Provider.

15.3 As soon as practicable after any decision by the Basketball Australia Board (or their delegate) to provisionally suspend a Participant, Basketball Australia must:

15.3.1 notify the Participant in writing; and

15.3.2 inform the Participant of their right to request a provisional hearing to appeal the provisional suspension,

(a "Provisional Suspension Notice").

15.4 A Participant may request the opportunity to challenge the provisional suspension. In those circumstances, if requested by the Participant, a provisional hearing shall be held before a single independent hearing officer appointed by Basketball Australia (a "Hearing Officer") and must take place within 96 hours of such request being made by the Participant or as otherwise agreed by the Participant and Basketball Australia.

15.5 The request for a provisional hearing must be made in writing using the form attached to the Provisional Suspension Notice.

- 15.6 The Hearing Officer shall only be required to determine if there are 'urgent or exceptional matters' involved in the matter.
- 15.7 For the avoidance of doubt, the Hearing Officer shall not be required to consider if the Participant has engaged in Prohibited Conduct.
- 15.8 The Hearing Officer may conduct the provisional hearing as they see fit and, in particular, shall not be bound by the rules of evidence or unnecessary formality, provided that the matter is held in accordance with the principles of procedural fairness and natural justice. The hearing officer may conduct the provisional hearing in person or by the use of technology that allows all relevant persons (as determined by the Hearing Officer) to clearly and simultaneously communicate with each other.
- 15.9 Unless a Hearing Officer determines that there are no 'urgent or exceptional circumstances' involved in the matter, where a provisional suspension has been imposed, the Participant shall be ineligible to participate, in any manner, in any Competition or Event until the earlier of:
- 15.9.1 Basketball Australia and the Participant agreeing in writing via an official form prescribed by Basketball Australia that the provisional suspension should no longer apply because the 'urgent or exceptional circumstances' that required the provisional suspension no longer apply; or
  - 15.9.2 the matter has been determined by a Hearing Panel or General Division of the National Sports Tribunal (as the case may be) under this Framework.
- 15.10 For the avoidance of doubt, even in the circumstances where a provisional suspension is lifted under clause 15.9.1, nonetheless the Basketball Australia Integrity Unit shall continue to follow and apply this Framework, including conducting an investigation and convening a Hearing Panel and the cessation of the provisional suspension shall have no bearing on the outcome of any investigation or hearing conducted under the Framework.

## 16. Criminal Offences

- 16.1 Any alleged Prohibited Conduct by an Alleged Offender which the Basketball Australia Integrity Unit or Independent Investigator considers may be an unlawful offence will be reported to the police and/or any other regulatory agency in the jurisdiction the offence is alleged to have occurred and/or the Australian Federal Police.
- 16.2 Basketball Australia may suspend any investigation under this Framework until such time as the matter has been finalised by the police or other relevant regulatory authority if it considers it to be appropriate to do so in its sole and absolute discretion.
- 16.3 Basketball Australia may, in its sole and absolute discretion, elect not to refer the matter to a Hearing Panel or the General Division of the National Sports Tribunal (as the case may be) until after it discloses the allegations of Prohibited Conduct to the police and/or other relevant regulatory agency and/or it has determined that doing so would not jeopardise their investigation or otherwise inadvertently affect other action it may take.
- 16.4 The findings of any law enforcement or regulatory investigation, including a decision of a court or other disciplinary tribunal of competent jurisdiction, may be used as evidence in investigations or hearings under this Framework and shall not preclude or prejudice a concurrent or subsequent investigation by Basketball Australia in accordance with this Framework.

## 17. Composition of Hearing Panel

- 17.1 The Hearing Panel must comprise three persons independent of the parties and with no prior involvement with the case and who have appropriate skills and experience.
  - 17.1.1 The Hearing Panel must include at least one person who has considerable previous experience in the legal aspects of a disciplinary tribunal and dispute resolution to act as its Chairperson.
- 17.2 The person appointed as Chairperson of the Hearing Panel shall have the following responsibilities:
  - 17.2.1 to chair the hearing;
  - 17.2.2 to ensure accurate records are kept of all of the Hearing Panel's proceedings and decisions, including at a minimum:
    - 17.2.2.1 particulars of the hearing, including date, time, and location;
    - 17.2.2.2 the names of each Hearing Panel Member, the Alleged Offender, witnesses called, and any other parties permitted to attend by the Hearing;
    - 17.2.2.3 the decision of the Hearing Panel, including any Sanction imposed;
  - 17.2.3 to ensure that the hearing is conducted in accordance with the principles of procedural fairness; and
  - 17.2.4 to provide a copy of the Hearing Panel decision to Basketball Australia.

## 18. Procedure of the Hearing Panel

- 18.1 This Clause applies if the Alleged Offender contests the allegation(s) that he or she has engaged in the Prohibited Conduct specified in the Notice, and there is to be a hearing of the allegations by the Hearing Panel.
- 18.2 Basketball Australia will manage all administrative arrangements in relation to the hearing in consultation with the Chairperson.
- 18.3 The purpose of the hearing shall be to determine whether the Alleged Offender has engaged in the Prohibited Conduct specified in the Notice and, if the Hearing Panel considers that the Alleged Offender has engaged in Prohibited Conduct, for the imposition of any penalty in the Hearing Panel's discretion.
- 18.4 The Hearing Panel may conduct the hearing as it sees fit and, in particular, shall not be bound by the rules of evidence or unnecessary formality. The Hearing Panel must determine matters in accordance with the principles of natural justice and procedural fairness, such as a hearing appropriate to the circumstances; lack of bias; inquiry into matters in dispute; and evidence to support a decision.
- 18.5 The Hearing Panel may convene the hearing by way of video conference or teleconference.
- 18.6 The hearing shall be inquisitorial in nature and the Hearing Panel may call such evidence as it thinks fit in its discretion and all Participants and Clubs subject to this Framework must, if requested to do so by the Hearing Panel, provide such evidence as they are able.
- 18.7 A member or appointed representative of the Basketball Australia Integrity Unit (the "Case Presenter") will present the case by reference to the documents and evidence before the Hearing Panel, and may call witnesses. When the Case Presenter has concluded their presentation, the Hearing Panel may ask questions of the Case Presenter and the Case

Presenter may have their own legal representation during the hearing. The Hearing Panel may also ask questions of any witnesses. The Alleged Offender (or their representative) may also ask the Case Presenter for any clarification and may ask questions of any witnesses. If the Alleged Offender has denied any of the allegations made against them, the Alleged Offender will then be asked to present their case. The Alleged Offender may present their case either verbally or by way of written representations, with reference to any relevant documents or evidence and the Hearing Panel may ask any question of the Alleged Offender or their representative (and may also permit the Case Presenter to do so). The Alleged Offender may call witnesses to support their case and the Case Presenter and members of the Hearing Panel may ask questions of those witnesses.

- 18.8 The hearing must be conducted with as much expedition as a proper consideration of the matters permits. However, the Hearing Panel may adjourn the proceedings for such reasonable time as it considers necessary, giving due consideration to any provisional suspension that may be being served by the Alleged Offender.
- 18.9 The Chairperson shall determine all questions of law, evidence or procedure that arise during a hearing.
- 18.10 Notwithstanding the above, the Alleged Offender:
- 18.10.1 is permitted to be represented at the hearing (at their own expense);
  - 18.10.2 has the right to address the Hearing Panel to make their case; and
  - 18.10.3 is permitted to provide written submissions for consideration by the Hearing Panel (instead of, or as well as, appearing in person). If the Alleged Offender provides any written submissions, the Hearing Panel must, subject to Clause 13.12, consider those submissions in its deliberations and the Case Presenter, or their legal representative, will be given an opportunity during the hearing to address any such written submissions.
- 18.11 The hearing shall be closed to the public. Only persons who can demonstrate a legitimate interest in the hearing will be permitted to attend. This will be at the sole discretion of the Chairperson.
- 18.12 Notwithstanding Clause 18.11, a member of the Basketball Australia Integrity Unit or the Independent Investigator must be present at the hearing to respond to any questions of the Hearing Panel.
- 18.13 If the Alleged Offender or their representative does not appear at the hearing, after proper notice of the hearing has been provided, the Hearing Panel may proceed with the hearing and impose any sanction in their absence.

## 19. Agreed Sanction

- 19.1 Notwithstanding any provision of the Framework, at any time before or during an investigation or before or during a hearing into any Prohibited Conduct, it will be open to Basketball Australia to provide a written notice to an Alleged Offender:
- 19.1.1 setting out details of the alleged Prohibited Conduct, including details, where available, of when and where it is alleged to have occurred and the provision of this Framework alleged to have been breached; and
  - 19.1.2 offering the Alleged Offender a proposed sanction with respect to the allegations against him/her in order to avoid the need for any further investigations or any

hearing or the continuation of a hearing before the Hearing Panel (the “Proposed Sanction”).

- 19.2 The offer of a Proposed Sanction by Basketball Australia shall specify that the Alleged Offender may:
- 19.2.1 admit, or not contest the allegation of, the Prohibited Conduct and accede to the Proposed Sanction. In those circumstances, and provided that such admission or decision not to contest the allegation of the Prohibited Conduct and decision to accede to the Proposed Sanction has been received by Basketball Australia’s Integrity Unit in writing from the Alleged Offender by the time specified in the notice of Proposed Sanction, a hearing before the Hearing Panel shall not be required or continued (as applicable) and no further action shall be taken in relation to that Prohibited Conduct, save that:
  - 19.2.2 the Proposed Sanction shall be imposed on the Alleged Offender; and
  - 19.2.3 Basketball Australia may promptly issue a public statement confirming the Alleged Offender’s admission of, or his or her decision not to contest the allegation of, the Prohibited Conduct and confirming the imposition of the Proposed Sanction. Following issuance of the public statement, Basketball Australia will provide notice of it to FIBA or the IWBF (as applicable) and any Member Organisation or Authorised Provider to which the Alleged Offender is affiliated;
  - 19.2.4 admit the Prohibited Conduct but dispute or seek to mitigate the Proposed Sanction, in which case the Alleged Offender must file a written response to the Proposed Sanction in accordance with Clause 13.11.2 of the Framework within the time specified in the notice of Proposed Sanction (provided that in the event no Hearing Panel has been appointed for the matter, the notice shall be sent to Basketball Australia rather than any Hearing Panel); or
  - 19.2.5 not admit or deny the Prohibited Conduct, in which case the Alleged Offender must file a written response to the Proposed Sanction in accordance with Clause 13.11.3 of the Framework within the time specified in the notice of Proposed Sanction (provided that in the event no Hearing Panel has been appointed for the matter, the notice shall be sent to Basketball Australia rather than any Hearing Panel).

For the sake of clarity, a Proposed Sanction can be offered to a Participant at the same time and in the same document as any Notice issued under Clause 13 of the Framework, with any relevant timelines allowed to run concurrently.

- 19.3 Any discussions between Basketball Australia and the Alleged Offender relating to the Proposed Sanction shall take place on a “without prejudice” basis and in such a manner that they shall not delay or in any other way interfere with any investigation or hearing.
- 19.4 Any agreement resulting from the offer of a Proposed Sanction shall be evidenced in writing in a form determined by Basketball Australia, signed by a representative of the Basketball Australia Integrity Unit and the Alleged Offender, and shall set out the sanction imposed on the Participant (the “Agreed Sanction”).
- 19.5 Upon receipt of notice of the Agreed Sanction, the Hearing Panel, if any, shall discontinue (where applicable) any proceedings on the terms thereof without the need for any further hearing and the Basketball Australia Integrity Unit shall notify affected parties, including the Chief Executive Officer (or equivalent), or their nominated delegate, of any relevant Member Organisation, Authorised Provider or Club.

## 20. Hearing Panel Decision and Standard of Proof

- 20.1 Unless otherwise stated elsewhere in this Framework or the relevant Policy, the standard of proof shall be the balance of probabilities.
- 20.2 The decision of the Hearing Panel shall be a majority decision and must be recorded in writing. The decision must, at a minimum, set out:
- 20.2.1 the Hearing Panel's decision, by reference to the evidence presented or submissions made, as to whether on the balance of probabilities the Alleged Offender engaged in Prohibited Conduct; and
  - 20.2.2 if the Hearing Panel makes a finding that the Alleged Offender engaged in Prohibited Conduct, what, if any, penalties it will impose.
- 20.3 Subject only to the rights of appeal under Clause 22 and Clause 23, a decision by the Hearing Panel (or the General Division of the National Sports Tribunal) shall be the full, final and complete disposition of the allegations of Prohibited Conduct by the Alleged Offender and will be binding on all parties.
- 20.4 The Hearing Panel's decision must be communicated to the Basketball Australia Board, the Alleged Offender and the Integrity Unit of Basketball Australia as soon as practicable. The Integrity Unit shall then notify the Chief Executive Officer (or equivalent), or their nominated delegate, of any relevant Member Organisation, Authorised Provider or Club.

## 21. Sanctions

- 21.1 If an Alleged Offender admits they engaged in Prohibited Conduct or there is a finding that an Alleged Offender has engaged in Prohibited Conduct under this Framework, the Hearing Panel (or the General Division of the National Sports Tribunal) or the Appeal Tribunal (or Appeals Division of the National Sports Tribunal), as the case may be (each, the "Relevant Forum"), will be required to impose an appropriate sanction upon the Alleged Offender. In order to determine the appropriate sanction that is to be imposed in each matter, the Relevant Forum must first determine the relative seriousness of the offence, including any aggravating or mitigating circumstances. The Relevant Forum will consider any submissions made by the Alleged Offender (or any other person appearing before the Relevant Forum) in relation to sanction and may take into account any aggravating circumstances or mitigating circumstances as outlined in Clauses 21.2 and 21.3.
- 21.2 The Relevant Forum may have regard to the following aggravating circumstances when determining an appropriate sanction:
- 21.2.1 a lack of remorse on the part of the Alleged Offender;
  - 21.2.2 the age, character and experience of the Alleged Offender;
  - 21.2.3 a lack of cooperation with the Basketball Australia Integrity Unit, Independent Investigator or Hearing Panel or General Division of the National Sports Tribunal during an investigation or hearing, including a failure to produce evidence that was reasonably requested;
  - 21.2.4 a previous finding of guilt for any relevant or related Prohibited Conduct under this Framework or any Policy or any relevant regulations of a Relevant Body;

- 21.2.5 where the amount of any Benefit, directly or indirectly received, or stood to be gained, by the Alleged Offender as a result of the Prohibited Conduct, is substantial or where the sums of money otherwise involved in the Prohibited Conduct are substantial;
  - 21.2.6 where the Prohibited Conduct substantially damaged, or had the potential to damage substantially, the public confidence in the sport of basketball;
  - 21.2.7 where the Prohibited Conduct affected, or had the potential to affect, the result or a contingency of the relevant Competition or Event;
  - 21.2.8 where the welfare of a Participant or any other person has been endangered as a result of the Prohibited Conduct;
  - 21.2.9 where the Alleged Offender coerced or otherwise engaged other persons to engage in Prohibited Conduct; and
  - 21.2.10 any other aggravating factors that the Relevant Forum considers relevant and appropriate.
- 21.3 The Relevant Forum may have regard to the following mitigating circumstances when determining an appropriate sanction:
- 21.3.1 any admission of guilt (the mitigating value of which may depend upon its timing);
  - 21.3.2 the youth or lack of experience of the Participant;
  - 21.3.3 the Alleged Offender's good previous disciplinary record;
  - 21.3.4 the extent to which the Alleged Offender has cooperated with the Basketball Australia Integrity Unit, Independent Investigator or Hearing Panel or General Division of the National Sports Tribunal during an investigation or hearing;
  - 21.3.5 where the amount of any Benefit, directly or indirectly received, or stood to be gained, by the Alleged Offender as a result of the Prohibited Conduct, is immaterial or where the sums of money otherwise involved in the Prohibited Conduct are immaterial;
  - 21.3.6 where the offence did not substantially damage, or have the potential to substantially damage, the public confidence in the sport of basketball;
  - 21.3.7 where the offence did not affect, or have the potential to affect, the result or a contingency of the relevant Competition or Event;
  - 21.3.8 where the Alleged Offender provides substantial assistance to Basketball Australia, the Hearing Panel or General Division of the National Sports Tribunal, a law enforcement or regulatory agency that results in Basketball Australia discovering or establishing Prohibited Conduct under this Framework by another Participant or Club or that results in a law enforcement or regulatory body discovering or establishing a criminal offence by another Participant or other third party;
  - 21.3.9 where the Alleged Offender has already suffered penalties under other laws or regulations for the same Prohibited Conduct; and
  - 21.3.10 any other mitigating factors that the Relevant Forum considers relevant and appropriate.
- 21.4 Having considered all the factors described in Clauses 21.2 and 21.3, the Relevant Forum shall then determine an appropriate sanction. Subject to Clause 21.5, the Relevant Forum may order any one or more of the following:

- 21.4.1 the Alleged Offender to be reprimanded for their involvement in the Prohibited Conduct;
  - 21.4.2 the Alleged Offender to be counselled and/or required to complete a course of education related to the Prohibited Conduct;
  - 21.4.3 the Alleged Offender to be suspended from participating in any Basketball Activities, Competition or Event;
  - 21.4.4 the Alleged Offender to be fined, and the amount of such fine;
  - 21.4.5 the Alleged Offender to be banned from participating in any Basketball Activities, Competition or Event or other relevant activities;
  - 21.4.6 the Alleged Offender to be banned from entering the premises where any Basketball Activities, Competition or Event is held and from entering the premises of Basketball Australia, any Member Organisation, any Authorised Provider or any Club (either collectively or from a particular organisation);
  - 21.4.7 the disqualification of results, including individual awards and prizes, as well as team results;
  - 21.4.8 the Alleged Offender to lose accreditation to continue their involvement with Basketball Activities, Competitions or Events;
  - 21.4.9 subject to the terms and conditions of any contract, have that contract terminated; or
  - 21.4.10 the Alleged Offender to be ineligible, for life, from participating in any Basketball Activities, Competition or Event or from any other involvement in Basketball Australia, Member Organisations or Authorised Providers.
- 21.5 Taking into consideration Clauses 21.1 to 21.4, the Relevant Forum may also impose any other penalty as they consider appropriate in its discretion.
- 21.6 The Relevant Forum may impose any combination of these penalties in their absolute discretion taking account of the seriousness of the Prohibited Conduct.
- 21.7 The Relevant Forum may have regard to any previous decisions made in accordance with this Framework to benchmark sanctions.
- 21.8 Further, the Relevant Forum may in its discretion, depending on the circumstances of the Prohibited Conduct, suspend the imposition of a penalty in its absolute discretion.
- 21.9 All fines received pursuant to this Framework must be remitted to Basketball Australia for use by Basketball Australia for the development of integrity programs.

## 22. Appeals to Appeals Tribunal

- 22.1 The Alleged Offender, Basketball Australia or any other party to the hearing before a Hearing Panel has a right to appeal the decision of the Hearing Panel.
- 22.2 The available grounds of appeal are:
- 22.2.1 where this Framework has been misapplied;
  - 22.2.2 where material new evidence that was not available at the time of the initial hearing has since become available;
  - 22.2.3 where natural justice or procedural fairness has been denied; or

- 22.2.4 where the penalty imposed was manifestly inadequate or manifestly excessive having regard to the circumstances of the matter and the evidence presented to the Hearing Panel.
- 22.3 A notice of appeal must be made in writing and lodged with the Basketball Australia Integrity Unit, within fourteen (14) days of receipt by the Appellant of the Hearing Panel's written decision. The notice of appeal must specify the grounds for the appeal. Where Basketball Australia seeks to lodge an appeal, the Integrity Unit must lodge this in writing with the Basketball Australia Board within fourteen (14) days of receipt of the Hearing Panel's written decision.
- 22.4 Where the Integrity Unit receives a notice of appeal, the Basketball Australia Board must convene an Appeal Tribunal for the purposes of hearing the appeal. Any hearing of the appeal should be held as soon as reasonably practicable after the notice of appeal has been received by the Basketball Australia Board.
- 22.5 Any decision of the Hearing Panel that is appealed to the Appeal Tribunal will remain in effect while under appeal unless the Basketball Australia Board orders otherwise.
- 22.6 The Appeal Tribunal must be appointed by the Basketball Australia Board for such time and for such purposes as the Basketball Australia Board thinks fit and must:
- 22.6.1 be comprised of three persons independent of the parties and with no prior involvement with the case with appropriate skills and experience to hear the matter;
  - 22.6.2 include at least one person who has considerable previous experience in the legal aspects of a disciplinary/hearings tribunal and dispute resolution to act as Chairperson; and
  - 22.6.3 not include any members from the initial Hearing Panel.
- 22.7 The person appointed as Chairperson of the Appeal Tribunal shall have the following responsibilities:
- 22.7.1 to chair the appeal hearing;
  - 22.7.2 to ensure accurate records are kept of all of the Appeal Tribunal's proceedings and decisions, including at a minimum:
    - 22.7.2.1 particulars of the appeal hearing, including date, time, and location;
    - 22.7.2.2 the names of each Appeal Tribunal Member, the Alleged Offender, witnesses called, and any other parties permitted to attend by the appeal hearing;
    - 22.7.2.3 the decision of the Appeal Tribunal, including any Sanction imposed;
  - 22.7.3 to ensure that the hearing is conducted in accordance with the principles of procedural fairness; and
  - 22.7.4 to provide a copy of the Appeal Tribunal decision to Basketball Australia.
- 22.8 The hearing before the Appeal Tribunal is not a rehearing of the matter, but a hearing of the issue under appeal only.
- 22.9 The Appeal Tribunal may conduct the appeal as it sees fit. However, any party to the appeal or the initial Hearing Panel can be represented at and make written and oral submissions to the Appeal Tribunal subject to the discretion of the Appeal Tribunal.
- 22.10 The Appeal Tribunal may, in its discretion:

- 22.10.1 affirm the decision of the Hearing Panel and the penalty imposed;
  - 22.10.2 affirm the decision of the Hearing Panel but decide to impose any alternative penalty; or
  - 22.10.3 revoke the decision of the Hearing Panel and the penalty imposed.
- 22.11 The decision of the Appeal Tribunal shall be a majority decision, must be recorded in writing and include the reasons for the decision. The Appeal Tribunal's decision must be communicated to the Alleged Offender, the Basketball Australia Board, the Appellant and the Integrity Unit of Basketball Australia as soon as practicable.
- 22.12 The Integrity Unit shall then notify the Chief Executive Officer (or equivalent), or their nominated delegate, of any relevant Member Organisation, Authorised Provider or Club.
- 22.13 The decision of the Appeal Tribunal shall be final, non-reviewable, non-appealable and enforceable. No claim, arbitration, lawsuit or litigation concerning the dispute shall be brought in any other court or tribunal.
- 22.13.1 For the avoidance of doubt, Clause 22.13 does not prevent any law enforcement or regulatory agency from commencing or continuing any investigation or action.

## 23. Appeals to National Sports Tribunal

23.1 Nothing in this Framework prevents:

23.1.1 Basketball Australia; or

23.1.2 solely with the prior written agreement of Basketball Australia, an Appellant that is able to appeal a decision relating to Prohibited Conduct by the Hearing Panel or the General Division of the National Sports Tribunal,

from applying to the Appeals Division of the National Sports Tribunal instead of the Appeal Tribunal to have an appeal heard, provided:

23.1.3 the appeal involves a type of dispute that may be dealt with by the Appeals Division of the National Sports Tribunal; and

23.1.4 the available grounds of appeal are:

23.1.4.1 where this Framework has been misapplied;

23.1.4.2 where material new evidence that was not available at the time of the initial hearing has since become available;

23.1.4.3 where natural justice or procedural fairness has been denied; or

23.1.4.4 where the penalty imposed was manifestly inadequate or manifestly excessive having regard to the circumstances of the matter and the evidence presented to the Hearing Panel or the National Sports Tribunal.

23.2 Any appeal to the Appeals Division of the National Sports Tribunal will be commenced, conducted and determined in accordance with the NST Act, the NST (Practice and Procedure) Determination 2020 and any direction of a member of the National Sports Tribunal."

## 24. Privilege

24.1 Subject to Clause 24.2 below, notwithstanding anything else in this Framework, a Participant who is interviewed, arrested or charged by a law enforcement agency in respect of a criminal

offence that is, or may be considered to be, conduct that is Prohibited Conduct shall not be required to produce any information, give any evidence or make any statement to the Basketball Australia Integrity Unit, Independent Investigator or Hearing Panel if they establish that to do so would breach any privilege against self-incrimination, or result in a waiver of legal professional privilege.

- 24.2 Should a Participant refuse to provide any information, give any evidence or make a statement to the Basketball Australia Integrity Unit, Independent Investigator or Hearing Panel on the basis that doing so would breach the privilege against self-incrimination, the Participant's refusal in these circumstances can be deemed by the Basketball Australia Integrity Unit, Independent Investigator or Hearing Panel as a consciousness of guilt in relation to the allegations of Prohibited Conduct as made against the Participant.
- 24.3 Clause 24.1 does not limit Basketball Australia from enforcing any other Policies, rules and regulations.

## 25. Confidentiality and Reporting

- 25.1 To maintain the confidentiality of the process, neither Basketball Australia, a Member Organisation, an Authorised Provider, a Club or a Participant, nor any Alleged Offender will publicly announce, comment on or confirm any details of investigations or subsequent hearings or appeals except in accordance with this Clause 25.
- 25.2 Basketball Australia may, in its absolute discretion, disclose the identity of an Alleged Offender and the details of an investigation or subsequent hearing to the Chief Executive Officer (or equivalent), or their nominated delegate, of a Member Organisation or Authorised Provider or Club, where the Alleged Offender is a Participant or Club within their jurisdiction. The Chief Executive Officer (or equivalent), or their nominated delegate, must not disclose this information to any other person without the written consent of Basketball Australia.
- 25.3 Subject to Clause 15, the identity of a Participant or Club against whom a finding of Prohibited Conduct has been made by the Hearing Panel may only be publicly disclosed after the Hearing Panel has notified the Participant or Club, Basketball Australia and any other interested party of its decision. Thereafter, such public disclosure will be by way of an official release by Basketball Australia in its sole discretion.
- 25.4 In circumstances where the Hearing Panel or Appeals Tribunal finds in favour of the Participant or Club against whom allegations of Prohibited Conduct have been made, and the matter is not already publicly known, Basketball Australia may only make such public disclosure with the consent of the Participant or Club.
- 25.5 For the avoidance of doubt, in circumstances where a decision is made by the Hearing Panel against a Participant or Club, and the Participant or Club subsequently appeals that decision, Basketball Australia is not prohibited from making a public disclosure as set out in this Clause 25 prior to the Appeal being finalised.
- 25.6 If the Appeal Tribunal overturns a finding of the Hearing Panel that Basketball Australia had publicly disclosed (i.e., the finding itself), Basketball Australia must make a public statement by way of an official release of the decision of the Appeal Tribunal.
- 25.7 Basketball Australia must not disclose any specific facts of an allegation of Prohibited Conduct or breach of this Framework prior to determination by a Hearing Panel. Notwithstanding this clause, however, a general description of a process that may be instigated under this Framework is permissible.

- 25.8 Basketball Australia may determine not to make a public statement where to do so may be considered detrimental to the wellbeing of a Participant.
- 25.9 All parties must maintain all information received in the course of any report, notice, hearing or appeal (other than a notice of decision by the Hearing Panel or an Appeal Tribunal) in relation to an allegation of Prohibited Conduct as strictly confidential.
- 25.10 This clause does not apply if the disclosure is required by law or Basketball Australia determines to refer information to a law enforcement or regulatory agency pursuant to Clause 15.
- 25.11 Participants and Clubs must not comment publicly on any ongoing investigations or hearings initiated under this Framework or any Policy.
- 25.12 Basketball Australia will maintain a register of sanctions and may publish this, including, subject to Clause 25.8 above, the name of any sanctioned Participant or Club, on its website.
- 25.13 Notwithstanding anything else in this Clause, any determination by the General Division or Appeals Division of National Sports Tribunal may be published by the National Sports Tribunal in accordance with the NST (Practice and Procedure) Determination 2020

## 26. Requirement to cooperate

- 26.1 Participants and Clubs to whom this Framework applies must, as a condition of their participation, cooperate fully with all investigations and hearings conducted pursuant to this Framework.
- 26.2 Basketball Australia may draw an inference adverse to the Alleged Offender who is asserted to have engaged in Prohibited Conduct based on their failure or refusal, without compelling justification, after a request has been made in a reasonable time in advance of any hearing, to appear at the hearing (either in person or electronically as directed by the Basketball Australia) or to answer any relevant questions or provide any relevant information.
- 26.3 Failure or refusal by a Participant or Club to cooperate without justification may also result in disciplinary action and the determination of sanctions against the Participant or Club.

## 27. Mutual Recognition

- 27.1 Basketball Australia will acknowledge, recognise and enforce adjudications and penalties enforced by a Relevant Body for offences that are consistent with Prohibited Conduct.
- 27.2 Any person who has been suspended from any other sport by a Relevant Body for conduct that is consistent in nature with Prohibited Conduct may be ineligible to participate in Competitions or Events until such time as their suspension in the other sport has been served in full.
- 27.3 Notwithstanding Clause 27.2, Basketball Australia reserves the right to consider the previous conduct of any person when determining whether or not to approve their membership of Basketball Australia, a Member Organisation or an Authorised Provider. Where, in the opinion of the Basketball Australia Board, an individual's membership of Basketball Australia, a Member Organisation or an Authorised Provider is contrary to the principles and values set out in this Framework then they may not be permitted to become a member.

## 28. Interpretations

- 28.1 Headings used in this Framework are for convenience only and shall not be deemed part of the substance of this Framework or to affect in any way the language of the provisions to which they refer.
- 28.2 Words in the singular include the plural and vice versa.
- 28.3 Reference to 'including' and similar words are not words of limitation.
- 28.4 Words importing a gender include any other gender.
- 28.5 A reference to a Clause is a reference to a Clause or Subclause of this Framework.
- 28.6 Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- 28.7 In the event any provision of this Framework is determined invalid or unenforceable, the remaining provisions shall not be affected. This By-Law shall not fail because any part of this By-Law is held invalid.
- 28.8 Except as otherwise stated herein, failure to exercise or enforce any right conferred by this Framework shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any other occasion.

## 29. Associated Policies

- Code of Conduct for the Good Administration of Basketball (NIF Appendix 1)
- Code of Conduct for Elite Level Participants (NIF Appendix 1a)
- Gambling and Match Fixing Policy (NIF Appendix 2)
- Improper Use of Drugs and Medicine Policy (NIF Appendix 3)
- Anti-doping Policy (NIF Appendix 4)
- Member Protection Policy (NIF Appendix 5)
- Child Safeguarding Policy (NIF Appendix 6)
- Complaints Policy (NIF Appendix 7)
- Courtsiding Policy (NIF Appendix 8)
- BA Whistleblower Policy

## 30. Definitions

TERM	DEFINITION
Administrator	means any person who is, or who has held themselves out to be, or who has acted in a manner that is consistent with, or Basketball Australia determines at any time to be, or to have been, an owner, director, employee, servant, Agent, official, support staff, volunteer or other person (including medical staff, physiotherapists, trainers or other staff) who has any role in, or influence over, any Competition, Event, Participant, Club or Team.
Agent	means any person who acts in any way in the capacity of an agent, representative or advisor in relation to the negotiation or execution of any employment or commercial agreement for an Athlete, whether or not that person is accredited to do so by Basketball Australia or any other body.
Alleged Offender	means a Participant or Club accused of engaging or believed to have engaged in Prohibited Conduct, prior to a determination by the Hearing Panel.
Anti-Doping Policy	means the Anti-Doping Policy adopted by the Basketball Australia Board for the sport of basketball in Australia from time-to-time.
Appeal Tribunal	means the Tribunal appointed by the Basketball Australia Board to hear and determine matters on appeal under the Framework.
Appellant	means a person who has appealed against the finding of a Hearing Panel.
Athlete	means any person registered with or entitled to play for a Club or Team or listed by Basketball Australia, a Member Organisation or an Authorised Provider as a playing member of a Club or Team.
Athlete and Team Support Personnel	means any coach, trainer, manager, agent, team staff member, scientist, medical or para-medical or other personnel working with, treating or assisting, in a professional or voluntary capacity, an Athlete, Team or Club to prepare for participation in a Competition or Event.
Authorised Provider	means the National Basketball League, or other organisations from time to time that conduct Competitions, Events, Basketball Activities or any other programs or activities in Australia approved by or affiliated in any way with FIBA, the IWBF, Basketball Australia or Member Organisations, including local associations.
Basketball	means the sport of basketball, wheelchair basketball and 3x3 basketball, as governed by Basketball Australia, FIBA and the IWBF from time to time.
Basketball Activities	means any activities associated with the conduct of Basketball, including but not limited to playing, coaching, officiating, the administration and operation of Competitions, Events, Clubs and Teams, as well as the provision of any support services to Competitions, Events, Clubs, Teams, and Participants, including games, training sessions, scrimmages, development programs and all associated activities.

Basketball Australia	means BA Limited (ACN 072 484 992), trading as Basketball Australia, which is recognised by the Australian Sports Commission and FIBA as a National Sporting Organisation and National Federation as the peak, governing and controlling body for the sport of basketball in Australia.
Basketball Australia Board	means the Board of Directors of Basketball Australia as appointed in accordance with Basketball Australia Constitution.
Basketball Australia Website	means the primary website administered by Basketball Australia.
Benefit	means any reward or advantage, whether financial or not.
Chairperson	means the Hearing Panel or Appeal Tribunal member appointed to act in this role for the duration of a hearing under the Framework.
Club	means any club or association that enters one or more Teams to participate in a Competition or Event.
Coach	includes any person coaching a Club or Team or providing coaching instructions to Athletes as part of any Basketball Activities, Competition or Event.
Competition	means a basketball contest, event or activity (including training) either on a one off basis or as part of a series or league that is sanctioned or recognised by FIBA, the IWBF, Basketball Australia, a Member Organisation or an Authorised Provider.
Contractor	means any person or organisation engaged to provide services for or on behalf of Basketball Australia, a Member Organisation or an Authorised Provider, and includes agents, advisers, and subcontractors of Basketball Australia or a Member Organisation or an Authorised Provider and employees, officers, volunteers, and agents of a contractor or subcontractor.
Director	means a person appointed to a board, commission or other governance body of Basketball Australia, a Member Organisation or an Authorised Provider.
Disclosure Officer(s)	means the person(s) who have been nominated by Basketball Australia to receive reports from the Independent Reporting Hotline and may include Employees of Member Organisations and Authorised Providers.
Employee	means a person employed by Basketball Australia, a Member Organisation or an Authorised Provider.
Event	means all Basketball Activities associated with a one-off Competition, or series of individual Competitions conducted, recognised or sanctioned by FIBA, the IWBF, Basketball Australia, a Member Organisation or an Authorised Provider (for example international matches, national championships, or domestic leagues) or which feature an Australian National Team.
FIBA Internal Regulations	means the rules and regulations implemented by FIBA to regulate world basketball as amended from time-to-time.

Framework	means the <i>National Framework for Ethical Behaviour and Integrity in Basketball</i> including all schedules, appendices, annexures and any other associated attachments or material.
Hearing Panel	means a panel appointed by the Board to hear and determine allegations of Prohibited Conduct in accordance with the Framework.
Independent Investigator	means a person appointed by Basketball Australia to conduct an investigation into allegations or suspicions of Prohibited Conduct.
Member Organisation	means each Constituent Association Member recognised under the Basketball Australia Constitution and each local association recognised by each of Basketball Australia's Constituent Association Members.
National Sports Tribunal	means the National Sports Tribunal established under the NST Act.
NST Act	means the <i>National Sports Tribunal Act 2019 (Cth)</i> , as amended from time to time.
Notice	means a Notice issued to an Alleged Offender under the Framework.
Official	includes any referee, score-table official, statistician or other official (whether paid or unpaid) involved in any Basketball Activities, Competition or Event.
Participant	means Athletes, Coaches, Administrators, Officials, Athlete and Team Support Personnel, Contractors, Authorised Providers, and any other person that has agreed to be bound, participating in or engaged with the delivery of Competitions, Events or Basketball Activities, as well as all Directors, Employees, Volunteers and members of governance and management committees of Basketball Australia, Member Organisations and Authorised Providers.
Policy	means a policy attached as an appendix or annexure to the Framework and any future policies endorsed by Basketball Australia and applying to the conduct of Participants and/or Clubs.
Prohibited Conduct	means conduct defined as Prohibited Conduct under this Framework and Policies.
Relevant Body	means a law enforcement agency or similar body, sporting organisation or sporting body, international sporting federation or major event organisation which enforces rules consistent with the provisions of the Framework.
Relevant Government Agency	means the Australian Sports Commission, Sport Integrity Australia and any other federal, state or territory government department or agency that is responsible for sport integrity matters from time-to-time.
Team	means a collection or squad of Athletes, including any Coaches and Athlete and Team support Personnel, who compete in Basketball Activities, Competitions or Events.
Volunteer	means a person engaged directly by Basketball Australia, a Member Organisation or Authorised Provider in a non-professional capacity.

World Anti-Doping Code	Anti-	means the World Anti-Doping Code as updated by the World Anti-Doping Agency from time to time.
------------------------	-------	--