

# IYENGAR YOGA AUSTRALIA

## Complaints Handling Procedure



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## **1. The purpose of the complaints handling procedure**

- 1.1. 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 the B.K.S. Iyengar Yoga Association of Australia (IYA). The term Teachers is defined in Clause 5 below.

## **2. Publication of the Complaints Handling Procedure and the ethical guidelines generally**

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

The Ethics & Trademarks Committee of IYA (ETC) 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 & ETC in handling complaints made against teachers**

- 3.1. In accordance with IYA's constitution, the Board of IYA has delegated its power to the ETC to establish and maintain the highest standard of conduct amongst teachers of IYA.
- 3.2. More specifically, the ETC 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 ETC in response to this delegation of power by the Board
- 3.4. The ETC will not deal with a complaint against a teacher other than in accordance with this Complaints Handling Procedure

#### **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 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 ETC 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 ETC 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 4.2(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 ETC.
- 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 ETC have the power to initiate their own complaint against a teacher. If either the Board or the ETC 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 ETC 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.

## **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 ETC 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 ETC but may instead directly approach the teacher or use some other procedure to attempt to resolve that complaint.
- 10.2. Where a complainant does not refer their complaint about a teacher to the ETC but instead uses another approach or procedure to address their complaint, the teacher (if aware of the complainant's actions) must advise the ETC in writing within 14 days of the existence and outcome of the complaint if it relates to an allegation of:
  - a. Assault including sexual assault or any other form of criminal conduct involving the person of the complainant, including threats to the personal safety of the complainant
  - b. Sexual harassment, bullying or discrimination;
  - c. A matter that is or has been the subject of police investigation;
  - d. Misconduct that has led to an application against the teacher for a protective order such as a restraint order or family violence order or any similar order in any state or territory of Australia;
  - e. A matter that is the subject of proceedings before a State or Commonwealth Commission, Tribunal, Court or some other like body; or
  - f. A matter that could reasonably be expected to be viewed by the ETC as a serious breach of the Teachers' Code of Conduct.
- 10.3. A failure by a teacher to notify the ETC 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 ETC must 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 ETC.

## **12. Teacher and Board to be notified of complaint**

- 12.1. Within 7 days of receipt of a complaint against a teacher the ETC must provide written notice of that complaint to the teacher and the Board.
- 12.2. Details of the notification to the Board are at the discretion of the ETC in consideration of the likelihood of impact to the teacher's reputation. The ETC may decide to disclose the name of the teacher with the IYA President only rather than with the full Board.
- 12.3. Full details of the case may be shared with the Board if the teacher's conduct has had, or likely will have a significant impact on the assets and position of IYA and on the integrity and reputation of the late BKS Iyengar and his designated successors, his family, and the world-wide Iyengar Yoga community.
- 12.4. 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 ETC.
- 12.5. The teacher is entitled to know the identity of the complainant unless the ETC determines there are compelling reasons why that person should not be identified, taking into account, amongst other things
  - a. If the complainant is under 18 years of age;
  - b. The need to protect the complainant;
  - c. The need for the teacher to fully understand the case against him or her; and
  - d. The desire to make this Complaints Handling Procedure as open and transparent as possible.

### **13. Written response to complaint**

- 13.1. The teacher is required to give a written response to a complaint within 14 days of being notified of its existence by the ETC. The ETC may extend the time for a response if reasonable to do so.

### **14. Conflicts of interest**

- 14.1. For the purposes of this part of the Complaints Handling Procedure, a 'decision maker' is:
- a. A member of the ETC;
  - b. A mediator;
  - c. An investigator; or
  - d. An Appeals Panel member.
- 14.2. 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.
- 14.3. A party has no power to require a particular decision maker stand aside or be appointed.

### **15. Options available to the ETC upon receipt of a complaint**

- 15.1. Upon receiving a complaint, and after receiving any written response from the teacher the ETC 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;
  - d. Investigate the complaint as a committee, including the

questioning of any senior teacher or training institute that may be involved in the complaint;

- e. The ETC may make out its own complaint.
- f. Appoint an appropriately qualified and independent person ('The Investigator') to investigate the complaint.

## **16. Dismissal of a complaint**

16.1. The ETC 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 Teachers' Code of Conduct; or
- c. For some other reason it is just and appropriate that the complaint should be dismissed.

## **17. Mediation**

17.1. The ETC may at any time refer the parties to mediation if:

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

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

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

17.4. 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.

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

17.6. If the complaint is not resolved at mediation the ETC shall either:

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

## **18. Investigation of the complaint**

18.1. The ETC 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.

18.2. The ETC may appoint an appropriately qualified and independent person ('the investigator') to investigate the complaint.

18.3. The investigator may be a member of the ETC

18.4. The investigator will make recommendations about a complaint to the ETC , and the ETC will then make a decision about the complaint based on those recommendations.

18.5. 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 ETC.

18.6. The investigator will reveal the identity of the complainant to the teacher unless directed by the ETC not to do so.

18.7. The investigator may at any time provide an interim report to the ETC.

18.8. The ETC 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.

18.9. At any time during the investigation of any complaint the ETC may suspend a teacher's membership of IYA and/or suspend the teacher's right to use the Certification Mark or other Trademarks pending the outcome of the investigation if satisfied it is just and appropriate to do so.

- 18.10. If at any time during the investigation of a complaint the Investigator or the ETC 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 ETC determines exceptional circumstances exist that warrant this action not occurring.
- 18.11. Where the ETC 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 and other Trademarks pending the outcome of the police investigation.
- 18.12. Before referring the complaint to police as described in 18.10 the ETC must notify the complainant of the intended action, and where appropriate, offer counselling and support to the complainant.
- 18.13. If at any time during the investigation of a complaint the Investigator or the ETC 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 ETC is required to give the complainant the opportunity to take advice and, if appropriate, initiate those proceedings.
- 18.14. If a complainant chooses to initiate proceedings referred to in 18.13, the ETC 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 and other Trademarks pending the outcome of the proceedings.

- 18.15. 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) before, during or after the Complaints Handling Process is a breach by the teacher of the Teachers' Code of Conduct.
- 18.16. The failure of a teacher to cooperate with the ETC in the investigation of a complaint is a breach of the Teachers' Code of Conduct

## **19. Counselling and Support**

- 19.1. The ETC 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 ETC 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.

## **20. Withdrawal of a Complaint**

- 20.1. A complainant is entitled to withdraw a complaint at any time during the Complaints Handling Process prior to a decision being made by the ETC about the complaint.
- 20.2. If the complainant withdraws a complaint and the ETC is nevertheless of the view that the teacher has a case to answer, the ETC may continue to investigate the complaint.

## **21. Outcome of investigation**

- 21.1. Once the investigation has been completed the ETC must promptly review the investigator's report and decide whether a complaint has been made out.
- 21.2. In the case of multiple complaints, the ETC must separately decide if each complaint has been made out.

## **22. The standard of proof**

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

## **23. Complaint not made out after investigation**

- 23.1. In the event the ETC 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.

## **24. Complaint made out after investigation**

- 24.1. In the event the ETC 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 ETC'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.



## **25. Sanctions**

25.1. The ETC 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:
  - 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, this may be fully or partially to the cost of the teacher; and
  - iv. A condition that a teacher be supervised by another teacher nominated by the ETC in a manner determined by that committee which may be fully or partially to the cost of the teacher
- d. If the teacher is a certified teacher, a direction that this person's right to use the Certification Mark and other Trademarks 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.

- 25.2. The ETC cannot impose a fine on a teacher, nor can the ETC order that the teacher pay compensation to a complainant.

## **26. Matters to be taken in to account when imposing a sanction**

- 26.1. The ETC 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 or his designated successors, his family, and the world-wide Iyengar Yoga community.

## **27. Right to appeal**

- 27.1. A party may appeal against a decision by the ETC 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.

- 27.2. A party may appeal against the leniency or severity of a sanction imposed by the ETC.
- 27.3. No decision by the ETC other than those mentioned in this clause can be the subject of an appeal.

## **28. Time limits for appeal**

- 28.1. A party must lodge an appeal with the ETC within 14 days of the date of ETC's decision.

## **29. Form of appeal**

- 29.1. An appeal must be made in writing to the ETC and include:
  - a. The name of the person making the appeal;
  - b. The grounds of appeal as referred to in clause 27; and
  - c. The reasons for the appeal.

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

## **30. Notification of appeal**

- 30.1. Upon receipt of the appeal notice the ETC must immediately provide notification of it to the Board and to the other party involved in the matter.

## **31. Appeals panel**

- 31.1. An appeal against the decision of the ETC will be heard by the Appeals Panel.
- 31.2. The Board will appoint the members of the Appeals Panel.

- 31.3. 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 ETC; and
  - c. A teacher who holds at least a Level 3 certificate who is not a member of the ETC.

- 31.4. Appeals Panel members need not be Australian Citizens.

## **32. Time frame of the appeal**

- 32.1. 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.

## **33. Who may appear at the appeal**

- 33.1. The complainant and the teacher are entitled to appear before the Appeals Panel.
- 33.2. 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.

## **34. Conduct of the appeal**

- 34.1. An appeal will be conducted at a venue and time determined by the Appeals Panel.
- 34.2. 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 ETC 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.

34.3. The Appeals Panel is not bound by the rules of evidence and should conduct the appeal as informally as possible.

34.4. 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.

34.5. A party can appear before an Appeals Panel by video-link or telephone at the discretion of the Panel.

### **35. Standard of proof to be applied by the appeals panel**

35.1. 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.

### **36. Appeal against a sanction**

- 36.1. Where the Appeals Panel is required to hear an appeal against a sanction imposed by the ETC, the Panel must determine whether that sanction is fair and reasonable in the circumstance.
- 36.2. The Panel may:
  - a. Confirm the sanction imposed on the teacher by the ETC; or
  - b. Impose a different sanction on the teacher.
- 36.3. The Appeals Panel can only impose a sanction mentioned in clause 25 of this Complaint Handling Procedure.

### **37. Procedure after the appeal**

- 37.1. 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 ETC, and the Board.
- 37.2. There can be no appeal against the decision of the Appeals Panel.

### **38. Record of complaints**

- 38.1. The ETC is required to keep a record of complaints made against teachers.
- 38.2. 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.
- 38.3. Complaint records are only accessible to current members of the Board and the ETC.
- 38.4. Complaint records are to be maintained by a designated member of the ETC

### **39. Publication of decisions**

- 39.1. 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.
- 39.2. A decision made by the ETC or Appeals Panel must be placed on a disciplinary register and published on IYA's website, except where the ETC determines this should not happen because of the existence of exceptional circumstances.
- 39.3. What constitutes 'exceptional' circumstances' in this context is at the discretion of the ETC, 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;
  - k. The impact the teacher's conduct has had, or likely will have, on the integrity and reputation of the late BKS Iyengar or his nominated successors, his family, and the world-wide Iyengar Yoga community.

- 39.4. The ETC 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.

**40. Approval of the complaints handling procedure by the Teachers Committee and the Board**

- 40.1. This Complaints Handling Procedure was approved by the Teachers' Committee of IYA on 14 February 2019 and was approved and adopted by the Board of IYA at a meeting of IYA held on 26 February 2019.
- 40.2. Amendments to the Complaints Handling Procedure were approved by the Teachers' Committee on \_\_\_\_\_ and adopted by the Board of the IYA at a meeting on \_\_\_\_\_ or by a vote on Ourcatherder.



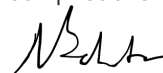
**Helen Willoughby**

President | Iyengar Yoga Australia



**James Hasemer**

Chairperson | Teachers Committee



**Nicole Schroeter**

Chairperson | Ethics & Certification Mark Committee

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## Document history



SENT

**03 / 08 / 2023**

01:41:02 UTC

Sent for signature to Helen Willoughby (helen@iyengaryoga.asn.au), James Hasemer (director01@iyengaryoga.asn.au) and Nicole Schroeder (ethics\_chair@iyengaryoga.asn.au) from secretary@iyengaryoga.asn.au  
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**03 / 08 / 2023**

01:41:39 UTC

Viewed by James Hasemer (director01@iyengaryoga.asn.au)  
IP: 120.19.64.199



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**03 / 08 / 2023**

01:42:45 UTC

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

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