

## COMPLAINT HANDLING PROCEDURES

*[Note: this document is a working document that can be used as an operating framework going forward. This document will supercede any existing complaints resolution procedures previously developed. Further, beginning January 2020, compliance with this procedure will become a requirement for the Jin Sei Ryu Karate-Do Australia annual Branch Re-Certification process.]*

### Attachment D1: COMPLAINTS PROCEDURE

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All complaints will be kept confidential and will not be disclosed to another person without the complainant's consent except if law requires disclosure or if disclosure is necessary to effectively deal with the complaint.

If you wish to remain anonymous, the Complaints Handler may have difficulty assisting you to resolve your complaint. Procedural fairness (natural justice) means that the Complaints Handler is required to provide the person/people you have complained about with full details of the complaint so they have a fair chance to respond.

Individuals may also pursue their complaint externally under anti-discrimination, child protection or other relevant legislation.

The complaints handling procedures in place for Jin Sei Ryu Karate-Do Australia do not have a time restriction in relation to historic incidents. We will make all reasonable attempts to follow our standard complaint handling procedures, but investigations of this nature are challenging due to the time and place of the incident; the availability of supporting witnesses, and time restrictions placed on historic incidents by external anti-discrimination bodies. If you are considering a complaint relating to a historical incident, you are encouraged to contact your local anti-discrimination commission or body directly.

#### ESCALATION SUMMARY\*

1. Jin Sei Ryu Karate-Do Australia Branch Head Instructors will make all attempts to resolve complaints internally through informal and formal processes. They will refer to these procedures and, if required, solicit guidance from their branch-nominated or regional Student Protection Information Officer (SPIO).
2. If the complaint is not resolved or an escalation is requested, the complaint may be referred to the Managing Director, Jin Sei Ryu Karate-Do Australia, who will conduct its own independent investigation per these procedures.
3. The decision of the Managing Director, Jin Sei Ryu Karate-Do Australia is final.
4. If the Respondent of a complaint is the Managing Director, Jin Sei Ryu Karate-Do Australia, the investigation and decision-making responsibility will be delegated to the National SPIO and NSW SPIO.
5. At any time during the complaint resolution process, or if the complainant is not satisfied with the findings of the final formal and internal investigation, the Complainant may pursue their complaint externally under anti-discrimination, child protection or other relevant legislation.
6. In the event that a Complainant or Respondent is a student of Jin Sei Ryu Karate-Do Australia and relates to a cross-border complaint involving an overseas Branch, this document will be used as a guideline for resolving the complaint, keeping in mind that the other Branch may have different complaint handling processes and procedures.

#### INFORMAL APPROACHES

##### Step 1: Talk with the other person (where this is reasonable and appropriate)

In the first instance, you (the Complainant) should try to sort out the problem with the person or people involved (Respondent) if you feel able to do so.

##### Step 2: Contact a Student Protection Information Officer (SPIO)

Talk with one of our designated Student Protection Information Officers (SPIOs) if:

- the first step is not possible/reasonable;

- you are not sure how to handle the problem by yourself;
- you want to talk confidentially about the problem with someone and obtain more information about what you can do; or
- the problem continues after you tried to approach the person or people involved.

The SPIO will:

- take confidential notes about your complaint;
- try to find out the facts of the problem;
- ask what outcome/how you want the problem resolved and if you need support;
- provide possible options for you to resolve the problem;
- act as a support person if you so wish;
- refer you to an appropriate person (e.g. Branch-nominated Complaint Handler or SPIO) to help you resolve the problem, if necessary;
- inform the relevant government authorities and/or police if required by law to do so;
- maintain confidentiality.

Our designated SPIOs for Jin Sei Ryu Karate-Do Australia are:

Branch	Branch Head / Complaint Handler	Student Protection Information Officer
National	So-Shihan Ino Maquirang	Senpai Sylvie Ellsmore
National	Shihan Clive Davidson	Senpai Anthony Borgese

### Step 3: Outcomes from initial contact

After talking with the SPIO, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and work out your own resolution (with or without a support person such as a SPIO; or
- to seek a mediated resolution with the help of a third person (such as Branch Head); or
- to seek a formal approach.

## FORMAL APPROACHES

### Step 4: Making a Formal complaint

If your complaint is not resolved or informal approaches are not appropriate or possible, you may:

- make a formal complaint in writing to the SPIO;
- approach a relevant external agency such as an anti-discrimination commission, for advice.

On receiving a formal complaint and based on the material you have provided, the SPIO will decide whether:

- they are the most appropriate person to receive and handle the complaint;
- the nature and seriousness of the complaint warrants a formal resolution procedure;
- to appoint a person to **investigate** (gather more information on) the complaint;
- to refer the complaint to Branch Head / Complaint Handler;
- to notify the Managing Director, Jin Sei Ryu Karate-Do Australia that a complaint at the Branch has been raised.
- to refer the matter to the police or other appropriate authority; and/or
- to implement any interim arrangements that will apply until the complaint process set out in these Procedures is completed.

In making the decision(s) outlined above, the SPIO will take into account:

- whether they have had any personal involvement in the circumstances which means that someone else should handle the complaint;
- your wishes, and the wishes of the respondent, regarding the manner in which the complaint should be handled;

- the relationship between you and the respondent (for example an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you will be subject to further unacceptable behaviour while the complaint process is underway.

If the SPIO is the appropriate person to handle the complaint they will, to the extent that these steps are necessary:

- put the information they've received from you to the person/people you're complaining about and ask them to provide their side of the story;
- decide if they have enough information to determine whether the matter alleged in your complaint did or didn't happen; and/or
- recommend to the Branch Head Instructor and Managing Director, Jin Sei Ryu Karate-Do Australia what, if any, further action to take. This action may include disciplinary action in accordance with this policy.

### **Step 5: Investigation of the complaint**

- A person appointed under Step 3 will conduct an investigation and provide a written report to the Branch Head Instructor who will determine what further action to take;
- If the complaint is escalated to the Managing Director, Jin Sei Ryu Karate-Do Australia, an independent investigation may be conducted in accordance with **[Attachment D2]** or as otherwise agreed by you and the respondent in consultation with the Branch Head Instructor.
- If the complaint is referred to the police or other appropriate authority, the SPIO will use its best endeavours to provide all reasonable assistance required by the police or other authority.

Any costs relating to the initial complaint process set out in this Policy (e.g. investigation) are to be met by Jin Sei Ryu Karate-Do Australia.

### **Step 6: Reconsideration or escalation of an initial outcome/investigation**

If, under the formal complaint process, you are not satisfied with the outcome of the initial resolution process, you may request that the Managing Director, Jin Sei Ryu Karate-Do Australia reconsider the complaint in accordance with **Step 3**.

You or the respondent(s) may be entitled to escalate a decision at the Branch level. The grounds and process for escalated complaints under this Policy are set out in **[Attachment D4]**.

Any additional costs relating to the further investigation of a complaint will be met by the party requesting the escalation, per **[Attachment D4]**.

### **Step 7: Documenting the resolution**

The SPIO will document the complaint, the process and the outcome. This document will be stored in a confidential and secure place. If the complaint was dealt with at a branch level, the information will be stored in the branch office. If the matter is of a serious nature, or if the matter was escalated to and/or dealt with at the national level, the original document will be stored at the national office with a copy stored at the branch office.

## **EXTERNAL APPROACHES**

There are a range of other options available depending on the nature of your complaint. If you feel that you have been harassed or discriminated against, you can seek advice from your State or Territory anti-discrimination commission without being obliged to make a formal complaint. If the commission advises you that the problem appears to be harassment within its jurisdiction, you may lodge a formal complaint with the commission.

Once a complaint is received by an anti-discrimination commission, it will investigate. If it appears that unlawful harassment or discrimination has occurred, the commission will conciliate the complaint confidentially. If this fails, or is inappropriate, the complaint may go to a formal hearing where a finding

will be made. The tribunal will decide upon what action, if any, will be taken. This could include financial compensation for such things as distress, lost earnings or medical and counselling expenses incurred.

If you do lodge a complaint under anti-discrimination law, you may use an appropriate person (e.g. an SPIO) as a support person throughout the process. It is also common to have a legal representative, particularly at the hearing stage of a complaint.

You could also approach another external agency such as the police.

In the event that a Complainant or Respondent is a student of Jin Sei Ryu Karate-Do Australia and relates to a cross-border complaint involving an overseas Branch, this document will be used as a guideline for resolving the complaint, keeping in mind that the other Branch may have different complaint handling processes and procedures.

## **Attachment D2: INVESTIGATION PROCESS**

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If an investigation needs to be conducted to gather more information the following steps will be followed:

1. We will provide a written brief to the investigator clarifying terms of engagement and roles and responsibilities. The investigator will:
  - 1.1 Interview the complainant and record the interview in writing.
  - 1.2 Convey full details of the complaint to the respondent (s) so that they can respond.
  - 1.3 Interview the respondent to allow them to answer the complaint, and record the interview in writing.
  - 1.4 Obtain statements from witnesses and other relevant evidence to assist in a determination, if there is a dispute over the facts
  - 1.5 Make a finding as to whether the complaint is:
    - substantiated (there is sufficient evidence to support the complaint);
    - inconclusive (there is insufficient evidence either way);
    - unsubstantiated (there is sufficient evidence to show that the complaint is unfounded); and/or
    - mischievous, vexatious or knowingly untrue.
  - 1.6 Provide a report to the Managing Director, Jin Sei Ryu Karate-Do Australia documenting the complaint, investigation process, evidence, finding and, if requested, recommendations.
2. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points that are substantiated, inconclusive, unsubstantiated and/or mischievous.
3. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person/adviser (e.g. SPIO or other person).
4. The complainant and the respondent(s) may have the right to escalate any decision based on the investigation. Information on our escalation process is in **[Attachment D4]**.

## **Attachment D3: PROCEDURE FOR HANDLING ALLEGATIONS OF CHILD ABUSE**

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An allegation of child abuse is a very serious matter and must be handled with a high degree of sensitivity. It is not the responsibility of anyone working in a Jin Sei Ryu Karate-Do Australia Branch in a paid or unpaid capacity to decide whether or not child abuse has taken place. However, there is a responsibility to act on any concerns by reporting these to the appropriate authorities. The following outlines the key steps to follow. More information can be obtained from State or Territory government agencies.

### **Step 1 – Initial Receipt of an Allegation**

If a child or young person discloses an allegation involving harm or abuse to them or another child, then it is crucial that you:

- Stay calm;
- Listen, be supportive and do not dispute what the child says;
- Reassure the child that what has occurred is not the fault of the child;
- Be honest with the child and explain that other people may need to be told in order to stop what is happening;
- Ensure you are clear about what the child has said but do not elicit detailed information, ask leading questions or offer an opinion;
- Act promptly to accurately record the discussion in writing;
- Do not discuss the details with any person other than those detailed in these procedures; and
- Do not contact the alleged offender.

### **Step 2 – Report allegations**

- Immediately report any allegation or disclosure of child abuse or situation involving a child at risk of harm, to the police and/or government child protection agency. You may need to report to both.
- Contact the relevant child protection agency or police for advice if there is **any** doubt about whether the complaint should be reported (for example, the allegation may relate to poor/inappropriate practice).
- If the child's parent/s is suspected of committing the abuse, you should report the allegation to the relevant government agency.
- If the allegation involves anyone to whom our policy applies, then also report the allegation to the Branch Head Instructor and the Managing Director, Jin Sei Ryu Karate-Do Australia so that they can manage the situation (e.g. contact the parents following advice from the authorities, deal with any media enquiries and manage steps 3 and 4).

### **Step 3 – Protect the child and manage the situation**

- The Managing Director and Branch Head Instructor will assess the risks and take interim action to ensure the child(ren)'s safety. Actions the Branch Head Instructor may implement includes redeployment of the alleged offender to a non-child related position, supervision of the alleged offender or removal/suspension from their duties until the allegations are finally determined. Please be aware it is the Branch Head Instructor's role, not the SPIO's, to undertake action such as redeploying someone and seek legal advice if person is in a paid employment.
- The Managing Director, Branch Head Instructor and SPIO will consider the kind of support that the child/ren and parents may need (e.g. counselling, helplines, support groups).
- The Managing Director, Branch Head Instructor and SPIO will address the support needs of the alleged offender.
- The Managing Director and Branch Head Instructor will also put in place measures to protect the child and the person against whom the complaint is made from victimisation and gossip. If the person is stood down, it should be made clear to any persons aware of the incident that this does not mean the respondent is guilty and a proper investigation will be undertaken.

### **Step 4 – Internal action**

- Where there is an allegation made against a person to whom this policy applies, there may be three types of investigations:
  - Criminal (conducted by police)

- Child protection (conducted by child protection authority)
  - Disciplinary or misconduct (conducted by Jin Sei Ryu Karate-Do Australia)
- Irrespective of the findings of the child protection and/or police inquiries, the Managing Director, Jin Sei Ryu Karate-Do Australia and Branch Head Instructor will assess the allegation to decide whether the person should be reinstated, banned, have their employment or position terminated or any other action.
- The final decision-maker will be the Managing Director, Jin Sei Ryu Karate-Do Australia and will consider all the information, including the findings from internal investigations, the police, government agency and/or court, and determine a finding, recommend action and explain its rationale for the action. This may be a difficult decision particularly where there is insufficient evidence to uphold any action by the police.
- If disciplinary action is to be taken, the procedures outlined in [Clause 9] of the policy will be followed.
- If disciplinary action is taken, the SPIO will advise and provide a report to the relevant government authority should this be required (e.g. the NSW Commission for Children and Young People requires notification of relevant employment proceedings).

## **Attachment D4: ESCALATION PROCESS AND PROCEDURE**

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### **Escalation Procedure**

1. A complainant or a respondent(s) who is not satisfied with the decision of a SPIO or the outcome of a Branch investigation may request an escalation to the Managing Director, Jin Sei Ryu Karate-Do Australia on one or more of the following bases:
  - 1.1 That a denial of natural justice has occurred; or
  - 1.2 That the disciplinary measure(s) imposed is unjust and/or unreasonable.
  - 1.3 That the decision was not supported by the information/evidence provided to the SPIO
2. A person wanting to escalation in accordance with clause 1 must lodge a letter setting out the basis for their escalation with the Managing Director, Jin Sei Ryu Karate-Do Australia within 5 business days of the relevant decision. An escalation fee of A\$1000 shall be included with the request for an escalation.
3. If the request for escalation is not received by the Managing Director, Jin Sei Ryu Karate-Do Australia within the time period the right of escalation lapses. If the request for escalation is received but the fee is not received by the relevant time, the escalation lapses.
4. The request for escalation and a copy of the Branch investigation decision report will be forwarded to the SPIO(s) to review and decide whether there are sufficient grounds for an independent investigation to proceed. The Managing Director, Jin Sei Ryu Karate-Do Australia and SPIO may solicit feedback or advice from individuals it believes can help them make an informed decision.
5. If the party requested an escalation has not shown sufficient evidence to warrant an independent investigation in accordance with clause 1, then the request for escalation will be denied. The complainant and respondent will be notified with reasons. The escalation fee will be returned.
6. If the request for escalation is accepted the Managing Director will conduct a new independent investigation with guidance from the National and/or NSW SPIOs as long as they have not previously been involved in the Branch investigation. The complainant and respondent will be notified with reasons. The escalation fee will be forfeited.
7. The investigative process detailed in **[Attachment D2]** will be followed for the escalated complaint.
8. The decision of the Managing Director, Jin Sei Ryu Karate-Do Australia will be final.