

Dear colleagues

It is with great pleasure that I write to provide an update on the operations of the National Sports Tribunal (NST) since the commencement in March 2020.

While the opening of our 'virtual doors' coincided with a particularly difficult and uncertain time for the sporting sector and broader community, we have been and remain encouraged by the very positive engagement we have had with many NSOs, peak bodies and key stakeholder groups, with strong interest in our dispute resolution services and assistance in revising internal NSO policies. The suspension of competition has had a significant impact on the functions and resources of sport at all levels; however, the NST has taken the opportunity to engage with NSOs regarding the issues and areas for improvements within their existing dispute resolution policy framework. During this time, disputes and integrity issues continued to arise as well, and following a slow start in the first few months, the NST is now managing a steady and growing stream of disputes.

### **Trends and Observations**

**Alternate Dispute Resolution** | An early preference for alternative dispute resolution services, including mediation and conciliation, has been a notable trend in the cases that have come to the NST thus far. As a suitable option for matters of bullying, harassment and some disciplinary cases, these methods have provided Parties with an accessible platform to share their position and reach a compromised outcome with guidance from the NST Member. The expertise and skills of the NST Members have been critical in reaching a satisfactory outcome in matters that had previously remained unresolved through existing mechanisms.

**Fee Assistance** | The decision to waive all fees for matters heard until 30 September 2020, in recognition of the difficult financial position many sports are currently facing, has been warmly welcomed. While this 'blanket' waiver has expired, we are still very cognisant of the ongoing ramifications from the COVID-19 situation, and as such will take this into consideration when Parties apply for assistance in circumstances of [financial hardship](#). We are also very pleased to have established the [National Sports Tribunal Legal Assistance Panel](#) (NSTLAP) which will continue to exist as a voluntary service to provide legal advice and representation assistance to Parties.

**Online Platforms** | Initially by necessity, the NST has fully embraced virtual service delivery for the resolution of disputes. This has included the conduct of hearings via a range of online platforms, providing ultimate flexibility in timing, participation and allocation of geographically diverse NST Members with the most appropriate skills and experience for the matter. Parties have responded well to the change in circumstances, demonstrating comfort with virtual proceedings. Committed to continuous improvement, the NST will continue to develop our processes to ensure the highest quality service possible.

### **Ongoing Projects**

In addition to our core business of resolving disputes in the domestic sporting sector, we have also been involved in a number of other critical projects to further improve the Australian sport integrity landscape.

**Anti-Doping Policy Template** | With the assistance of the NST, Sport Integrity Australia have distributed a new Model Anti-doping Policy embedding the NST as the default anti-doping hearing body for Australian sports. Further amendments are now also needed to comply with the new 2021 WADA Code, and we are working with Sport Integrity Australia to ensure that the NST is included in the new policies as the main "operationally independent" first instance hearing body, and the main "institutionally independent" appeals hearing body (for national level athletes), as required by the new WADA Code. The new Code continues to require that appeals involving international level athletes can only be heard by CAS.

**Selection Appeals Policy Template** | The NST has been working with some federations who have sought advice about appeals to the NST from selection decisions, and from this we have developed

the *Selection Appeals Policy Template* (the Appeals Template). This has been designed to be specifically relevant to the resolution of selection appeals, with broad enough application to be adopted by most NSOs as an adjunct to their selection policies, and embeds the NST General Division for first instance appeals, and Appeals Division for final appeals. The Appeals Template, if adopted, will ensure a fair, efficient and independent approach to any sport's selection appeals process. Assistance from the NST in integrating this policy with the existing NSO policies remains available to those interested.

**Independent Framework on Member Protection Issues** | As you may be aware allegations of athlete abuse, intimidation and other safeguarding issues have been raised recently across several sporting codes world-wide. The NST is proud to announce a developing [partnership](#) with Sport Integrity Australia, Australian Olympic Committee, Commonwealth Games Australia and Paralympics Australia in developing an entirely independent framework to deal with these allegations presented within Australian sport.

**Gymnastics Australia Supplementary Complaints Process** | In addition to this, Gymnastics Australia (GA) has announced a new supplementary complaints process to complement the Australia Human Rights Commission [Independent Review of Gymnastics in Australia](#). The NST [will work alongside Sport Integrity Australia](#), with an Independent Assessor, to support Gymnastics Australia to manage and resolve complaints raised through their new [Supplementary Complaints Management Policy](#). This process, which will deal with complaints that relate to the abuse and other mistreatment of athletes in Gymnastics, has been developed to operate independently of the GA administration. The NST will assist the review, in cases where appropriate, by offering mediation and conciliation services to the parties.

**Resolution Bodies** | The NST is also actively engaged with a number of domestic and international resolution bodies, including the [LawInSport](#) organisation, based in the United Kingdom, which has been active in analysing the effects of the COVID-19 pandemic on sport dispute resolution processes across the world. This has involved NST participation in the ad hoc working group to explore the issue of ensuring effective, accessible and fair services are still available during this time, utilising the experiences of top level international sport lawyers. The findings of this group have been integrated back into our processes, in addition to the incorporation of best practice within Australian hearing bodies, who have embrace innovation to combat the complexities of the COVID-19 environment. Collaboration with domestic bodies such as ANZSLA and the Resolution Institute has also been very beneficial, adapting our processes to address issues within the local context.

## The Future

There is no doubt that challenges still lay ahead in 2020 for us all, and I look forward to the NST continuing to work closely with our colleagues throughout the sport law industry to strengthen the legal frameworks that support our sports. Providing independent, cost-effective and efficient services have already assisted many in resolving their disputes, and we will continue to evolve our methods to match the needs of NSOs, athletes and support personnel.

For further information on our processes, services and framework please consult our [website](#) or contact the NST Registry at [enquiries@nationalsportstribunal.gov.au](mailto:enquiries@nationalsportstribunal.gov.au).

Kind regards

John Boulton



Chief Executive Officer

[NATIONALSPORTSTRIBUNAL.GOV.AU](http://NATIONALSPORTSTRIBUNAL.GOV.AU)

+61 416 100500 | +61 2 9263 3768 | [ceo@nationalsportstribunal.gov.au](mailto:ceo@nationalsportstribunal.gov.au)

[NATIONALSPORTSTRIBUNAL.GOV.AU](http://NATIONALSPORTSTRIBUNAL.GOV.AU)