

Jin Sei Ryu Karate-Do Australia

COMPLAINT RESOLUTION PROCESS AND PROCEDURE

V4.0

(04 December 2022)

IMPORTANT NOTES:

1. This Policy Document covers the members of Jin Sei Ryu Karate-Do Australia and its Affiliated Branches.
 - a. This version of the Document can be used as a guideline for use immediately.
 - b. Other Branches (ie dojos and clubs) of Jin Sei Ryu Karate-Do Australia may refer to this document and adapt for themselves;
2. It supports the Jin Sei Ryu Karate-Do Australia Student Protection and Child Safeguarding Policies.

Please note that establishing clear student protection processes will ensure compliance with the Jin Sei Ryu Karate-Do International Organization Branch Licensing Agreement which all Branch Head Instructors for Jin Sei Ryu Karate-Do Australia branches are required to sign to teach the Jin Sei Ryu syllabus and use the Jin Sei Ryu brand and trademark in Australia.

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JIN SEI RYU KARATE-DO AUSTRALIA

Complaints Resolution Process and Procedure V4.0

1. Introduction

Jin Sei Ryu Karate-Do is a traditional Japanese style of karate that has two goals: to maximize each student's physical skills and to cultivate individuals of the highest moral character who can make significant contributions to their family life, the workplace, and to society at large. In this manner, traditional karate is a way of life and being.

2. Purpose of Our Process

The main objective of Jin Sei Ryu Karate-Do Australia and our Affiliated Branches ("Jin Sei Ryu Karate-Do Australia," "Branch", "our", "us" or "we") Complaint Resolution Process and Procedure ("process" or "procedure") is to fully communicate the practical process and procedure for Resolution and resolving complaints.

If a student ("student") or another person who participates in a Jin Sei Ryu Karate-Do Australia activity ("participant") has a concern about being treated unfairly, harassed or bullied, discriminated against, or physically or sexually abused per the Jin Sei Ryu Karate-Do Australia Student Protection or Child Safeguarding Policies, they are encouraged to consider getting assistance from a senior person or persons within Jin Sei Ryu Karate-Do Australia to resolve the issue.

This process outlines our commitment to a person's right to be treated with respect and dignity, and to be safe and protected from discrimination, harassment, and abuse. Our procedure informs everyone involved in our branch of his or her legal and ethical rights and responsibilities.

3. Complaint Resolution Overview

3.1 Confidentiality

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

3.2 Approaches to External Organisations

There is 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 may also pursue your complaint externally under anti-discrimination, child protection, or other relevant legislation. In NSW, external organisations that can provide advice and can assist with the resolution of complaints are primarily the Australian Human Rights Commission and the NSW Anti-Discrimination Board. You can do this 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 directly with the commission.

If an anti-discrimination body decides to assist with your complaint, we may need to put any internal investigations on hold, pending the completion of the external process.

3.3 Time Restrictions

The complaints Resolution 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-Resolution procedures, but investigations of this nature may be challenging. If you are considering a complaint relating to a historical incident, you are encouraged to contact your local anti-discrimination commission or body directly.

4. Responding to Complaints

4.1 Our Key Principles

Jin Sei Ryu Karate-Do Australia takes all complaints about behaviour seriously in and outside the dojo. Our branch will handle complaints using this process. The Complaints Resolution and Resolution Process is based on the principles of procedural fairness and ensures:

- all complaints will be taken seriously;
- 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 the disclosure is necessary to effectively deal with the complaint;
- the person subject to the complaint (respondent) will generally be given full details of what is being alleged against them and can respond to those allegations;
- irrelevant matters will not be considered;
- decisions will be unbiased; and
- any penalties imposed will be reasonable.

4.2. Our Approach to Complaint Resolution

In summary, key aspects of our complaint-Resolution process include:

- Local contacts with appropriate training or experience (referred to as Student Protection and Information Officers, or SPIOs) are available to provide advice to students, and to receive and manage complaints;
- Students are supported to resolve concerns themselves in a direct but safe way wherever appropriate;
- Both informal and informal internal processes for resolving complaints are available to students, with clear steps in each case;
- Decisions about actions to be taken to respond to an incident or complaint will be made by Branch Heads. If another person such as an SPIO is managing or investigating a complaint, they will provide a recommendation to the Branch Head about possible actions;
- An appeal process is available for students to the Head of Jin Sei Ryu Australia; and
- Students who don't wish to progress an internal process can get advice and may make a complaint to external human rights bodies such as the Australian Human Rights Commission or State Anti-Discrimination Bodies. Jin Sei Ryu Karate-Do Australia will cooperate with external complaints processes.

4.3 Conflicts of Interest

Conflicts of interest may arise when a person handing a complaint or deciding about a complaint under this policy is a complainant or respondent to a complaint.

A conflict of interest may also exist where one of the persons Resolution or deciding about a complaint under this policy is a family member, a close friend, or has an employment or financial interest, to one of the key people involved, such as a witness.

SPIOs are required to refer complaints for which they have a conflict to another SPIO and advise the Branch Head they have done so. A Branch Head who has a conflict is required to delegate to another senior member of their branch the responsibility for making decisions in response to a complaint. Branch heads are required to immediately inform the Australian Branch Head if they become aware of a complaint for which they have a conflict of interest.

5. A Summary of Our Complaint Resolution Process

Upon receiving a complaint, we will take the following steps:

1. Jin Sei Ryu Karate-Do Australia 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 National Branch Head (or delegated decision-maker), who will conduct its own independent investigation per these procedures.
3. The decision of the National Branch Head (or delegated decision-maker) is final.
4. If the Respondent of a complaint is the Branch Head Instructor or National Branch Head, the investigation and final decision-making responsibility will be delegated to a National 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. If the complaint relates to an Australia Branch, this complaints process and procedure will be used.
7. If 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 overseas Branch may have a different complaint Resolution process and procedure.

6. The Steps We Take to Resolve Complaints

Informal 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. Where it is safe and appropriate to do so, students are encouraged to have direct communication with the person exhibiting the behaviour to explain why a behaviour may be disrespectful or upsetting.

When working within this framework, we recommend individuals involved document their conversations in case further action becomes necessary.

Informal Step 2: Speak to a Student Protection Information Officer (SPIO)

Speak 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 another appropriate person 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;
- notify the National Branch Head that a complaint at the Branch has been raised.

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

State	Branch Head	Student Protection Information Officer
National	Kancho Ino Maquirang	Sensei Anthony Borgese
NSW	Shihan Clive Davidson	Sensei Sylvie Ellsmore
NT	Senpai Esteban Harper-Cox	Sensei Anthony Borgese
VIC	Sensei Damian Asling	Sensei Paul Loy
SA	Senpai Claudine Fernandez	Sensei Sylvie Ellsmore

Complainants and respondents have the right to support people, for example a friend or other student to attend meetings with them in relation to complaints.

Informal Step 3: Evaluate Outcomes from the Initial Review

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 party; or
- to seek a formal approach.

Formal Step 4: Continue the Complaint Resolution Process

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

- make a formal complaint in writing to an SPIO; and/or
- 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 warrant a formal resolution procedure;
- to recommend an alternative dispute resolution approach such as mediation;
- to investigate themselves, or recommend to the Branch Head the appointment of a separate person to investigate (gather more information on) the complaint; (See Attachment 1)
- to refer the complaint to the Branch Head Instructor / Complaint Handler;
- to notify the National Branch Head that a complaint at the Branch has been raised; and/ or
- to refer the matter to the police or other appropriate authority.

In making the decision(s) outlined above, the SPIO will consider:

- 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 what, if any, further action to take. This action may include disciplinary action in accordance with this policy.

All efforts will be made to carry out any inquiries as quickly and comprehensively as possible and to keep all affected persons updated regularly.

Formal Step 5: Recommending an Outcome

As noted above, the SPIO or other person appointed, will recommend an outcome to the Branch Head.

This action may include disciplinary action in accordance with this policy. It could also include a formal apology by one student to another; training to be undertaken; restrictions to a teacher or student's activities at the dojo; temporary suspension of a person's membership; expulsion of the respondent; or closing the complaint without further action.

Formal Step 6: Documenting the Complaint Process, Investigation and Outcome

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.

Formal Step 7: 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 National Branch Head reconsider the complaint. You or the respondent(s) may be entitled to escalate a decision at the Branch level. The Escalation Process is described in Attachment 2.

Attachment 1: INVESTIGATION PROCESS

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 the 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, and 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 another 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 2]**.

Attachment 2: ESCALATION PROCESS AND PROCEDURE

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 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 escalate 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 requesting 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 if 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 1]** will be followed for the escalated complaint.
8. The decision of the Managing Director, Jin Sei Ryu Karate-Do Australia will be final.

Attachment 3: RESOLUTION ALLEGATIONS OF CHILD ABUSE

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 include 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 activities such as redeploying someone and seek legal advice if the person is in 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 the 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).