

## **ONSW COMPLAINTS, DISPUTES AND DISCIPLINE POLICY**

Association Manual **1.14**

### **1. INTRODUCTION**

Orienteering NSW (ONSW) is committed to ensuring all allegations of prohibited conduct are managed through an effective, consistent, and timely process, which is fair and transparent. This policy outlines the process for resolving complaints arising from ONSW members that relate to matters at a state level.

Complaints help ONSW take action against people who aren't upholding the integrity standards of our sport. By speaking up you are protecting all other people around you.

This policy also applies to prohibited conduct under the following ONSW policies:

- a) Orienteering NSW Code of Conduct; and
- b) Orienteering NSW Constitution (Sections 20-22).

Nothing in this policy overrides a law of the Commonwealth, or a state or territory, which take precedence and must be complied with in the first instance.

### **2. MAKING A COMPLAINT**

- 2.1. A complaint is a formal written submission of an allegation (report) made by a complainant, relating to prohibited conduct under a relevant policy, against a respondent.
- 2.2. All complaints should be submitted to the ONSW Secretary ([secretary@onsw.asn.au](mailto:secretary@onsw.asn.au)), using the ONSW Complaints Form (Appendix A, click *here* to download). (link to ONSW Complaints Form.doc)
- 2.3. Complaints or disputes may be between ONSW members or between members and ONSW as an organisation.
- 2.4. Where multiple reports relate to the same or related alleged conduct by the same respondent, they may be combined for the purposes of the complaints process.

### **3. CONFIDENTIALITY**

- 3.1. All complaints will be kept confidential.
- 3.2. ONSW may disclose information as required or authorized by law.
- 3.3. Decisions around appropriate disclosure of information will be addressed on a case-by-case basis. Disclosure of information to parties not directly affected by the alleged behaviour may be restricted.
- 3.4. ONSW will, on request from Orienteering Australia (OA), provide information to OA which it requires to undertake the complaints process if a case is to be escalated.

### **4. WITHDRAWING A COMPLAINT**

- 4.1. A complaint may be withdrawn at any time. Withdrawing a complaint must be done in

writing to the ONSW Secretary ([secretary@onsw.asn.au](mailto:secretary@onsw.asn.au)).

- 4.2. Where a complaint has been withdrawn, it is at the discretion of the ONSW Board to determine whether the matter is progressed through the complaints process or withdrawn.

## 5. THE COMPLAINTS PROCESS

- 5.1. The process for managing a complaint will be at the discretion of the ONSW Board. In some circumstances, complaints may be escalated to the OA National Integrity Unit, or cases may be referred to ONSW from OA.

### 5.2. Evaluation

- 5.2.1. Upon receipt of the ONSW Complaints Form, the Board will determine whether the matter falls within the scope of relevant ONSW policies. Where it is deemed out of scope, the complainant will be notified, and no further action will be taken under this policy.
- 5.2.2. ONSW may refuse to deal with a complaint if it considers the complaint to be trivial or vexatious in nature.
- 5.2.3. A complaint previously managed through a complaints process will not be reconsidered or reinvestigated unless there are compelling reasons to do so, such as relevant new information becoming available.
- 5.2.4. Once a complaint has been deemed to be in-scope, it will undergo case categorisation to determine an appropriate means of dealing with the complaint.

### 5.3. External Referral

- 5.3.1. At any time during the complaints process, allegations may be referred to a relevant external organisation. This may include referral to a law enforcement agency, government or regulatory authority or child protection agency. If a person considers a child is at risk of immediate harm, the matter must be reported to the relevant law enforcement/child protection agency as soon as possible.

### 5.4. Provisional Action

- 5.4.1. Where an allegation suggests risk of harm to a participant, ONSW will determine whether provisional action will be taken to mitigate potential of harm.
- 5.4.2. Provisional action may include suspension, supervision, restriction of duties, or suspension/restriction of rights, privileges or benefits.

### 5.5. Investigation

- 5.5.1. ONSW may conduct an investigation to obtain additional evidence, including by way of formal interview and collection of additional information.
- 5.5.2. In conducting an investigation, the rules of procedural fairness will apply, including providing both the complainant and the respondent with a reasonable opportunity to be heard.
- 5.5.3. If a respondent fails or refuses to respond, after a request has been made a reasonable time in advance, to answer relevant questions, provide relevant documentation, and/or participate in the complaints/resolution process, ONSW may make findings based on the available information.
- 5.5.4. The standard of proof that applies to all substantive decisions made under this

policy in respect to allegations of prohibited conduct is “balance of probabilities”. This means the decision-maker must be satisfied that it is more likely than not that there has been a breach of relevant policy.

## 5.6. **Alternative Dispute Resolution**

- 5.6.1. The complainant and the respondent may agree to an alternative dispute resolution. The complaints process may be suspended while alternative dispute resolution is pursued. The complaints process may be discontinued if both parties are satisfied that the matter has been resolved.
- 5.6.2. This process will be coordinated by the ONSW Board or assigned case manager.

## 6. THE RESOLUTION PROCESS

### 6.1. **Communication and Notification**

- 6.1.1. ONSW will communicate as appropriate with the respondent, complainant and any relevant organisation involved in the matter throughout the resolution process and will notify both the complainant and respondent of the outcome and finalisation of the matter at the conclusion of the resolution process.
- 6.1.2. The ONSW Board or assigned case manager will determine whether the allegation of prohibited conduct is substantiated, unsubstantiated or unable to be substantiated.
- 6.1.3. If allegations are found to be substantiated, ONSW will issue a breach notice.

### 6.2. **Breach Notice**

- 6.2.1. The breach notice issued by ONSW to a respondent will:
  - a) notify the respondent of allegations found to be substantiated, including the alleged conduct;
  - b) state the proposed sanction, if any, for the substantiated allegations;
  - c) state that the respondent has a right to appeal in relation to the allegations found to be substantiated and/or the proposed sanction;
  - d) state that the respondent may accept the findings, waive their right to appeal and accept the proposed sanction;
  - e) state that if the respondent does not respond in writing within 14 days of the date of the breach notice, they will be deemed to have accepted the findings, waived their right to appeal and accepted the proposed sanction, unless otherwise agreed by ONSW; and
  - f) state that any response to the breach notice must be made to ONSW, and provide contact details of the assigned case manager.
- 6.2.2. In response to a breach notice, the respondent may:
  - a) accept the findings, waive their right to a hearing and accept the proposed sanction; or
  - b) dispute the findings and/or proposed sanction, in which case the matter will be handled as outlined in the ONSW Constitution, Section 22 (Appendix B).
- 6.2.3. Notice must be given in writing (whether by email or other means) and sent to the ONSW Secretary at the address given on the breach notice.

### **6.3. Appropriate Sanctions/Discipline**

- 6.3.1. ONSW may impose one or more sanctions on a respondent where this is considered appropriate, considering:
- a) the seriousness of the behaviour;
  - b) whether a one-off incident, or part of an overall pattern of behaviour;
  - c) whether it was an honest and reasonable mistake;
  - d) the potential impact on public confidence in the integrity of the sport;
  - e) the potential impact of the proposed sanction on the respondent;
  - f) the views and opinion of the complainant; and
  - g) any other relevant aggravating or mitigating factors.

### **6.4. Right of Appeal of Disciplined Member**

- 6.4.1. Refer to Appendix B (ONSW Constitution, Section 22) and Clause 6.2.2.
- 6.4.2. If the Board cannot resolve any such dispute, the dispute shall be referred to a community justice centre for mediation in accordance with the *Community Justice Centres Act 1983*.

### **6.5. Implementation**

- 6.5.1. It is the responsibility of ONSW to ensure appropriate sanctions (or other alternative actions) are undertaken, and that relevant policies are implemented and applied.
- 6.5.2. ONSW will determine if a sanction should be publicly disclosed to give it full effect. This may be necessary for suspension or cancellation of membership or accreditation.

### **6.6. Case Closure**

- 6.6.1. Complaints may be closed under this policy at any of the following times:
- a) The complaint is evaluated as being out of scope of this policy under clause 5.2.1.
  - b) During investigation of the complaint, it becomes apparent that the complaint no longer meets the eligibility requirements set out in clause 5.
  - c) The complaint is resolved through alternative dispute resolution in accordance with clause 5.6. or all complaint participants are in agreement that the complaint may be closed.
  - d) Following investigation, all allegations are found to be either unsubstantiated or unable to be substantiated in accordance with clause 6.1.2.
  - e) Following investigation, the respondent accepts or is deemed to have accepted the findings and any sanction imposed upon them in accordance with clause 6.2.
  - f) The matter is finalised following a right of appeal of disciplined member in accordance with clause 6.4.
- 6.6.2. Once a matter has been closed in accordance with this clause, it has been finalised and no further action will be taken in relation to the matter under this policy unless there is a compelling reason to do so.

6.6.3. ONSW will retain appropriate records of the complaint and any outcomes in accordance with relevant policy or procedure relating to record keeping.

## 7. AMENDMENT

7.1. In accordance with ONSW's constitution (or other governing rules as applicable), the board may amend relevant policies as required, including to incorporate amendments notified to ONSW by Orienteering Australia or Sports Integrity Australia from time to time. Such amendments will be effective on the date specified by the board.

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### Related documents:

Orienteering Australia NIF\_Complaints\_Disputes\_and\_Discipline\_Policy\_2023.pdf;  
Effective 11 Sept 2023;

[https://drive.google.com/file/d/1mSkNjRp0b6RwfOFvCGDLn1GOQWMJIS\\_P/view](https://drive.google.com/file/d/1mSkNjRp0b6RwfOFvCGDLn1GOQWMJIS_P/view)

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Adopted 28 May 2024

### Reason for update:

New - To comply with Orienteering Australia National Integrity Framework policy.

# Appendix A: ONSW Complaint Form, adopted 28 May 2024



## SCHEDULE 1

### ONSW Complaint Form

Internal Use Only		
Name of person receiving Complaint		Date Complaint Form Received: / /
How was the Complaint received		
Complainant to Complete		
Name of Complainant	..... <input type="checkbox"/> 18 and over <input type="checkbox"/> Under 18	
Complainant's contact details	Phone: Email:	
Complainant's role/position within the Sport	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Official	<input type="checkbox"/> Board/Committee member <input type="checkbox"/> Athlete <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other (Please Specify) _____
Name of person complained about (Respondent)	..... <input type="checkbox"/> 18 and over <input type="checkbox"/> Under 18	
Respondent's role/position	<input type="checkbox"/> Administrator (volunteer) <input type="checkbox"/> Parent <input type="checkbox"/> Spectator <input type="checkbox"/> Support Personnel <input type="checkbox"/> Official	<input type="checkbox"/> Board/Committee member <input type="checkbox"/> Athlete <input type="checkbox"/> Coach/Assistant Coach <input type="checkbox"/> Employee (paid) <input type="checkbox"/> Other (Please Specify) _____
Date/s of alleged breach/es by Respondent		
Location/s of alleged breach/es by Respondent		

<p>Description of alleged breach by Respondent</p> <p><i>Please provide as much information as possible, including details of who is involved, describe what happened and when, and how you found out about the breach - attach further pages if necessary</i></p>	
<p>Witnesses (if any)</p>	<p>Did anyone else witness this alleged breach by the Respondent?</p> <p><input type="checkbox"/> Yes                      <input type="checkbox"/> No                      <input type="checkbox"/> Not Sure</p> <p>If 'Yes', please list the witnesses and their contact details (if known):</p> <p>1. Name: Phone: Email:</p> <hr/> <p>2. Name: Phone: Email:</p> <hr/> <p>3. Name: Phone: Email:</p>
<p>Level of the Sport at which alleged breach occurred</p>	<p><input type="checkbox"/> National Sporting Organisation (NSO) level: where it relates to behaviour, an incident, or circumstances that occurred at or involve individuals operating at the NSO level;</p> <p><input type="checkbox"/> State (Territory) Sporting Association (SSA) level: where it relates to behaviour, an incident, or circumstances that occurred at or involve individuals operating at the SSA level; or</p> <p><input type="checkbox"/> Affiliate level: where it relates to behaviour, an incident, or circumstances that occurred at or involve individuals operating at the Affiliate level (Association/League/Club level)</p>
<p>Policy that Respondent has allegedly breached (if known)</p> <p>Sections allegedly breached (if known)</p>	
<p>Signed by Complainant</p>	<p>Signature:</p> <p>Date:</p>

## **Appendix B: ONSW Constitution, ONSW Manual 1.1, adopted 2 May 2022, Section 22 RIGHT OF APPEAL OF DISCIPLINED MEMBER**

### **22 RIGHT OF APPEAL OF DISCIPLINED MEMBER**

- (1) A member may appeal to ONSW at a General Meeting against a resolution of the Board under clause 21, within 7 days after notice of the resolution is served on the member, by lodging with the Secretary a notice to that effect.
- (2) The notice may, but need not, be accompanied by a statement of the grounds on which the member intends to rely for the purposes of the appeal.
- (3) On receipt of a notice from a member under subclause (1), the Secretary shall notify the Board, which is to convene a General Meeting of ONSW to be held within 28 days after the date on which the Secretary received the notice.
- (4) At a General Meeting of ONSW convened under subclause (3):
  - (a) no business other than the question of the appeal is to be transacted, and
  - (b) the Board and the member shall be given the opportunity to state their respective cases orally or in writing, or both, and
  - (c) the members present are to vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (5) The appeal is to be determined by a simple majority of votes cast by members of ONSW entitled to vote at General Meetings under clause 4(b).