

BETWEEN **VOLLEY SOUTH**

Appellant

AND **VOLLEYBALL NEW ZEALAND**

Respondent

**DECISION OF SPORTS TRIBUNAL ON JURISDICTION
6 AUGUST 2026**

Hearing 15 July 2026 – by Microsoft Teams

Present Brent Jamieson (Chair, Volley South) for Appellant
Crispin Phelan (Chair, Volleyball NZ) for Respondent
Debbie Hyland (Acting CE, Volleyball NZ) for Respondent

Tribunal Andrea Twaddle (Acting Chair)
Sam Fellows
Pippa Hayward

Registrar Luke Macris

Introduction

1. On 6 May 2026, Volley South filed a Notice of Appeal (Form 3) against Volleyball New Zealand (VNZ) with the Sports Tribunal (Tribunal).
2. The appeal by Volley South is against two procedural decisions and actions taken by VNZ arising from correspondence dated 12 February 2026 and 30 March 2026 to commence an investigation into Volley South concerning complaints, laid by participants/members within the Volley South community relating to governance, management, membership, and operational matters.
3. The grounds of appeal are that VNZ has breached natural justice, acted outside its powers and/or jurisdiction, and failed to properly apply certain constitutional obligations in undertaking their actions regarding establishment of investigation, by reference to clauses of the VNZ Constitution.
4. This Tribunal panel has been asked to first consider whether there is jurisdiction to hear the appeal, given the VNZ investigation is not yet underway let alone a formal decision issued, based on the dispute resolution clauses and rights of appeal within the VNZ Constitution.

Background

5. On 12 February 2026, Ms Hyland (Acting CE, VNZ) sent by email to Volley South an investigation notice indicating that the VNZ Board had decided to investigate complaints received about “recent terminations of Volley South members, which has highlighted other management and governance concerns, along with other complaints about practices of the management and Board of Volley South.” She indicated that procedural particulars (scope, timeframe, process, and potential outcomes) of the investigation would be notified to Volley South before it commenced.
6. On 13 February 2026, Mr Jamieson (Board Chair, Volley South) responded by letter to the VNZ Board Chair¹ setting out relevant context and background, indicating a preference for appointment of an independent third-party investigator, and requesting full particulars of the complaints.
7. On 23 March 2026, Mr Jamieson sent a follow-up letter noting that no acknowledgement nor response to the 13 February letter had been received. He outlined what Volley South perceived to be the impact on the organisation and sought clarity on the process, requesting a response by 5pm Friday, 27 March 2026.

¹ We note at this point that all future Volley South correspondence to VNZ was also directed to the VNZ Board Chair.

8. On 27 March 2026, Mr Jamieson sent another letter to VNZ asserting concerns about breaches of natural justice and process given it had been “43 calendar days...with no process established, no allegations disclosed, no supporting material provided, and no response to Volley South’s correspondence, is not timely by any reasonable measure.” Mr Jamieson again requested a response, this time by 5pm Monday 30 March 2026, and indicated that if that deadline was not met then Volley South would have no option but to progress the matter before the Tribunal, attaching a pre-completed copy of the Tribunal’s Form 9 (application for resolution of sports-related dispute).²
9. On 30 March 2026, Ms Hyland replied to Volley South by email indicating that an independent Judicial Committee Chair had been confirmed and that VNZ’s “immediate goal is to ensure the participant’s complaints we received are reviewed by an independent expert, not to presuppose outcomes and ensure all relevant matters are considered.”
10. On 1 May 2026, Volley South states it had discussions with the Sport Integrity Commission (the Commission) in which it was advised that the VNZ investigation would shortly be underway.

Tribunal procedure

11. Volley South filed its Notice of Appeal (Form 3) and Appeal Brief (Form 4) with the Tribunal shortly after its discussion with the Commission on 6 May 2026.
12. This Tribunal panel was convened to determine the issue of jurisdiction and confirmed that it is not aware of any prior procedural steps before the Tribunal.
13. A timetable for filing of written submissions was set by the Acting Chair and an online hearing for oral submissions scheduled.
14. In the lead up to that hearing, VNZ provided Volley South with a copy of the draft Terms of Reference together with a complaints/concerns file relating to the investigation and requested a response be provided to that draft within five working days. Mr Jamieson sought clarification from the Acting Chair as to whether Volley South should comply with that timeframe given the appeal before the Tribunal and the limited capacity of a small volunteer board in dealing with both the appeal and the response to the draft Terms of Reference.

² We note this was, in fact, the incorrect Tribunal Form as Volley South would later file a Form 3 (Notice of Appeal) under the Part D procedure (Appeal against decision of an NSO), however the substance of the complaints being raised by Volley South that would be put to the Tribunal were made clear to VNZ.

15. At a pre-hearing conference on 8 July 2026 with the Acting Chair, the parties agreed that they would communicate directly with one another about a timeframe extension for Volley South to respond to the draft Terms of Reference as VNZ had indicated that they were open to extending the timeframe until after the Tribunal decision on jurisdiction was issued.
16. The Tribunal held a hearing for oral submissions on the jurisdiction point by Microsoft Teams on 15 July 2026.

VNZ Constitution

17. The relevant clauses of the VNZ Constitution (the Constitution) regarding the dispute resolution procedure and right of appeal to the Tribunal are set out below:

3. Purpose and powers

- 3.1 The purposes of VNZ are to:

....

- (t) at all times operate with, and promote, mutual trust and confidence between VNZ and the Members in pursuit of these Purposes; and

....

18. Dispute resolution

- 18.1 In this clause:

- (a) **Dispute** means a disagreement or conflict between and among any one or more Members, or any one or more Officers and VNZ, that relates to an allegation that:

....

- (iii) VNZ has breached, or is likely to breach, a duty under this Constitution or the Act; or

- (iv) A Member's rights or interests as a member have been damaged or Members' rights or interests generally have been damaged;

- (b) **Disputes Procedure** means the procedure for resolving a Dispute set out in clauses 18.6 to 18.20;

....

Disputes procedure

Raising a complaint

- 18.6 A Member or an Officer may start the Disputes Procedure (a **Complaint**) by giving written notice to the Board setting out:

- (a) the allegation to which the dispute relates and who the allegation is against; and

- (b) any other information reasonably required by VNZ.

- 18.7 The Board may make a Complaint involving an allegation against a Member or an Officer by giving notice to the person concerned setting out the allegation to which the Dispute relates.

- 18.8 The information given must be enough to ensure a person against whom the Complaint is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

Investigating and determining Disputes

- 18.9 Unless otherwise provided, VNZ must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Dispute is investigated and determined in accordance with this clause 18. VNZ will endeavour to conduct its investigation within twenty (20) Working Days and may extend the timeframe required and shall outline to the complainant the reasons for the extension.
- 18.10 Disputes must be dealt with in a fair, efficient, and effective manner.

Decision to not proceed with a matter

- 18.11 Despite the contents of the Disputes Procedure, VNZ may decide not to proceed with a matter if:
- (a) the Complaint is trivial;
 - (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct;
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
 - (iii) any material damage to a Member's rights or interests or Members' rights or interests generally;
 - (c) the Complaint appears to be without foundation or there is no apparent evidence to support it;
 - (d) the person who makes the Complaint has an insignificant interest in the matter;
 - (e) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under this Constitution;
 - (f) there has been an undue delay in making the Complaint; or
 - (g) the Complaint involves two Members who are also members of a Regional Association (or other Member of VNZ), which is also a Member of VNZ and the Complaint has either been dealt with by the Regional Association or is required to be, pursuant to the dispute resolution procedures of that Regional Association (or other Member).

....

Respondent's right to be heard

- 18.17 The Member or Officer who, or VNZ which, is the subject of the Complaint (Respondent) has a right to be heard before the Complaint is resolved or any outcome is determined. If the Respondent is VNZ, a Board Member may exercise the right on behalf of VNZ. A Respondent must be taken to have been given the right if:
- (a) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response;

....

Appeals or Litigation

- 18.18 Unless this Constitution or any Regulation provides otherwise, any Member wishing to appeal a decision of VNZ regarding the decision made in a Dispute where they have exhausted their rights of appeal within this Constitution and/or any Regulation, may appeal to the Sports Tribunal of New Zealand | Aotearoa within ten (10) Working Days of being notified of the VNZ decision. The rules of the Sports Tribunal of New Zealand | Aotearoa apply to any such appeal.

VNZ submissions

16. VNZ argues that there is no jurisdiction for the Tribunal to hear the appeal at this point in time. A summary of its position follows:
 - a. The appeal appears out of time as an appeal needs to be filed within 10 working days of notification of the relevant decision under cl 18.18 of the Constitution; in these circumstances the Notice of Appeal was filed on 6 May 2026 and the decisions identified by Volley South as having been made by VNZ relate to communications on 12 February 2026 and 30 March 2026;
 - b. The matters appealed by Volley South are procedural steps only – being the commencement, continuation and escalation of an investigation – and not a decision of VNZ regarding “the decision made in a Dispute” as contemplated by cl 18.18 of the Constitution, which provides the right of appeal to the Tribunal;
 - c. The appeal is premature, as no final VNZ decision has been made and these are matters that can properly be evaluated once the investigation has concluded; and
 - d. The Tribunal should be cautious about intervening where an independent investigation is ongoing.
17. Acknowledging that the delays have been less than ideal, VNZ submitted the importance of having the independent decision-maker and investigator properly established. It indicated that it has taken time for the organisation to source both the required funding and independent experts to conduct the investigation. It stressed the need for a proper investigatory process to ensure natural justice, fairness, and transparency for the parties (Volley South and the complainants) so that both could be properly heard.

Volley South submissions

18. The primary concern of Volley South appears to be the length of time it has taken for the investigation to be established together with the lack of communication from VNZ about the procedure to be adopted, both of which it says are sufficiently serious to warrant consideration of whether VNZ has failed to meet its constitutional obligations to Volley South. It argues that Volley South has not been provided, either in a timely manner nor within the timeframe indicated at cl. 18.9 of the Constitution, the complaint particulars, allegations, or supporting evidence from VNZ. The prolonged delay and lack of procedural clarity have caused ongoing prejudice, including reputational damage, stakeholder uncertainty, governance and operational difficulties, impacts on staff wellbeing, and an inability to exercise its constitutional rights effectively.

19. Volley South says the complaints are known and spreading through the Volley South community, without the organisation having any fair opportunity to sight and respond to the allegations. Volley South accepts that VNZ has constitutional authority to investigate complaints, but says the issue is whether that authority has been exercised consistently with the Constitution and principles of procedural fairness.
20. Volley South further submits that the appeal is not time barred because it concerns the ongoing and continuing decision to keep Volley South under investigation while withholding this key procedural information. It contends that clause 18 contains no requirement that a decision be final before it can be appealed and does not exclude procedural decisions from review where they have caused harm.
21. Volley South considers that the Tribunal is not being asked to determine the merits of any complaint or to halt the investigation. Rather, it is asked to determine whether VNZ's continuing conduct constitutes a decision under clause 18.18 and whether the resulting impact on Volley South's rights and interests gives rise to a right of appeal. On that basis, Volley South seeks a ruling that the Tribunal has jurisdiction and that the substantive appeal should proceed.

Discussion

22. The Tribunal is aware that incorporated societies, which includes most (if not all) sport organisations including national sport organisations (NSOs), have recently been required to update their constitutions in accordance with the *Incorporated Societies Act 2022* (the Act). The Act set out to modernise how incorporated societies are governed and required them to re-register with the Companies Office by 5 April 2026.
23. As part of that process, Sport NZ created constitutional templates and guidance for sporting organisations.³ We understand that the clauses within the VNZ Constitution mirror those within the Sport NZ templates. Accordingly, the following discussion may be of relevance to a number of sport organisations that have chosen to update their constitutions in line with the Sport NZ templates.
24. In terms of jurisdiction, the Tribunal Panel considers that there are two separate but related issues at play within this factual background that need to be determined.
25. The first relates to whether the Tribunal has jurisdiction with respect to the VNZ investigation of Volley South. Clause 18.18 refers to "the decision made in a Dispute" [emphasis added], which we consider must refer to the final determination of the VNZ Board decision following the investigation, which has not yet been made. Accordingly,

³ Located at: <https://sportnz.org.nz/resources/incorporated-societies-act-2022-and-regulations/>

we determine that the Tribunal does not yet have jurisdiction to determine whether there have been any breaches of natural justice or whether VNZ acted outside its powers and/or jurisdiction during the investigation. Appeal rights from that investigation would arise at the end of the investigation and decision-making process undertaken by VNZ. We agree with VNZ that it would be premature for the Tribunal to intervene in the investigation at this point.

26. However, we consider that the letter correspondence from Volley South to VNZ, particularly those dated 23 and 27 March 2026, initiated a second separate (though, of course, related) dispute between Volley South and VNZ. Importantly, Volley South complied with the requirements of cl. 18.6 by sending its complaint regarding the delays and alleged failures by VNZ to meet its constitutional obligations to the VNZ Board Chair. The delays to the investigation should have been clearly communicated to Volley South as it had a duty to do under the Constitution (as set out below).
27. While cl. 18.9 only refers to VNZ having to notify the complainants of delays, both the principles of natural justice together with the duty at cl 18.10 that disputes must be “dealt with in a fair, efficient, and effective manner” means that VNZ has an obligation to keep all parties abreast of developments during an investigation. In the current circumstances, prompt replies and updates to Volley South as to progress or reasons for delays to Volley South may have been enough to meet its obligations under cl. 18, or other duties under cl. 3.1(t). On the other hand, inaction (or a non-decision or failure) by a sport organisation to exercise or fulfil a constitutional obligation can, in our view, be treated as a reviewable ‘decision’ by this Tribunal.⁴
28. In this case, VNZ failed to appropriately deal with the duly notified dispute raised by Volley South regarding delay under clauses 18.1 and 18.6 which gives rise to a right of appeal to the Tribunal. Put another way, a failure to act on a duty or obligation within an NSO constitution, particularly in this case where the Tribunal considers there was an ongoing failure to act, can be categorised as a ‘decision’ itself, which creates a right of appeal and jurisdiction to this Tribunal under cl. 18.18. Naturally, whether that does in fact arise in any given case will be context and factually dependent.

⁴ Similar to a judicial review procedure arising out of a failure to exercise a statutory power under s.3 of the *Judicial Review Procedure Act 2016*.

29. Yet despite finding that jurisdiction is available through VNZ's inaction, this is not the only matter that must be considered. The Tribunal must also be able to grant some practical relief, otherwise the dispute becomes moot or lacks utility. Of course, the Tribunal can declare that the delays and failure to communicate the reasons for those delays to Volley South amount to breaches of a duty under the Constitution – which it has done through this decision. However, the primary practical relief would be to order or direct VNZ to remedy its breaches within a certain timeframe. VNZ has already done that by providing Volley South with the draft Terms of Reference for its investigation. Accordingly, we consider that while there is a pathway to jurisdiction for Volley South's complaints of delay and lack of communication, practical relief has already been provided and thus there is no longer any effective relief for the Tribunal to grant.

Decision

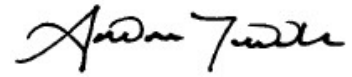
30. The Tribunal concludes that it does not yet have jurisdiction to determine whether there has been breaches of natural justice by VNZ or whether VNZ acted outside its powers and/or jurisdiction in making a final decision with regard the investigation of Volley South. A right of appeal for those issues would arise upon any final decision made by the VNZ Board in relation to the investigation.
31. While the Tribunal may have had jurisdiction in relation to VNZ failures to act on complaints made by Volley South regarding delays and communication about the investigation, VNZ has now remedied those breaches and practical relief is no longer available.
32. Accordingly, the appeal is dismissed.

Final comment

33. The Tribunal considers it appropriate to note its concern regarding the delay that occurred in this matter. Although VNZ has now remedied the procedural deficiencies identified by Volley South, that occurred only after Volley South had sought assistance from the Sport Integrity Commission and filed proceedings before this Tribunal. It is disappointing that those steps were required before substantive progress was made. Timely communication and procedural clarity are fundamental components of a fair and effective dispute resolution process and help maintain the mutual trust and confidence contemplated by clause 3.1(t) of the Constitution.
34. Throughout the proceeding, both parties expressed a desire to operate with mutual trust and confidence with one another. The Tribunal encourages them to work collaboratively and in a timely manner, so that the investigation can proceed through a

fair process and toward a prompt resolution for the benefit of all Volleyball participants in the southern region.

Dated: 6 August 2026

A handwritten signature in black ink, appearing to read 'Andrea Twaddle'.

Andrea Twaddle
Acting Chair

A handwritten signature in black ink, appearing to read 'Pippa Hayward'.

Pippa Hayward

A handwritten signature in black ink, appearing to read 'Sam Fellows'.

Sam Fellows