



**ADELAIDE
UNIVERSITY
SPORT**

Complaints Handling Procedure

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Purpose

AUSF aims to provide a simple, confidential and trustworthy procedure for resolving complaints based on the principles of natural justice.

Any person (a complainant) may report a complaint about a person, people or organisation (respondent) bound by this policy if they feel they have been harassed, bullied or discriminated against or there has been a breach of this policy.

A complaint may be handled informally or formally. The complainant will usually indicate his or her preferred option unless the AU Sport General Manager considers that the complaint falls outside this policy and should be handled another way. For example, the law may require that the complaint/allegation be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our procedures for handling and resolving complaints are outlined in the AU Sport Constitution and in the AU Sport Complaint Handling Process Guidelines.

Individuals and organisations may also seek to have their complaint handled by an external agency under anti-discrimination, child protection, criminal or other relevant legislation. If the complaint is against the AU Sport General Manager, the complaint should be referred to the AU Sport President.

Improper complaints and victimisation

AUSF aims to ensure that our complaints procedure has integrity and is free of unfair repercussions or victimisation against the person making the complaint.

AUSF shall take all necessary steps to make sure that people involved in a complaint are not victimised. Disciplinary measures can be imposed on anyone who harasses or victimises another person for making a complaint or supporting another person's complaint as in line with the with AUSF policies.

If at any point in the complaint handling process the AUSF General Manager considers that a complainant has knowingly made an untrue complaint, or the complaint is malicious or intended to cause distress to the respondent, the matter may be referred to the AUSF Board of Management. Alternatively, the matter can be referred to a specially established tribunal for review and appropriate action, including possible disciplinary action against the complainant.

Informal Handling Process

Step 1: Talk with the other person (if safe, reasonable and appropriate)

If you feel confident to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

Step 2: Contact a Member Protection Information Officer/AU Sport Staff

We encourage you to talk with one of our Member Protection Information Officers (MPIOs), AUSF team members, or the AUSF General Manager if:

- the first step is not possible or reasonable
- you are not sure how to handle the problem by yourself
- the matter cannot be managed at club level
- you want to talk confidentially with someone and find out what options are available to resolve the problem, or

- the problem continues after you approached the other person.

The MPIOs/AUSF team members will:

- take confidential notes about your complaint
- try to find out the facts of your complaint
- ask how you would like the problem to be resolved and if you need support
- provide different options for you to resolve the problem
- act as a support person, if you wish
- refer you to an appropriate person (e.g. a mediator) 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.

Step 3: Decide how to resolve the problem

After talking with MPIOs/AUSF staff, you may decide:

- there is no problem
- the problem is minor and you do not wish to take the matter forward
- to try and resolve the problem yourself, with or without a support person
- to resolve the problem with the help of someone impartial, such as a mediator
- to resolve the matter through a formal process.

Formal Handling Processes

Step 4: Making a formal complaint

If it is not possible or appropriate to resolve your complaint through an informal process, you may:

- make a formal complaint in writing to the AU Sport General Manager, or
- approach a relevant external agency, such as the anti-discrimination or equal opportunity commission, for advice.

After receiving a formal complaint, and based on the material you provide, the AUSF

Sport General Manager will decide whether:

- he/she is the most appropriate person to receive and handle the complaint
- the nature and seriousness of the complaint requires a formal resolution procedure
- to refer the complaint to mediation
- to appoint a person to investigate the complaint
- to refer the complaint to a tribunal hearing (as per AU Sport Constitution)
- 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 is completed.

In making this decision, the ASUF General Manager will take into account:

- whether he/she had any personal involvement in the circumstances and if someone else should handle the complaint

- your wishes, and the wishes of the respondent, regarding how the complaint should be handled
- the relationship between you and the respondent (e.g. an actual or perceived power imbalance between you and the respondent)
- whether the facts of the complaint are in dispute
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

If the AUSF General Manager is the appropriate person to handle the complaint, he/she will, if these steps are necessary:

- provide the information received from you to the other person(s) involved and ask for their side of the story
- decide if there is enough information to determine whether the matter alleged in your complaint did or did not happen, and/or
- determine what, if any, further action to take, including disciplinary action in accordance with this policy.

Step 5: Investigating the complaint

In some cases, an investigation may be required to determine the facts surrounding the complaint. The AUSF investigation procedure is outlined in Appendix 1.

Following the investigation, a written report will be provided to AUSF Tribunal Committee, which will determine what further action to take.

- If the complaint is referred to mediation, we will follow the steps outlined in Attachment 2 or as agreed by you, the respondent and the mediator.
- If the complaint is referred to a tribunal hearing, the hearing will be conducted according to the steps outlined in Attachment 3.
- If the complaint is referred to the police or another external agency, we will endeavour to provide all reasonable assistance required by the police or the agency.

Costs associated with an AUSF Tribunal are covered by AUSF. If the matter goes to the court or commission, you may be required to cover costs involved. However, that body may choose to provide you with compensation but this is not guaranteed.

Step 6: Reconsidering a complaint or appealing a decision

If mediation is unable to resolve the matter, you may request that AUSF General Manager reconsider the complaint in accordance with the steps above.

You or the respondent(s) may also appeal a decision made at a tribunal hearing. The grounds and process for appeals are set out in Appendix 4.

Step 7: Documenting the resolution

The AU Sport General Manager will record the complaint, the steps taken to resolve it and the final outcome. This information will be stored in a confidential and secure place within the AUSF office according to the Privacy Policy, 025 and the Document and Record Control Procedure, 010.

If the complaint involved a state sporting body and dealt with at the state/district level, the information may be stored by the state association. If the matter is of a serious nature, or if it was dealt with at national level, the original document could be stored by the national sporting body and a copy stored by the state association and with AU Sport.

Approaching external organisations

If you feel that you have been harassed or discriminated against, you can seek advice from your state or territory anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

Once a complaint is received by the commission, it will investigate the matter. If it appears that unlawful harassment or discrimination has occurred, the commission will attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken. This could include an apology or financial compensation for distress, lost earnings or medical and counselling expenses incurred.

If you do lodge a complaint with the commission, an appropriate person from AUSF (e.g. an MPIO) will be available to support you during the process. It is also common to have a legal representation, particularly if the complaint goes to a formal hearing.

Contact details for the state and territory anti-discrimination and equal opportunity commissions are available on the Play by the Rules website:

Serious incidents, such as assault or sexual assault, should be reported to the police.

Disciplinary measures

AUSF may impose disciplinary measures on an individual or club or organisation for a breach of AUSF agreements and policies.

Disciplinary measure imposed shall be:

- fair and reasonable
- applied consistent with any contractual and employment rules and requirements
- be based on the evidence and information presented and the seriousness of the breach
- be determined in accordance with our Constitution, By-laws, this policy and/or the rules of the sport.

The form of discipline to be imposed on an individual or organisation will depend on factors, such as:

- the nature and seriousness of the breach
- if the person knew, or should have known, that the behaviour was a breach of the policy
- the person's level of contrition
- the effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences
- if there have been any relevant prior warnings or disciplinary action
- the ability to enforce disciplinary measures if the person is a parent or spectator (even if they are bound by the policy)

Depending on the nature of the complaint and the level of discipline required, the University of Adelaide or the relevant National or State Sporting Organisation may be consulted in managing the complaint.

Individual Disciplinary Measures

Subject to contractual and employment requirements, if a finding is made by the AUSF General Manager or Tribunal that an individual has breached this policy, one or more of the following forms of discipline may be imposed.

- A direction that the individual make a verbal and/or written apology;
- A written warning;
- A direction that the individual attend counselling to address their behaviour;
- A withdrawal of any awards, scholarships, placings, records, achievements bestowed in any tournaments, activities or events held or sanctioned by AUSF and other organisations which may wish to do so;
- A demotion or transfer of the individual to another location, role or activity;
- A suspension of the individual's membership or participation or engagement in a role or activity;
- Termination of the individual's membership, appointment or engagement;
- A recommendation that National Sporting Organisation terminate the individual's membership, appointment or engagement;
- 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;
- A fine;
- Any other form of discipline that the AUSF General Manager (with the approval of the AUSF Board of Management) or AUSF tribunal committee considers appropriate.

Club Disciplinary Measures

If a finding is made that an AU Sport Club has breached its own or any AU Sport policies, one or more of the following forms of discipline may be imposed by the AU Sport Board.

- A written warning;
- A fine;
- A direction that any rights, privileges and benefits provided to that club by AUSF be suspended for a specified period;
- A direction that any funding or grant given to it by the club cease from a specified date;
- A recommendation that its membership of AUSF be suspended or terminated in accordance with the relevant constitution or rules;
- Any other form of discipline that the national body sporting or peak organisation considers reasonable and appropriate.

Appendix 1: Investigation Process

There will be times when a complaint will need to be investigated and evidence gathered.

An investigation helps determine the facts relating to the incident, as well as possible findings and recommendations.

Any investigation that AUSF conducts will be fair to all people involved.

If AUSF decide that a complaint should be investigated, we will follow the steps outlined below.

1. We will provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities. The investigator will:
 - interview the complainant and record the interview in writing
 - provide full details of the complaint to the respondent(s) so that they can respond
 - interview the respondent(s) to allow them to answer the complaint and record the interview in writing
 - obtain statements from witnesses and collect other relevant evidence, if there is a dispute over the facts
 - 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)
 - mischievous, vexatious or knowingly untrue.
 - if the complaint is proceeding to a tribunal, provide a report to AU Sport Tribunal documenting the complaint, the investigation process, the evidence, the finding(s) and, if requested, any recommendations.
2. AU Sport 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 or adviser.
4. The complainant and the respondent(s) may have the right to appeal any decision based on the investigation. Information on our appeals process is in Appendix 4.

Appendix 2: Mediation

Mediation is a process that allows the people involved in a complaint to talk through the issues with an impartial person – the mediator – and work out a mutually agreeable solution.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to talk through the issues and makes sure that the process is as fair as possible for all concerned.

Our approach to mediation follows the steps set out below.

1. The AU Sport General Manager may act as mediator or will appoint a mediator to help resolve the complaint. This will be done under the direction of AU Sport Board and in consultation with the complainant and the respondent(s).
2. The mediator will talk with the complainant 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.
3. All issues raised during mediation will be treated confidentially. AU Sport also respects the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. If the complaint is resolved by mediation, the mediator will prepare a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect the terms of the agreement.
5. If the complaint is not resolved by mediation, the complainant may:
 - write to AU Sport Board to request that the AU Sport General Manager reconsider the complaint in accordance with Step 3
 - approach an external agency, such as the anti-discrimination or equal opportunity commission, to resolve the matter.

AU Sport recognise that there are some situations where mediation will not be appropriate, including:

- when the people involved have completely different versions of the incident
- when one or both parties are unwilling to attempt mediation
- when the issues raised are sensitive in nature
- when there is a real or perceived power imbalance between the people involved
- matters that involve serious, proven allegations.

Appendix 3: Tribunal Procedures

AUSF shall follow the steps set out below to hear formal complaints made under our policies.

When the matter involves a State Sporting Organisation (SSO) or NSO, their tribunal process and procedures may need to be followed.

Preparing for a Tribunal hearing

1. A Tribunal panel will be established, according to the rules set out in our Constitution, to hear a complaint that has been referred to it by AU Sport General Manager. The number of Tribunal panel members required to be present throughout the hearing will be a minimum of 1 and a maximum of 3 as set by the AU Sport Board.
2. The Tribunal panel members will be provided with a copy of all the relevant correspondence, reports or information received and sent by AU Sport General Manager relating to the complaint/allegations.
3. The Tribunal hearing will be held as soon as practicable. However, adequate time must be provided for the respondent(s) to prepare for the hearing.
4. The Tribunal panel will not include any person who has any actual or perceived conflict of interest or bias regarding the complaint/allegations.
5. The AU Sport General Manager will inform the respondent(s) in writing that a Tribunal hearing will take place. The notice will outline:
 - that the person has a right to appear at the Tribunal hearing to defend the complaint/allegations
 - the details of the complaint and of all allegations, as well as the clause of any policy or rule that has allegedly been breached
 - the date, time and venue of the Tribunal hearing
 - that either verbal or written submissions can be presented at the Tribunal hearing
 - that witnesses may attend the Tribunal hearing to support the position of the respondent/s (statutory declarations of witnesses not available to attend and from character witnesses may also be provided to the Tribunal hearing)
 - an outline of any possible penalties that may be imposed if the complaint is found to be true
 - that legal representation will not be allowed. If the respondent is a minor, he or she should have a parent or guardian present.

A copy of any information/documents that have been given to the Tribunal panel (e.g. investigation report findings) will be provided to the respondent(s).

The respondent(s) will be allowed to participate in all AU Sport activities and events, pending the decision of the Tribunal, including any available appeal process, unless the AU Sport General Manager, with the support of the AU Sport Board, believes it is necessary to exclude the respondent/s from all or some activities and events because of the nature of the complaint.

The AU Sport General Manager will notify the complainant in writing that a Tribunal hearing will take place. The notice will outline:

- that the person has a right to appear at the Tribunal hearing to support their complaint
- the details of the complaint, including any relevant rules or regulations the respondent is accused of breaching
- the date, time and venue of the Tribunal hearing
- that either verbal or written submissions can be presented at the Tribunal hearing

- that witnesses may attend the Tribunal hearing to support the complainant's position (statutory declarations of witnesses not available to attend may also be provided to the Tribunal Hearing)
- that legal representation will not be allowed. If the complainant is a minor, he or she should have a parent or guardian present.

A copy of any information / documents given to the Tribunal (e.g. investigation report findings) will be provided to the complainant.

If the complainant believes the details of the complaint are incorrect or insufficient, he or she should inform the AU Sport General Manager as soon as possible so that the respondent(s) and members of the Tribunal panel can be properly informed of the complaint.

If possible, the Tribunal panel should include at least one person with knowledge or experience of the relevant laws/rules (e.g. anti-discrimination).

Tribunal hearing procedure

1. The following people will be allowed to attend the Tribunal hearing:
 - Tribunal panel members
 - the respondent(s)
 - the complainant
 - any witnesses called by the respondent(s)
 - any witnesses called by the complainant
 - any parent/guardian or support person required to support the respondent or the complainant.
1. If the respondent(s) is not present at the set hearing time and the Tribunal chairperson considers that no valid reason has been presented for this absence, the Tribunal hearing will continue subject to the chairperson being satisfied that all Tribunal notification requirements have been met.
2. If the Tribunal chairperson considers that there is a valid reason for the non-attendance of the respondent(s), or the chairperson does not believe the Tribunal notification requirements have been met, then the Tribunal hearing will be rescheduled to a later date.
3. The Tribunal chairperson will inform the AU Sport General Manager of the need to reschedule the hearing and the AU Sport General Manager will arrange for the Tribunal to be reconvened.
4. The Tribunal chairperson will read out the complaint, ask each respondent if he or she understands the complaint and if he or she agrees or disagrees with the complaint.
5. If the respondent agrees with the complaint, he or she will be asked to provide any evidence or witnesses that should be considered by the Tribunal when determining any disciplinary measures or penalties.
6. If the respondent disagrees with the complaint, the complainant will be asked to describe the circumstances that lead to the complaint being made.
 - Reference may be made to brief notes.
 - The complainant may call witnesses.
 - The respondent may question the complainant and any witnesses.
7. The respondent will then be asked to respond to the complaint.
 - Reference may be made to brief notes.
 - The respondent may call witnesses.
 - The complainant may ask questions of the respondent and any witnesses.

8. The complainant and respondent(s) may be present when evidence is presented to the Tribunal hearing. Witnesses may be asked to wait outside the hearing until they are required.
9. The Tribunal may:
 - consider any evidence, and in any form, that it deems relevant
 - question any person giving evidence
 - limit the number of witnesses presented to those who provide new evidence
 - require (to the extent it has power to do so) the attendance of any witness it deems relevant
 - act in an inquisitorial manner in order to establish the truth of the issue/complaint before it.

Video evidence, if available, may be presented. Arrangements must be made entirely by the person(s) wishing to offer this type of evidence.

If the Tribunal panel considers that at any time during the hearing there is any unreasonable or intimidatory behaviour from anyone, the Tribunal chairperson may deny further involvement of that person in the hearing.

After all the evidence has been presented, the Tribunal will make its decision in private. It must decide whether the complaint has, on the balance of probabilities, been substantiated. As the seriousness of the allegation increases, so too must the level of satisfaction of the Tribunal that the complaint has been substantiated. The respondent(s) have the opportunity to address the Tribunal on disciplinary measures which may be imposed. Any disciplinary measures imposed must be reasonable in the circumstances.

All Tribunal decisions will be by majority vote.

The Tribunal chairperson will announce the decision in the presence of all those involved in the hearing and will declare the hearing closed. Alternatively, he or she may advise those present that the decision is reserved and will be handed down in written form at a later time.

Within 48 hours, the Tribunal chairperson will:

- forward a notice of the Tribunal's decision to the AU Sport General Manager, including any disciplinary measures imposed.
- forward a letter reconfirming the Tribunal's decision to the respondent(s), including any disciplinary measures imposed. The letter should also outline the process and grounds for an appeal, if allowed. If the matter is especially complex or important, the Tribunal chairperson may inform the parties in writing within 48 hours that the decision will be delayed for a further 48 hours.

Appendix 4: Appeal Process

The grounds for an appeal should be specific; for example, they may be limited to a denial of natural justice or the imposition of an unreasonable penalty.

If a complainant or a respondent(s) is not satisfied with the outcome of a mediation process or a Tribunal decision, he or she can lodge an appeal to the AU Sport Board of Management on one or more of the following grounds:

- that a denial of natural justice has occurred
- that the disciplinary measure/s imposed is unjust and/or unreasonable
- that the decision was not supported by the information/evidence provided at the mediation or to the Tribunal Hearing

A person wanting to appeal must lodge a letter setting out the basis for their appeal to the AU Sport Board of Management c/- the AU Sport General Manager within 15 days of the decision being made.

If the letter of appeal is not received by the AU Sport Board within this time, the right of appeal will lapse.

The letter of appeal and the notice of the Tribunal's decision (Attachment 3, Tribunal Procedure, point 24) will be forwarded to the AU Sport Board of Management to review and to decide whether there are sufficient grounds for the appeal to proceed. The AU Sport Board of Management may invite any witnesses to the meeting that they believe are required to help make an informed decision.

If the appellant has not shown sufficient grounds for an appeal in accordance with Appeals procedure, point 1, then the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision.

If the appeal is accepted, the AU Sport Board of Management will be convened to rehear the complaint.

The Tribunal hearing procedure shall be followed by the AU Sport Board of Management.

The decision of the AU Sport Board of Management will be final.

References

Child Safe Environment, 018

Member Protection – Safe Sport Policy, 015

Complaints Handling Forms Templates, 031