

IYENGAR YOGA AUSTRALIA

COMPLAINTS HANDLING PROCEDURE

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COMPLAINTS HANDLING PROCEDURE

1. THE PURPOSE OF THE COMPLAINTS HANDLING PROCEDURE

The purpose of this Complaint Handling Procedure is to provide a timely, fair, and transparent process for the investigation of complaints made against teachers of Iyengar Yoga Australia (IYA).

2. PUBLICATION OF THE COMPLAINTS HANDLING PROCEDURE AND THE ETHICAL GUIDELINES GENERALLY

This Complaints Handling Procedure is one part of the Ethical Guidelines of IYA.

The Ethics and Certification Mark Committee of IYA (ECMC) must make the Ethical Guidelines publicly available, including by prominently posting them on IYA's website.

A teacher who receives a complaint must advise the complainant of the existence of the Ethical Guidelines and how to access them.

3. THE ROLE OF THE BOARD & ECMC IN HANDLING COMPLAINTS MADE AGAINST TEACHERS

3.1 In accordance with IYA's constitution, the Board of IYA has delegated its power to the ECMC to establish and maintain the highest standard of conduct amongst teachers of IYA.

3.2 More specifically, the ECMC is required to:

- a. Receive any complaints against teachers;
- b. Consider and, if need be, investigate the conduct of teachers who are the subject of complaints; and
- c. Sanction, exonerate, or otherwise deal with teachers against whom a complaint has been made.

3.3 This Complaints Handling Procedure was created by the ECMC in response to this delegation of power by the Board.

4. PRINCIPLES TO BE OBSERVED DURING THE COMPLAINTS HANDLING PROCESS

The following principles are to be observed during the Complaints Handling Process:

4.1 Complaints are to be investigated promptly, impartially and sensitively.

4.2 The restraints, moral obligations, disciplines and practices espoused in the IYA's Statement of Ideals ([link](#)) are to be observed by all parties during this process.

4.3 The rules of natural justice are to be observed during this process, which means, amongst other things, that a teacher is entitled to know the detailed particulars of a complaint and is further entitled to an opportunity to respond to that complaint.

- 4.4 Wherever possible and appropriate mediation of a complaint and education of all parties will be IYA's preferred outcome.
- 4.5 It is acknowledged that some complaints are not appropriate for mediation, and in those circumstances teachers will be the subject of an investigation.
- 4.6 Where the ECMC is satisfied a complaint discloses evidence that a criminal offence has been committed by a teacher that complaint will also be referred to police for investigation unless the ECMC determines that exceptional circumstances exist that warrant this action not occurring.

5. TEACHERS WHO MAY BE THE SUBJECT OF A COMPLAINT

- 5.1 For the purposes of this Complaint Handling Procedure, only teachers who are members of IYA may be the subject of a complaint.
- 5.2 A teacher is defined as:
- a. A member of IYA who is certified to teach Iyengar yoga ('A certified teacher'); and
 - b. A member of IYA who is training to be a teacher mentioned in 5.2(a) ('A trainee teacher').

6. WHO MAY MAKE A COMPLAINT

- 6.1 Any person may make a complaint about the conduct of a teacher to the ECMC.
- 6.2 Once a person makes a complaint that person is referred to as the complainant.
- 6.3 Both the Board of IYA and the ECMC have the power to initiate their own complaint against a teacher. If either the Board or the ECMC initiates its own complaint against a teacher that is not to be taken as an acceptance that the complaint has been made out.

7. GROUNDS FOR COMPLAINT

- 7.1 This Complaints Handling Procedure can only be used to investigate a complaint that a teacher is alleged to have breached the Teachers' Code of Conduct.

8. FORM OF COMPLAINT

- 8.1 A Complaint must be made in writing to the ECMC and should include:
- a. The name of the teacher against whom a complaint is made;
 - b. The particulars of the complaint; and
 - c. The name of the person who is making the complaint.
- 8.2 The complaint should where possible be in the approved form which can be found on the IYA website.

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9. TIME LIMITS ON THE MAKING OF COMPLAINTS

- 9.1 Subject to 9.2, a complaint is to be made within 12 months after the alleged misconduct by a teacher took place.
- 9.2 The ECMC may accept a complaint after the 12 month limitation has expired if the committee considers it is reasonable in the circumstances to do so.

10. DEALING WITH A COMPLAINT AGAINST A TEACHER OTHER THAN BY THIS COMPLAINTS HANDLING PROCEDURE

- 10.1 A person may choose not to refer a complaint about a teacher to the ECMC but may instead directly approach the teacher or use some other procedure to attempt to resolve that complaint.
- 10.2 Where a complainant uses an alternate approach or procedure to attempt to resolve a complaint, the teacher (if aware of the complainant's actions) must advise the ECMC in writing of the existence and outcome of the complaint if it relates to an allegation of:
- a. Assault including sexual assault;
 - b. Sexual harassment, bullying or discrimination;
 - c. A matter that is the subject of police investigation;
 - d. A matter that is the subject of proceedings before a State or Commonwealth Commission, Tribunal, Court or some other like body; or
 - e. A matter that could reasonably be expected to be viewed by the ECMC as a serious breach of the Teachers Code of Conduct.
- 10.3 A failure by a teacher to notify the ECMC about matters mentioned in paragraph 10.2 is a breach by the teacher of the Teachers Code of Conduct.

11. COMPLAINANT TO BE NOTIFIED OF RECEIPT OF COMPLAINT

- 11.1 Within 7 days of receipt of a complaint against a teacher the ECMC provide the complainant and the Board with:
- a. a written acknowledgement of receipt of the complaint; and
 - b. Information about any action already taken or to be taken by ECMC.

12. TEACHER AND BOARD TO BE NOTIFIED OF COMPLAINT

- 12.1 Within 7 days of receipt of a complaint against a teacher the ECMC must provide written notice of that complaint to the teacher and the Board.

12.2 The notice must:

- a. Set out the particulars of the complaint;
- b. Inform the teacher about this Complaint Handling Procedure; and
- c. Inform the teacher of any action already taken or to be taken by the ECMC.

12.3 The teacher is entitled to know the identity of the complainant unless the ECMC determines there are compelling reasons why that person should not be identified, taking into account, amongst other things:

- a. The need to protect the complainant;
- b. The need for the teacher to fully understand the case against him or her; and
- c. The desire to make this Complaints Handling Procedure as open and transparent as possible.

13. CONFLICTS OF INTEREST

13.1 For the purposes of this part of the Complaints Handling Procedure, a 'decision maker' is:

- a. A member of the ECMC;
- b. A mediator;
- c. An investigator; or
- d. An Appeals Panel member.

13.2 A person who has a role as a decision maker in this Complaints Handling Procedure has a duty to stand aside and not handle any aspect of a complaint if that decision maker has:

- a. A connection with a party to the complaint which could reasonably be expected to impact on the decision maker's ability to be fair and impartial; or
- b. There is some other issue which could reasonably be expected to impact on the decision maker's ability to be fair and impartial.

13.3 A party has no power to require a particular decision maker stand aside or be appointed.

14. OPTIONS AVAILABLE TO THE ECMC UPON RECEIPT OF A COMPLAINT.

14.1 Upon receiving a complaint the ECMC may:

- a. Where appropriate to do so, encourage the complainant to resolve the complaint directly with the teacher without making a decision about the complaint;
- b. Dismiss the complaint;

- c. Facilitate a mediation between the teacher and the student without making a decision about the complaint; or
- d. Appoint an appropriately qualified and independent person ('The Investigator') to investigate the complaint.

15. DISMISSAL OF A COMPLAINT

15.1 The ECMC may at any time dismiss a complaint if that committee decides:

- a. The complaint is trivial, vexatious, misconceived, or lacking in substance;
- b. The complaint is not related to a teacher's obligations under the Code of Practice; or
- c. For some other reason it is just and appropriate that the complaint should be dismissed.

16. MEDIATION

16.1 The ECMC may at any time refer the parties to mediation if:

- a. The parties agree in writing to that course; and
- b. The ECMC considers the nature of the complaint is such that it is an appropriate matter to be referred to mediation.

16.2 The ECMC will appoint an appropriately qualified and independent person ('the mediator') to attempt to mediate a resolution of the complaint.

16.3 Except where exceptional circumstances exist the mediation must take place within one month of the parties agreeing to mediate.

16.4 A party is entitled to be accompanied by another person (other than a legal representative) to the mediation, but only with the permission of the mediator.

16.5 If the parties agree to a resolution of the complaint during the mediation process the mediator must provide the ECMC with a record of the terms of the agreement signed by the parties within 7 days of the agreement being made.

16.6 If the complaint is not resolved at mediation the ECMC shall either:

- a. Initiate or continue its investigation; or
- b. Dismiss the complaint.

17. INVESTIGATION OF THE COMPLAINT

17.1 The ECMC may conduct an investigation of a complaint where it considers it appropriate to do so and in a manner it sees fit. Any investigation must be guided by the principles espoused at paragraph 4 of this document.

- 17.2 The ECMC may appoint an appropriately qualified and independent person ('the investigator') to investigate the complaint.
- 17.3 The investigator may be a member of the ECMC.
- 17.4 The investigator will make recommendations about a complaint to the ECMC, and the ECMC will then make a decision about the complaint based on those recommendations.
- 17.5 During the course of the investigation the investigator must:
- a. Gather information about the complaint from the complainant and, where appropriate, other witnesses or sources;
 - b. Give detailed written particulars of the complaint to the teacher and invite that person to respond within an appropriate time; and
 - c. As soon as practicable after completing an investigation, provide a written report of the investigation to the ECMC.
- 17.6 The investigator will reveal the identity of the complainant to the teacher unless directed by the ECMC not to do so.
- 17.7 The investigator may at any time provide an interim report to the ECMC.
- 17.8 The ECMC may at any time request the investigator provide an interim report or provide further and better information about any aspect of the investigation of a complaint.
- 17.9 At any time during the investigation of any complaint the ECMC may suspend a teacher's membership of IYA and/or suspend the teacher's right to use the Certification Mark pending the outcome of the investigation if satisfied it is just and appropriate to do so.
- 17.10 If at any time during the investigation of a complaint the Investigator or the ECMC is satisfied a complaint discloses evidence that a criminal offence has been committed by a teacher that complaint will be referred to police for investigation unless the ECMC determines exceptional circumstances exist that warrant this action not occurring.
- 17.11 Where the ECMC determines the matter should be referred to police, it must:
- a. provide that evidence to police;
 - b. suspend its investigation of the complaint pending the outcome of the police investigation; and
 - c. take such other action it considers just and appropriate, including if necessary the suspension of the teacher's membership of IYA and right to use the Certification Mark pending the outcome of the police investigation.
- 17.12 Before referring the complaint to police as described in 17.10 the ECMC must notify the complainant of the intended action, and where appropriate, offer counselling and support to the complainant.

17.13 If at any time during the investigation of a complaint the Investigator or the ECMC believes that the evidence or allegations indicate that a teacher has committed an act of sexual harassment, discrimination, or other misconduct that may be the subject of proceedings before a State or Commonwealth Court, Tribunal, Commission or other like entity, the ECMC is required to give the complainant the opportunity to take advice and, if appropriate, initiate those proceedings.

17.14 If a complainant chooses to initiate proceedings referred to in 17.13, the ECMC must:

- a. suspend its investigation of the complaint pending the outcome of those proceedings; and
- b. take such other action it considers just and appropriate, including, if appropriate, the suspension of the teacher's membership of IYA and/or suspend the teacher's right to use the Certification Mark pending the outcome of the proceedings.

17.15 Acts of bullying, harassment, intimidation, retribution or other improper behaviour of any sort towards a complainant by a teacher (or done at the request or approval of a teacher) during or after the Complaints Handling Process is a breach by the teacher of the Teachers Code of Conduct.

17.16 The failure of a teacher to co-operate with the ECMC in the investigation of a complaint is a breach of the Teachers Code of Conduct.

18. COUNSELLING AND SUPPORT

18.1 The ECMC is an independent body and its members cannot personally offer advice, support (including financial support), or counselling for parties involved in this Complaints Handling Process. The ECMC must, however, take all reasonable steps to ensure any party involved in this process can be referred for counselling and support by an appropriate person or organisation.

19. WITHDRAWAL OF A COMPLAINT

19.1 A complainant is entitled to withdraw a complaint at any time during the Complaints Handling Process prior to a decision being made by the ECMC about the complaint.

19.2 If the complainant withdraws a complaint and the ECMC is nevertheless of the view that the teacher has a case to answer, the ECMC may continue to investigate the complaint.

20. OUTCOME OF INVESTIGATION

20.1 Once the investigation has been completed the ECMC must promptly review the investigator's report and decide whether a complaint has been made out.

20.2 In the case of multiple complaints, the ECMC must separately decide if each complaint has been made out.

21. THE STANDARD OF PROOF

21.1 The standard of proof to be applied by the ECMC in this complaints handling process is the balance of probabilities, and so for a complaint to be made out the ECMC must be satisfied that it is more probable than not that the act or acts complained of did in fact occur.

22. COMPLAINT NOT MADE OUT AFTER INVESTIGATION

22.1 In the event the ECMC decides that a complaint has not been made out after it has been investigated, it will promptly:

- a. Dismiss the complaint; and
- b. Notify the parties and the Board of the decision with written reasons for that decision.

23. COMPLAINT MADE OUT AFTER INVESTIGATION

23.1 In the event the ECMC decides that a complaint has been made out after it has been investigated, it will promptly notify the parties and the Board in writing of the ECMC's decision, together with:

- a. written reasons for that decision; and
- b. details of the sanction or sanctions, if any, to be imposed on the teacher.

24. SANCTIONS

24.1 The ECMC can impose one or more of the following sanctions on a teacher against whom a complaint has been made out:

- a. Record the complaint has been made out and take no further action;
- b. A reprimand;
- c. Place a condition or conditions on the teacher's membership of IYA, which may include for instance:
 - i. A condition to be generally of good behaviour;
 - ii. A condition to refrain from or repeat certain behaviour;
 - iii. A condition to participate in education, counselling, treatment or some other activity designed to assist the teacher; and
 - iv. A condition that a teacher be supervised by another teacher nominated by the ECMC in a manner determined by that committee.
- d. If the teacher is a certified teacher, a direction that this person's right to use the Certification Mark be withdrawn for a fixed period or until specified conditions are met;

- e. If the teacher is a trainee teacher, a direction that this person not be entitled to apply to be a certified teacher for a fixed period of time or until specified conditions are met;
- f. A suspension of the teacher's membership of IYA for a fixed period of time or until specified conditions are met; or
- g. The expulsion of the teacher from IYA.

24.2 The ECMC cannot impose a fine on a teacher, nor can the ECMC order that the teacher pay compensation to a complainant.

25. MATTERS TO BE TAKEN IN TO ACCOUNT WHEN IMPOSING A SANCTION.

25.1 The ECMC will, amongst other things, take the following matters into account when imposing a sanction on a teacher:

- a. The nature and seriousness of the complaint;
- b. The impact of the teacher's behaviour on the complainant;
- c. The protection of students and other teachers of Iyengar Yoga;
- d. The character and past record of the teacher;
- e. The impact of a sanction on the teacher;
- f. The impact the teacher's conduct has had, or likely will have, on the integrity and reputation of IYA;
- g. The impact the teacher's conduct has had, or likely will have, on the integrity and reputation of the late BKS Iyengar, his family, and the world-wide Iyengar Yoga community.

26. RIGHT TO APPEAL

26.1 A party may appeal against a decision by the ECMC to:

- a. Dismiss a complaint;
- b. Find that a complaint has not been made out; or
- c. Find that a complaint has been made out.

26.2 A party may appeal against the leniency or severity of a sanction imposed by the ECMC.

26.3 No decision by the ECMC other than those mentioned in this paragraph can be the subject of an appeal.

27. TIME LIMITS FOR APPEAL

27.1 A party must lodge an appeal with the ECMC within 14 days of the date of ECMC's decision.

28. FORM OF APPEAL

28.1 An appeal must be made in writing to the ECMC and include:

- a. The name of the person making the appeal;
- b. The grounds of appeal as referred to in paragraph 26; and
- c. The reasons for the appeal.

28.2 Where possible the appeal should be in the approved form which can be found on the IYA website.

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29. NOTIFICATION OF APPEAL

29.1 Upon receipt of the appeal notice the ECMC must immediately provide notification of it to the Board and to the party who did not initiate the appeal.

29.2 APPEALS PANEL

29.3 An appeal against the decision of the ECMC will be heard by the Appeals Panel.

29.4 The Board will appoint the members of the Appeals Panel.

29.5 The Appeals Panel must be comprised of three members, as follows:

- a. An appropriately qualified independent person who is not and who has never been a member of IYA;
- b. A board member of IYA (other than the president) who is not a member of the ECMC; and
- c. A teacher who holds at least a Senior Level 1 certificate who is not a member of the ECMC.

29.6 Appeals Panel members need not be Australian Citizens.

30. TIME FRAME OF THE APPEAL

30.1 The Appeals Panel must convene to hear the appeal within 28 days of the lodgement of the appeal, or as soon as practicable after that time.

31. WHO MAY APPEAR AT THE APPEAL

- 31.1 The complainant and the teacher are entitled to appear before the Appeals Panel.
- 31.2 The complainant and the teacher cannot be legally represented at the Appeal but may apply to the Appeals Panel to have a support person present.

32. CONDUCT OF THE APPEAL

- 32.1 An appeal will be conducted at a venue and time determined by the Appeals Panel.
- 32.2 An appeal will constitute a fresh consideration of the complaint. The Appeals Panel must observe the rules of natural justice but is otherwise entitled to conduct the hearing in the manner it thinks fit, and is specifically entitled to:
- (a) Call witnesses;
 - (b) Consider all evidence that was before the ECMC and investigator;
 - (c) Receive new evidence or submissions from the parties; and
 - (d) Seek out and consider further information, evidence, or submissions the Appeals Panel considers relevant to the determination of the complaint, including from the investigator.
- 32.3 The Appeals Panel is not bound by the rules of evidence and should conduct the appeal as informally as possible.
- 32.4 The parties are not entitled to directly ask each other questions during the Appeal process, but the Appeals Panel can allow this to happen if the Panel determines it would be just and appropriate to do so.
- 32.5 A complainant can appear before an Appeals Panel by video-link or telephone at the discretion of the Panel.

33. STANDARD OF PROOF TO BE APPLIED BY THE APPEALS PANEL

- 33.1 The standard of proof to be applied by the Appeals Panel in relation to its determination of a complaint is the balance of probabilities, and so for a complaint to be made out the Panel must be satisfied that it is more probable than not that the act complained of did in fact occur.

34. APPEAL AGAINST A SANCTION

- 34.1 Where the Appeals Panel is required to hear an appeal against a sanction imposed by the ECMC, the Panel must determine whether that sanction is fair and reasonable in the circumstances.
- 34.2 The Panel may:
- a. Confirm the sanction imposed on the teacher by the ECMC; or
 - b. Impose a different sanction on the teacher.

34.3 The Appeals Panel can only impose a sanction mentioned in paragraph 24 of this Complaint Handling Procedure.

35. PROCEDURE AFTER THE APPEAL

35.1 The Appeals Panel shall make its decision as soon as practicable after the conclusion of the appeal, and provide it promptly to the parties, the ECMC, and the Board.

35.2 There can be no appeal against the decision of the Appeals Panel.

36. RECORD OF COMPLAINTS

36.1 The ECMC is required to keep a record of complaints made against teachers.

36.2 A file must be opened for each complaint, and all documentation created for that complaint during the implementation of this Complaints Handling Procedure will be kept on that file.

36.3 Complaint records are only accessible to current members of the Board and the ECMC.

36.4 Complaint records are to be maintained by a designated member of the ECMC.

37. PUBLICATION OF DECISIONS.

37.1 A 'decision' in this context means:

- a. The findings of fact;
- b. Reasons for the decision; and
- c. The sanction or sanctions imposed on a teacher, if imposed.

37.2 A decision made by the ECMC or Appeals Panel must be placed on a disciplinary register and published on IYA's website, except where the ECMC determines this should not happen because of the existence of exceptional circumstances.

37.3 What constitutes 'exceptional' circumstances' in this context is at the discretion of the ECMC, but must include consideration of:

- a. The wishes of the complainant;
- b. The impact of the teacher's behaviour on the complainant;
- c. The likely impact publication of the decision will have on the complainant;
- d. The nature and seriousness of the complaint;
- e. The type of sanction, if any, imposed on a teacher;
- f. Whether a complaint was dismissed or made out;

- g. The protection of students and other teachers of Iyengar Yoga;
- h. The character and past record of the teacher;
- i. The likely impact publication of the decision will have on the teacher;
- j. The impact the teacher's conduct has had or likely will have on the integrity and reputation of IYA: and
- k. The impact the teacher's conduct has had, or likely will have, on the integrity and reputation of the late BKS Iyengar, his family, and the world-wide Iyengar Yoga community.

37.4 The ECMC may choose to publish a decision in a manner they see fit, and specifically in a manner that does not identify the complainant and/or the teacher.

38. APPROVAL OF THE COMPLAINTS HANDLING PROCEDURE BY THE TEACHERS COMMITTEE AND THE BOARD

This Complaints Handling Procedure was approved by the Teachers' Committee of IYA on _____ x
 and was approved and adopted by the Board of IYA at a meeting of IYA held on _____ x.

 President of the Board of IYA.

 Chairperson of Teachers Committee of IYA.

 Chairperson of ECMC of IYA.