



Complaints Handling Policy

Approved 1 January 2022

Introduction

DanceSport Australia is committed to a fair and safe environment for all DanceSport members and participants. Any person (a Complainant) may report a complaint about a person/s or organisation bound by this policy (Respondent). All complaints received will be dealt with promptly. Seriously, sensitively and confidentiality.

The Complaints Handling Policy provides guidelines for the method in which complaints are handled by DanceSport Australia, as outlined in the Constitution.

Please note that the National Integrity Framework adopted by DSA deals with matters relating to the use of prohibited substances, sport manipulation, abuse of children and other persons, or a failure to protect members and other persons in a sporting environment from bullying, intimidation, discrimination or harassment. All other complaints will be dealt with in accordance with this policy.

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1. Jurisdiction

- 1.1. This policy applies to all persons who are involved with the activities of DanceSport, whether they are in a paid or unpaid/voluntary capacity and including (but not limited to):
- a) members, including life members of DanceSport Australia
 - b) persons appointed or elected as a National Director, or to State Branch Boards, Commissions, Committees and Sub-Committees;
 - c) employees, contractors and volunteers of DanceSport Australia;
 - d) support personnel;
 - e) adjudicators, scrutineers and other officials;
 - f) coaches;
 - g) athletes;
 - h) member associations;
 - i) affiliated Registered Teaching Facilities;
 - j) any other person or organisation that is a member of or affiliated to DanceSport Australia; and
 - k) parents, guardians, spectators and sponsors to the full extent that it is possible.

2. Scope

- 2.1. This policy provides a process for managing complaints received by DanceSport Australia.
- 2.2. DanceSport Australia will determine whether a complaint should be handled by this policy or should be dealt with under the National Integrity Framework.
- 2.3. A person (or if the person is under legal incapacity, that person's authorised representative) will be an Eligible Complainant for the purposes of this policy if they make a complaint about the conduct of a natural person who is bound by this policy.

3. Complaints Handling

- 3.1. DanceSport Australia will deal with all Complaints in a fair, timely and transparent manner.
- 3.2. All Complaints will be treated seriously. DanceSport Australia will provide individuals with either an informal (see Attachment A1) or formal (see Attachment A2) process to resolve the matter, along with access to an external Complaint handling and/or

investigation body if required, based on the nature of the Complaint and DanceSport Australia's rules and regulations.

- 3.3. Any costs incurred by a person involved in the Complaints procedure must be borne by that person.
- 3.4. All Complaints will be kept confidential and will not be disclosed to another person outside of DanceSport Australia without the Complainant's consent except if the law requires disclosure or if disclosure is necessary to effectively deal with the Complaint.
- 3.5. DanceSport Australia will take all reasonable steps to ensure that no one is victimised for making, supporting or providing information about a Complaint.
- 3.6. Individuals and organisations may also pursue their Complaint externally under other relevant legislation.
- 3.7. If a Complainant wants to remain anonymous, DanceSport Australia may have difficulty assisting them to resolve their Complaint. Natural Justice means that DanceSport Australia is required to provide a Respondent with full details of the Complaint, to provide them a fair and reasonable chance to respond.
- 3.8. Any powers or responsibilities of the DanceSport Australia CEO may be delegated to an appropriate person as determined by the DanceSport Australia CEO.

4. Vexatious Complaints & Victimisation

- 4.1. DanceSport Australia aims to ensure the Complaints Handling Procedure has integrity and is free of unfair repercussions or victimisation. If at any point in the complaint process it is determined that a complainant has knowingly made an untrue complaint or the complaint is vexatious or malicious, the matter may be referred to the National Ethics & Conduct Commission or the relevant State Branch Ethics & Conduct Committee for appropriate action which may include disciplinary action against the complainant.
- 4.2. DanceSport Australia will also take all necessary steps to make sure that people involved in a complaint are not victimised by anyone for coming forward with a complaint or for helping to sort it out. Disciplinary measures will be imposed on anyone who victimises another person for making a complaint.

5. Policy Breaches

- 5.1. It is a breach of this policy for any person or organisation to which this policy applies, to do anything contrary to this policy, including but not limited to:

- a) Breaching any of the Codes of Conduct adopted by DanceSport Australia;
- b) Bringing DanceSport and/or DanceSport Australia into disrepute, or acting in a manner likely to bring DanceSport and/or DanceSport Australia into disrepute;
- c) Failing to follow DanceSport Australia policies (including this policy);
- d) Victimising any other person for making a Complaint;
- e) Disclosing to any unauthorised person or organisation any DanceSport Australia information that is of a private, confidential or privileged nature;
- f) Making a complaint they know to be untrue, vexatious, malicious, or improper;
- g) Failing to comply with a penalty imposed after finding that the individual or organisation has breached this policy; or
- h) Failing to comply with a direction given to the individual or organisation during the investigation and/or discipline process; or
- i) Providing false or misleading information.

6. Disciplinary Measures

- 6.1. If an individual or organisation to which this policy applies breaches this policy, one or more forms of discipline may be imposed. Any disciplinary measure imposed under this policy will:
- a) Be applied consistent with any contractual and employment rules and requirements;
 - b) Be fair and reasonable;
 - c) Be based on the evidence and information presented and the seriousness of the breach; and
 - d) Be determined in accordance with our Constitution, By Laws, this policy and/or the Rules of DanceSport.
- 6.2. Subject to contractual and employment requirements, if a finding is made by DanceSport Australia or its Ethics & Compliance Commission that an individual has breached any policy or code of conduct, one or more of the following forms of discipline may be imposed:
- a) A direction that the individual make a verbal and/or written apology;
 - b) A written warning;
 - c) A direction that the individual attend counselling to address their behaviour;
 - d) A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any events held or sanctioned by DanceSport Australia;
 - e) A demotion or transfer of an individual to another location, role or activity;

- f) Termination of the individual's membership, appointment or engagement;
 - g) A recommendation that DanceSport Australia terminate the individual's membership, appointment or engagement;
 - h) In the case of a Coach or official, a direction that the relevant organisation de-register the accreditation of the Coach or official for a period of time or permanently;
 - i) A fine;
 - j) Any other form of discipline that DanceSport Australia considers appropriate.
- 6.3. If a finding is made that an organisation officially recognised by or affiliated with DanceSport Australia has breached its own or any DanceSport Australia policy, one or more of the following forms of discipline may be imposed by DanceSport Australia:
- a) A written warning;
 - b) A fine;
 - c) A direction that any rights, privileges and benefits provided to that organisation by DanceSport Australia be suspended for a specific period;
 - d) A direction that DanceSport Australia cease to register or sanction events held by or under the auspices of DanceSport Australia;
 - e) A recommendation to DanceSport Australia that its membership of DanceSport Australia be suspended or terminated in accordance with its constitution; and/or
 - f) Any other form of discipline that DanceSport Australia considers to be reasonable and appropriate.
- 6.4. The form of discipline to be imposed on an individual or organisation will depend on factors such as:
- a) Nature and seriousness of the breach;
 - b) If a person knew or should have known that the behaviour was a breach;
 - c) Level of contrition;
 - d) The effect of the proposed disciplinary measures on the person including any personal, professional or financial consequences;
 - e) If there have been relevant prior warnings or disciplinary action;
 - f) Ability to enforce discipline if the person is a parent or spectator (even if they are bound by the policy); and
 - g) Any other mitigating circumstances.

7. Appeals

- 7.1. Appeals against decisions made regarding a complaint can be made in accordance with Section 28 of the Constitution.

ATTACHMENT A1: INFORMAL APPROACH TO MAKING A COMPLAINT

Step 1: Talk with the other person (if safe, reasonable and appropriate). In the first instance, the Complainant should try to speak about the problem and seek a resolution with the Respondent (if they feel able to do so).

If the Complainant does not feel able to do so, they should move to Step 2.

Step 2: Contact a Member Protection Information Officer. Complainants must talk with one of DanceSport Australia's Member Protection Information Officers (MPIOs) if:

- a) Step 1 is not possible/reasonable;
- b) they are not sure how to handle the problem by themselves;
- c) they want to talk confidentially about the problem with someone and obtain more information about their options; or
- d) the problem continues after they attempt to approach the Respondent.

The MPIO will:

- a) take confidential notes about the Complaint;
- b) try to find out the facts of the problem;
- c) ask what outcome/how the Complainant wants the problem resolved and if they need support;
- d) provide possible options for the Complainant to resolve the problem;
- e) act as a support person if requested;
- f) refer the Complainant to an appropriate person (e.g. Mediator) to help resolve the problem, if necessary;
- g) inform the relevant government authorities and/or police if required by law to do so;
- h) pass on the Complaint to the relevant authority if requested to do so by the Complainant (and the Complaint will then become formal); and
- i) maintain confidentiality (except if the law requires disclosure or if disclosure is necessary to effectively deal with the Complaint).

Step 3: Decide how to address the concern(s). After talking with the MPIO, the Complainant may decide to withdraw the Complaint because:

- a) there is no problem;
- b) the problem is minor, and they do not wish to take the matter forward;

- c) the Complainant decides to try and work out their own resolution (with or without a support person such as an MPIO) in which case, the MPIO will close the informal Complaint in accordance with Step 4a below.

If the Complainant does not withdraw his/her Complaint in accordance with this Step 3, the MPIO may decide to progress the matter to a formal approach in accordance with Step 4b below.

Step 4a: Closing, review and record keeping. At the time of closing the informal approach, the MPIO, will record the Complaint. This will then be filed securely.

Step 4b: Progress to a formal approach. Refer to Attachment A2 of this policy which sets out the formal approach to making and dealing with a Complaint.

ATTACHMENT A2: FORMAL APPROACH TO MAKING AND DEALING WITH A COMPLAINT

Step 1 Making a Formal Complaint. If a Complaint is not resolved by informal means or if informal approaches are not appropriate or possible, the Complainant may:

- a) make a formal Complaint in writing to DanceSport Australia by sending their formal Complaint direct to the CEO with the words "FORMAL COMPLAINT" written clearly in the subject heading and outlining:
 - i) the alleged breach;
 - ii) if applicable, the particular section of the relevant Code of Conduct and/or DanceSport Australia policy which they believe have been breached; and
 - iii) the outcome(s) or resolution they are seeking; or
- b) make a formal Complaint through an MPIO; or
- c) approach a relevant external agency for advice.

Step 2 Receiving a Formal Complaint. On receiving a formal Complaint, and based on the material the Complainant(s) has provided, (and where required legal advice sought) the DanceSport Australia CEO (or their delegated person responsible) will decide:

- a) whether the matter should be referred to the Ethics & Compliance Commission or Branch Ethics Committee;
- b) whether the Complaint is false, misleading or vexatious and, if so, take no further action and close the Complaint;
- c) who is the most appropriate person to handle the Complaint; and
- d) how the Complaint will be dealt with. Based on the nature and seriousness of the Complaint one or more of the following decisions may be made:
 - i) refer the Complaint to the Ethics & Compliance Commission or Branch Ethics Committee;
 - ii) refer the Complaint to mediation (refer to Attachment B for procedure);
 - iii) conduct an investigation internally (refer to Attachment C for procedure);
 - iv) appoint an independent external person to investigate (and/or gather more information on) the Complaint (refer to Attachment C for procedure);
 - v) refer the matter to the police or other appropriate authority.

If the Complaint is referred to the police or another external agency, DanceSport Australia will endeavour to provide all reasonable assistance required by the police or the agency.

Before deciding how the Complaint will be dealt under clause 5.2(d) the DanceSport Australia CEO (or their delegated person responsible) may carry out a preliminary factfinding exercise.

In making the decision(s) as to whether an internal or independent external investigation will be conducted, the CEO (or their delegated person) will take the following into account:

- a) whether there is any personal involvement or relationships in the circumstances from internal personnel that means that an external Investigator should handle the Complaint;
- b) the Complainant's requests regarding the manner in which the Complaint should be handled;
- c) the relationship between the investigating body and the Respondent (for example an actual or perceived power imbalance with the Respondent);
- d) the urgency of the Complaint, including the possibility that the Complainant, may be subject to further unacceptable behaviour while the Complaint process is underway; and
- e) the nature and seriousness of the Complaint.

The CEO (or their delegated person) may, at their discretion, implement any interim arrangements while the Complaint process is underway, having regard to applicable risks associated with the Complaint and those involved in the Complaint, in the context of DanceSport Australia's duty of care to its Members and personnel. Any interim arrangement will apply until the Complaint process set out in any of the above procedures is completed.

The interim arrangements may include (without limitation):

- a) suspension, restriction of duties or temporary re-deployment; and/or
- b) suspension or restriction of rights, privileges and benefits.

Step 3: Communicating with the Complainant and Respondent. The DanceSport Australia CEO (or their delegated person responsible) will actively communicate the Complaint's progress to the Complainant, and the Respondent, particularly where progress has been delayed.

Following consideration of the Complaint, the CEO will communicate the outcome of the Complaint to the Complainant and Respondent using the most appropriate method as determined by the CEO.

DanceSport Australia will include in communication/s to the Complainant, and the Respondent, at the relevant time/s:

- a) the actions taken by DanceSport Australia in response to the Complaint;
- b) progress of the investigation and expected timelines;
- c) the outcome(s) / findings of the Complaint investigation; and
- d) any disciplinary measures imposed.

All communications to the Complainant, and the Respondent must respect the importance of confidentiality and the rights of confidentiality of parties involved as set out in this policy.

Step 4: Documenting the resolution. DanceSport Australia will document the Complaint, the process and the outcome.

This document will be stored in a confidential and secure location electronically.

ATTACHMENT B: MEDIATION

Mediation is a process that seeks to resolve Complaints with the assistance of an impartial person – a Mediator.

The Mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, they help those involved discuss the issues and seek to facilitate a mutually agreeable solution.

DanceSport Australia recognises that there are some situations where mediation may not be appropriate, including:

- a) when the people involved have completely different versions of the incident;
- b) when one or both parties are unwilling to attempt mediation;
- c) when there is a real or perceived power imbalance between the people involved;
or
- d) that matter involves serious allegations,

in which case, it will consider an alternate method as set out in paragraph (d) of Step 2 in Attachment A2 to progress the Complaint.

The CEO (or delegated person responsible) may ask the Complainant and the Respondent to pay some or all of the mediator's fee. If one or both does not agree to do so, the CEO (or delegated person responsible) may reconsider how the Complaint is dealt.

If, however, DanceSport Australia considers that mediation is appropriate, it will proceed with the following steps.

Step 1: Appointment of a Mediator. The CEO (or delegated person responsible) will determine whether to refer the Complaint to mediation. If so the CEO (or delegated person responsible) will appoint an appropriate Mediator to help resolve the Complaint and set a time and date for both parties to attend. This will be done under the direction of DanceSport Australia and in consultation with the Complainant(s) and the Respondent(s).

If the parties reside in different States/Territories, mediation may occur via video conferencing.

The Mediator will be an independent person in the context of the Complaint; however this does not preclude a person with an association with DanceSport Australia from acting as Mediator.

An individual who is a Member of any Association Member or a Director may be appointed as a Mediator.

The Mediator must be agreed to by all parties. In the absence of agreement on a Mediator:

- a) in the case of a Complaint between an Association Member and another Association Member, a person will be appointed by the DanceSport Australia Board, except if a Director is directly connected with or involved with either party;
or
- b) if a Director is directly connected with a party, a person who is not connected with either party may reasonably be considered to be impartial and shall be appointed by the CEO (or their delegated person responsible).

Step 2: Mediation process. The parties to mediation must, in good faith, attempt to settle the Complaint by mediation.

The Mediator will talk with the Complainant(s) and Respondent(s) about how the mediation will take place and who will participate. At a minimum, the Mediator will prepare an agenda of issues to be discussed.

In conducting the mediation, the Mediator must:

- a) give all parties to the mediation process every opportunity to be heard; and
- b) allow due consideration by all parties of any written statement/s submitted by any party.

All issues raised during mediation will be treated confidentially. DanceSport Australia also respect the rights of the Complainant(s) and the Respondent(s) to pursue an alternative process if the Complaint is not resolved through mediation.

The parties to a mediation shall not be permitted to be legally represented but may have a support person with them, provided that person is not legally qualified unless DanceSport Australia's express consent is given in its absolute discretion and on such conditions as DanceSport Australia considers appropriate.

Step 3a: Resolution of Mediation. If the Complaint is resolved by mediation, where appropriate the Mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached. This agreement will be signed by the Complainant(s) and the Respondent(s). DanceSport Australia expects the parties involved to respect and comply with the terms of the agreement.

Following resolution of the Complaint by mediation, refer to Step 4 of Attachment A2 of this policy regarding communicating and documenting the resolution.

Step 3b: No Resolution through Mediation. If the Complaint referred to mediation is not resolved at mediation, the CEO (or delegated person responsible) shall reconsider the Complaint in accordance with Step 2 of Attachment A2.

ATTACHMENT C: INVESTIGATION (INTERNAL AND EXTERNAL) PROCESS

There will be times when a Complaint will need to be investigated and information gathered. The procedure detailed here can be applied to either an internal or external investigation.

This investigation process can be utilised by the Ethics & Compliance Commission and/or the Branch Ethics Committee for handling complaints.

Any investigation DanceSport Australia conducts will be fair to all people involved. The investigation process will be undertaken by an unbiased person as soon as practical.

Consideration will be given to the reliability and consistency of the information collected.

If DanceSport Australia decides that a Complaint should be investigated the steps outlined below will be followed:

Step 1: Appointment of Investigator. The CEO (or their delegated person responsible) will appoint either an internal or an external independent Investigator. The Investigator should not have a conflict of interest and should have appropriate qualifications, training or experience to investigate the allegation. The CEO (or their delegated person responsible) may choose to conduct the investigation themselves or appoint another person.

The CEO (or their delegated person responsible) will provide a written brief to the Investigator clarifying the terms of engagement, the Investigator's role and responsibilities, scope of the investigation and expected outcomes (eg findings and/or recommendations).

Step 2: Investigation. The Investigator should:

- a) interview the Complainant(s) and record the interview in writing;
- b) convey full details of the Complaint to the Respondent(s) so that they can respond;
- c) interview the Respondent to allow them to answer the Complaint and record the interview either by audio recording and/or in writing;
- d) if required based on conflicting evidence, obtain statements from witnesses and any other relevant evidence and/or re-interview the Complainant(s);
- e) make a finding as to whether:
 - i. the Complaint is substantiated (there is sufficient evidence to support the Complaint);
 - ii. there is insufficient evidence either way;
 - iii. the Complaint is unsubstantiated (there is sufficient evidence to show that the Complaint is unfounded); and/or
 - iv. the Complaint is mischievous, vexatious or knowingly untrue.
- f) only if requested in the scope of works of the investigation, make recommendations as to suggested next steps that may or may not involve disciplinary action and/or recommend disciplinary action; and
- g) provide a report to the National Council documenting the Complaint, investigation process, evidence, finding and, if requested, recommendations and/or disciplinary action.

The Complainant(s) and the Respondent(s) will be entitled to support throughout the investigation process from their chosen support person/adviser (e.g. MPIO or other person) however legal representation will not be allowed.

Step 3: Outcome of Investigation. On receiving the report from the Investigator, the National Council (or their delegated person responsible) may determine what (if any) further action will be taken including:

- a) imposing any disciplinary measures as they consider appropriate on the Respondent, Complainant or any other person;
- b) referring the matter to the Ethics & Compliance Commission; or
- c) taking no further action and closing the Complaint in accordance with this policy.

Step 4: Report and resolution of the investigation. DanceSport Australia will provide a report to the Complainant(s) and the Respondent(s) documenting:

- a) the Complaint, the investigation process and summarising key points in relation to any findings; and
- b) a statement of:
 - i. what, if any, disciplinary measures have been imposed; or
 - ii. whether the Complaint will be referred to the Ethics & Compliance Commission to determine what, if any, disciplinary measures should be imposed; or
 - iii. whether it has been decided that no further action will be taken.

The Complainant(s) and the Respondent(s) have the right to appeal against:

- a) any decision determined by the Ethics & Compliance Commission; and
- b) any decision determined by the CEO (or their delegated person responsible).

In appropriate circumstances, where it has been determined that the Complaint is knowingly false, misleading and/or vexatious the CEO (at his/her sole discretion), may determine the Complainant shall be liable for any costs or disbursements related to any process conducted under this policy.

If the Complaint is resolved following an investigation, refer to Step 4 in Attachment A2 of this policy regarding communicating and documenting the resolution.

Step 5: Follow up. After it has provided the report to the Respondent and the Complainant, DanceSport Australia may, at the CEO's (or their delegated person responsible) discretion (either in writing or such other means as considered appropriate), follow up to:

- a) discuss if it is appropriate to refer them to further support following the conclusion of the Complaint process;
- b) monitor compliance with any disciplinary measures imposed; and/or
- c) communicate any other matters it considers appropriate having regard to all the circumstances of the Complaint and the Complaint process.

COMPLAINTS HANDLING FLOW CHART

