



**ARBN: 679 434 649**

**COMPLAINTS,  
GRIEVANCES AND  
APPEALS  
PROCEDURES**

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## 1. Preamble

The DTAA offers the following Complaints, Grievances and Appeals Procedures to its Members and the public for making complaints about the services of its Members at Associate, Provisional Professional, Professional and Clinical levels. The DTAA's Complaints, Grievances and Appeals processes described in this document are not legal procedures. All correspondence to the Complainant or to the Respondent shall be marked "Confidential" or "Personal and Confidential".

## 2. Definitions

The following terminology is used throughout this document and defines as follows:

Alternative Dispute Resolution (ADR) – A non-legal process like mediation used to seek resolution of a Complaint

Appeal - a formal request for a decision to be changed

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Appellant – the person making an appeal

Association – the Dance Movement Therapy Association of Australasia Inc. (DTAA)

Code of Ethics and Standards of Professional Conduct – document developed by DTAA, found on the website (<https://dtaa.org.au/about/ethics/>) and in Additional Document A.

Complaint - any oral, unwritten accusation, allegation, or charge against a registered Member of DTAA

Complainant - the person making a complaint

DTAA - the Dance Movement Therapy Association of Australasia Inc. (DTAA)

DMT- Dance Movement Therapy

Ethics Committee – a standing committee of the DTAA convened by the Vice President of the DTAA

Ethical Misconduct – Behaviour that contravenes the principles and conduct outlined in the DTAA Code of Ethics and Standards of Professional Conduct

Findings Report – a summary of the results of the Grievance Procedure against a specific registered Member

Grievance – a formal, written allegation or charge against a registered Member of the DTAA

Grievances Committee – a specially appointed committee to handle formally submitted Complaints, Grievances and Appeals

Grievances Delegate – a member of the Grievances Committee chosen by said committee to represent it

Grievances Committee Report – the complete report of the Grievance Procedure relating to a specific registered DTAA Member

**Grievance Process Person** – someone identified by the person submitting the Grievance who can support the aggrieved person through the Grievance Process. This person does not need to be a Member of the DTAA and is contacted by the person submitting the Grievance

**Intermediary** – A DTAA Clinical Member trained in Complaints and Grievances Procedures who offers neutral and independent support to help clarify and resolve the matter at ADR level. The Intermediary converses separately with those involved in a Complaint, helps to articulate what is to be conveyed to the other person, ensures all options are heard, aims to reach a resolution and ensures the outcome is clearly stated

**Letter of Advice** – A process for seeking resolution of a Complaint if there has been a minor or technical breach of professional standards

**Registered Member** – a Member of the DTAA who holds the right to call themselves a Dance Movement Therapist and their work Dance Movement Therapy. This includes Associate, Provisional Professional, Professional and Clinical Members of DTAA.

**President** - the President of the DTAA

**Professional Misconduct** – also referred to as Ethical Misconduct – a failure of a Practitioner to conduct themselves in a manner that is considered by their peers to be of an ethical and behavioural standard expected of the profession

**Reportable Breach** – occurs when a breach (or likely breach) is deemed significant. Whether a breach is significant will depend on individual circumstances, the number or frequency of similar previous breaches, the impact of the breach or likely breach, and/or the actual or potential harm to the Person affected by the breach

**Respondent** - a person who responds to a Complaint, a Grievance, or an Appeal

**Sanction** – a valid and binding measure resulting from the Grievance Procedure which found failure to comply with the DTAA Code of Ethics and Standards of Professional Conduct

### 3. Introduction

The Dance Movement Therapy Association of Australasia Inc. (DTAA) is the recognised professional body for Dance Movement Therapy (DMT) in Australasia. It sets the standards for Clinical, Professional, Provisional Professional, and Associate levels of membership, training, and supervision.

This document sets out DTAA's framework for the procedures of Complaints, Grievances and Appeals regarding alleged ethical breaches and misconduct by DTAA Members. All registered Members of the DTAA must comply with the Association's Code of Ethics and Standards of Professional Conduct and legislative requirements for health professionals in their respective jurisdictions

In the event that a member of the public believes that a DTAA Member has breached their professional responsibilities and has unsuccessfully attempted to address the issue with the Member, they may lodge a formal Complaint with the Association.

The DTAA views Complaints, Grievances and Appeals seriously and will consider all submissions that are complete and accurate. The DTAA will consider sanctioning an offending registered Member, however, the DTAA is not able to offer compensation to those who submit the Complaint or Grievance.

This framework has been established to offer parties to a Complaint, Grievance or Appeal an expeditious method to resolve real issues in dispute between them at minimal expense. Parties are encouraged to participate in the Professional Conduct procedure as an alternative to legal proceedings.

Parties to a Complaint, Grievance or Appeal do not require legal advice to participate in this non-legal process. All parties have a right, and are encouraged, to:

- Obtain independent legal advice; and
- Obtain independent advice from another appropriate professional.

DTAA Members have also a right and are encouraged to request the assistance of a Grievance Process Person.

It is the responsibility of all DTAA Members and the parties to Complaints, Grievances, and Appeals to familiarise themselves with the DTAA Code of Ethics and Standards of Professional Conduct. This document forms an essential part of DTAA's commitment to the protection of the public. DTAA Members are required to inform clients, who indicate they may have a Complaint or Grievance about a service they have received, of the existence of these procedures and any other Complaints procedure available in relation to the service provided.

#### **4. Aim of the DTAA Complaints, Grievances and Appeals Procedures**

The aim of this procedure is to provide a transparent and ethical process for lodging Complaints, Grievances and Appeals in relation to services provided by DTAA Members. In processing such Complaints, Grievances and Appeals, DTAA aims to facilitate the resolution of concerns of the DTAA Member or their clients. The role of the DTAA is strictly limited to the disciplining of its registered Members. This process also aims to support DTAA Members to provide improved services to their clients and practice safely. The DTAA must not be used as an influence against the member to achieve a result not readily forthcoming because it may not be desirable to use more appropriate modes of action such as a court process or in some cases a regulatory authority.

The Procedures also provide a mechanism for the DTAA Grievances Committee (section 6.1) to investigate alleged ethical misconduct in the absence of a formal Complaint where a Member is subject to criminal investigation in relation to alleged professional misconduct or other conduct impacting on their professional practice.

#### **5. Implementation of the Complaints, Grievances and Appeals Procedures**

##### **5.1 Effective Date**

These Complaint, Grievances and Appeals Procedures will apply to all Complaints, Grievances and Appeals received by DTAA after the date of the publication of these procedures.

##### **5.2 Pathways for Complaints and Grievances**

Any individual who received a therapeutic service from a DTAA registered Member and wishes to make a Complaint or lodge a Grievance against that Member has the right to contact DTAA and seek information about available options. There are three pathways for Complaints: Informal Determination; Complaint and Grievance.

### 5.2.1. Informal Determination

Before lodging a Complaint or Grievance, the Complainant is encouraged to attempt to resolve the issue related to the registered Member. DTAA is not involved in this process.

### 5.2.2. Complaint

DTAA defines 'Complaint' as a concern that a client has in relation to a practitioner's action or inaction. In terms of these procedures, a Complaint will be addressed and resolved by a Letter of Advice (section 6.2.4.) or Alternative Dispute Resolution (section 6.2.5.). In some case, a Complaint may lead to the formal lodging of a Grievance.

### 5.2.3. Grievance

DTAA defines 'Grievance' as a concern of more serious or on-going nature. The Grievance procedure is a formal process that starts by the submission of a document that sets out the facts and the reasons that the Complainant believes are sufficient to support the lodging of a Grievance against the DTAA Member.

## 5.3 Processing of Appeals

The processing of Appeals follow the procedure defined in Section 7 of the present document.

## 5.4 Applying the Complaints, Grievances and Appeals Procedures

### 5.4.1. Compliance with Complaints, Grievances and Appeals Procedures

It is the duty of the parties taking part in a Complaint, Grievance or Appeal to comply with the requirements of the Complaints, Grievances and Appeals Procedures as prescribed by DTAA in this document. Failure to comply by either party may result in discontinuation of the Complaint, Grievance or Appeal.

5.4.2. Failure by a Registered Member of the DTAA to comply with the procedure may result in one of a range of possible sanctions against the Member up to the maximum, which is cancellation of membership.

5.4.3. The DTAA will not tolerate any abusive, bullying, or discriminatory behaviours from parties to a Complaint. Such behaviour may result in the discontinuation of the Complaint process or the imposition of sanctions on the DTAA Member.

## 5.5 Considering a Complaint or Grievance

5.5.1. The DTAA will only consider a Complaint or Grievance if:

- a. the Member was a registered DTAA Member (Associate, Provisional Professional, Professional or Clinical Member) at the time of provided services complained about;
- b. where there is alleged evidence of unethical conduct that may breach the DTAA's Code of Ethics and Standards of Professional Conduct at the time of the events;
- c. where the events occurred within the past five years; and
- d. where the accused Member is a current registered Member at the time of lodging the Complaint or Grievance

See 5.9 below for exclusions.

5.5.2. Complaints or Grievances may be made by:

- a. someone who received a therapeutic service from a DTAA Member;
- b. a parent or legal guardian representing a child where the child has received a therapeutic service from a DTAA Member; or
- c. the representative of an adult who has received a therapeutic service from a DTAA Member.

5.5.3. Complaints or Grievances may be about:

- a. unsatisfactory professional conduct;
- b. serious professional misconduct; or
- c. bringing the Profession into Disrepute.

See details below under section 5.8.

## **5.6 Complaints or Grievances against lapsed Members and those taking leave of absence**

5.6.1. Resigning from the DTAA membership or registration, or taking leave of absence, does not affect the obligation on a registered Member to participate in a Complaint, Grievance or Appeal or to abide by any sanctions imposed because of a Complaint, Grievance or Appeal.

5.6.2. Once a Complaint, Grievance or Appeal process has commenced, the following acts will not terminate or invalidate the processing and/or consideration of the matter by DTAA:

- a. Resigning from DTAA membership or registration;
- b. Failing to renew DTAA membership or registration;
- c. Taking leave of absence.

5.6.3. If a registered Member fails to participate or withdraws from the process, the Grievances Committee will determine the result and send the findings to the Person who has lodged the Grievance and the DTAA Member. The records will note the lack of engagement by the Member and the findings (including sanctions, if relevant) will need to be satisfactorily complied with for successful re-application for DTAA membership or DTAA registration in the future.

5.6.4. When a registered Member cannot be contacted despite reasonable efforts by the DTAA Office to locate them using email, internet searches, phone and ordinary mail, the Complaint or Grievance cannot proceed.

## **5.7 Investigations Initiated by the DTAA Ethics Committee**

5.7.1. An investigation may be initiated by the DTAA Ethics Committee in the absence of a Complaint in the following circumstances:

- a. A report is received by DTAA of a Reportable Breach by a DTAA registered Member; and
- b. The Ethics Committee forms a reasonable belief that the registered Member has behaved in a way that constitutes a Reportable Breach.

5.7.2. In such a case, the Ethics Committee would consider the seriousness of the breach and, accordingly, either:

- a. undertake an initial short investigation conducted by two members of the Ethics Committee gathering and considering all available evidence and making determination; or
- b. conduct a full investigation in the same way as if a Grievance had been made about the alleged misconduct with a Grievances Committee being formed to consider the allegations.

Sanctions may be applied in the same way that sanctions can be applied in response to Complaints.

## **5.8 Forms of Ethical Misconduct**

5.8.1. There are three types of ethical misconduct that can be identified in a decision made about a Complaint, Grievance or Appeal that is under consideration by DTAA:

- a. Unsatisfactory Professional Conduct;
- b. Serious Professional Misconduct; and

c. Bringing the Profession into Disrepute.

5.8.2. Unsatisfactory Professional Misconduct

Professional Conduct is defined as acting in accord with the written and unwritten guidance of the profession, as guided by the expectations of a peer group of the DTAA Member.

A finding of Unsatisfactory Professional Conduct signifies that the Member has not acted in accord with the ethical and behavioural standards that can reasonably be expected of Members of the Dance Movement Therapy profession.

A finding of Unsatisfactory Professional Conduct may occur in circumstances where there was a breach of the DTAA Code of Ethics and Standards of Professional Conduct that did not cause serious harm.

5.8.3. Serious Professional Misconduct

A finding of Serious Professional Misconduct signifies that the service(s) for which the DTAA registered Member is responsible has/have fallen below the standards that would reasonably be expected of a Member exercising reasonable care and skill.

A finding of Serious Professional Misconduct is appropriate if the misconduct is of sufficient seriousness or caused such serious harm to merit suspension of a registered Member for a period and/or the withdrawal of DTAA membership or registration.

5.8.4. Bringing the Profession into Disrepute

A finding of Bringing the Profession into Disrepute signifies that the DTAA Member has acted in such a dishonourable or disgraceful way the public's trust in Dance Movement Therapy might reasonably be undermined.

A finding under this heading must amount to dishonourable or disgraceful professional conduct that had some connection with a professional role in Dance Movement Therapy. It ought not to be concerned with matters that can reasonably be viewed as solely personal and private.

A finding of Bringing the Profession into Disrepute will result in permanent withdrawal of the membership or registration of the person against whom the Grievance was made, in addition to any other sanctions considered appropriate to the circumstances.

**5.9 Exclusions to the Complaints, Grievances and Appeals Procedures**

5.9.1. Complaints or Grievances before other Complaints Bodies

DTAA will not proceed or investigate matters that are already before a Health Care Complaints Entity or before any other association in any State or Territory. This is considered a duplication of the Complaints process.

5.9.2. Complaints or Grievances about non-registered DTAA Members at the time of the events

DTAA will not consider complaints to non-registered DTAA Members at the time of the events. Pursuant to clause 5.9.7., DTAA may refer the Complainant or the person who has a Grievance to the relevant Health Care Complaints entity.

5.9.3. Matters of a Legal Nature

DTAA will not hear Complaints or Grievances that are currently before a legal body.



If either party decides to employ legal representation, the Grievances Committee may decide to terminate the Complaint or Grievance procedure and may hand over all the relevant information to the Health Care Complaints entity.

#### 5.9.4. Fee Disputes

Fees are a commercial matter. In the event of a fee dispute you may wish to use mediation which is conducted on a commercial basis and must be agreed to by each party. The DTAA is unable to appoint a mediator. The DTAA has no power to enforce any agreement between parties in mediation.

#### 5.9.5. Complaints heard under the jurisdiction of the Family Law Act

The DTAA will not hear Complaints or Grievances where the DTAA registered Member is a Family Dispute Resolution Practitioner as defined by the Family Law Act 1975 (Cth) and where such Complaint or Grievance relates to their work in this role.

#### 5.9.6. Vexatious or Frivolous Complaints

If the Grievances Committee deems that a Complaint or Grievance is vexatious or frivolous - i.e., made to cause annoyance and with no serious purpose or value, the Complaint or Grievance will not proceed and the Grievances Committee will inform the Complainant or the person who has a Grievance and the Member in writing of its decision.

#### 5.9.7. Referral of Complaints or Grievances to other Bodies

In some cases, DTAA may refer matters to the relevant Health Care Complaints Entity or other relevant professional body. This may occur under the following circumstances:

- the person complained about is not, or is no longer a DTAA registered Member;
- the Complaint or Grievance is of a serious nature and the registered Member has had a previous Complaint or Grievance upheld by a Health Care Complaints Entity;
- the Complaint or Grievance is of a serious nature and is of such significant complexity that DTAA would not have the resources or expertise to hear the Complaint or Grievance; or
- criminal proceedings are underway in relation to the Complaint or Grievance.

#### 5.9.8. Complaints against DTAA or its Committees

Complaints against DTAA or its Committees are not considered under these procedures.

For such a complaint, refer to the relevant DTAA policies and procedures - the DTAA Code of Ethics and Standards of Professional Conduct for the Dance Movement Therapy Association of Australasia, Inc.

## 6. Complaints and Grievances Procedures

### 6.1 Setting up an adhoc Grievances Committee

6.1.1 The Convener of the Ethics Committee will set up an adhoc Grievances Committee for the purpose of investigating alleged Complaints or Grievances.

6.1.2. The Grievances Committee shall comprise:

- a. the Convener of the Ethics Committee;
- b. one other Member from the Ethics Committee with at least five-year clinical experience;
- c. a third Member who is a registered dance movement therapist who may be experienced in handling such situations;
- d. any other Member that the Convener agrees to appoint in response to a request from the Ethics Committee; and
- e. at the discretion of the Convener, any legal practitioner.

6.1.3. One of the above persons will be appointed as Convener of the Grievances Committee by the Convener of the Ethics Committee to overview the processes and matters.

6.1.4. One of the above persons will be appointed as Grievance Delegate by the Grievances Committee. The Grievance Delegate represents the committee to communicate with the Complainant, Respondent, the Board, and other parties.

6.1.5. If a member of the Grievances Committee is either the Complainant or the accused Member, it will be considered as a conflict of interest. In this case, such Member cannot be part of the Grievances Committee. Such Member shall be excused from the investigation and/or any proceedings or decisions on the case.

6.1.6. The role of the Grievances Committee is to investigate the facts and all available evidence, collect favourable and unfavourable to both parties and prepare a report including recommendations.

6.1.7. The report must be completed within six weeks from the time the Complaint or Grievance was lodged unless any other extenuating circumstances may arise. In such a case, the President of the DTAA will grant approval of extension of the submission of the report.

## **6.2 Complaints Procedures**

### **6.2.1. Filing a Complaint**

For the DTAA to consider a complaint, the complainant must:

- a. contact the DTAA Ethics Committee to lodge the complaint;
- b. submit the complaint in writing via the Complaint Form (see Additional Document E: Supplemental 1) Anonymous or oral complaints will not be recognized as a basis for action or investigation.
- c. date and sign the complaint.

### **6.2.2 Receipt of a Complaint**

The Convener of the Grievances Committee acknowledges receipt of the Complaint Form in writing within five (5) working days and will submit it to the Grievances Committee.

If the accused person was a registered Member at the time of the alleged violation, the Grievances Committee shall inform the Complainant that the accused person is a Member which then precipitates the Association into the next step of the complaints process.

The DTAA Grievances Committee determines, within ten (10) working days of the date of receipt if it is appropriate for DTAA to consider the matter. The Complainant will be informed of the determined outcome.

There are four possible outcomes:

1. The matter will not proceed as it is determined that it is not appropriate for DTAA to consider the matter;
2. The matter will not proceed as it is determined that there is no alleged breach of the DTAA Code of Ethics and Standards of Professional Conduct that can be identified;
3. The matter will proceed as it is determined it is appropriate for DTAA to consider the Complaint; or

4. The matter will proceed as it is determined to be of a serious enough nature to proceed immediately to a Grievance.

#### 6.2.3. Determination to proceed with a Complaint

If it is deemed appropriate for DTAA to proceed with the Complaint, the Grievances Committee determines which option is the most appropriate to address and seek resolution of the Complaint.

The two options in place to address and seek resolution of a Complaint are:

- A Letter of Advice; or
- Alternative Dispute Resolution (ADR).

In exceptional cases, it may be deemed appropriate to proceed with a formal Grievance.

If a Letter of Advice is deemed appropriate, the Complainant will be informed of this. If Alternative Dispute Resolution process is deemed appropriate, the Complainant will be asked if they are willing to participate in such a process.

If the Grievances Committee deems it appropriate for the Complainant to proceed with lodging a formal Grievance, the Grievance Delegate will inform the Complainant of the decision and the action to be taken.

#### 6.2.4. Letter of Advice

- a. A Letter of Advice is a process for seeking resolution of a Complaint if there appears to have been a minor or technical breach of professional standards. The breach will generally have had no significant impact and there must be a low likelihood of repetition. It is not a formal disciplinary action. A Letter of Advice provides, in appropriate cases, an alternative to Alternative Dispute Resolution or to a Grievance process.
- b. If the Grievances Committee has determined based on the information provided by the Complainant, that the DTAA Member may have failed to meet DTAA's Professional Standards and that a Letter of Advice is the appropriate action to address the matter, the DTAA Member is informed of this by the Grievances Committee in a Letter of Advice. The Letter of Advice will also indicate the nature of the alleged professional standards breaches and the actions recommended by the Grievances Committee to address the matter.
- c. The Letter of Advice is sent to the DTAA Member only. The DTAA Member is requested within ten (10) working days to acknowledge receipt of the Letter of Advice. The DTAA Member is given the opportunity to reply to the Grievances Committee within ten (10) working days.
- d. If the DTAA Member agrees to the Letter of Advice and to the recommendations made, the matter is closed.
- e. If no agreement can be reached, the Grievances Committee may suggest the matter be presented for ADR. In some cases, lodging a formal Grievance may be the better option. The decision to formally lodge a Grievance is left to the Complainant.
- f. The Letter of Advice, as well as the DTAA Member's response (if applicable), will be kept on the Member's file and will be considered if any similar Complaints or Grievances are received by DTAA relating to that time.

#### 6.2.5. Alternative Dispute Resolution (ADR)

- a. Alternative Dispute Resolution is a second process for seeking resolution of a Complaint. ADR, in the context of a Complaint made to DTAA, is a non-legal process, like mediation. It is facilitated by a DTAA Professional Member appointed by the DTAA Board who acts an Intermediary in the process and who has mediation skills. ADR considers all aspects of the Code of Ethics and Standards of Professional Conduct.
- b. If ADR is the chosen process and if the matter is resolved, this is stated in writing and signed by the Complainant, the DTAA Member and the Intermediary. There will be no further action taken and the Complaint does not proceed to the formal lodging of a Grievance.
- c. If the matter is not resolved by ADR, and the Complainant wishes to proceed, they will be required to formally lodge a Grievance.

6.2.6. The step-by-step processes of Complaints including Letter of Advice and Alternative Dispute Resolution are described at the Supplementary Document III.

### 6.3 Grievance Procedures

#### 6.3.1. Lodging a Grievance

To lodge a Grievance:

- a. the person who has a Grievance must, in the first instance, contact the DTAA Ethics Committee. The filing of a Grievance must also be made on the official DTAA Grievance Form (Supplemental Document 2) . This Form requires details of the person who has a Grievance, details of the DTAA Member, and the conduct that is the object of the Grievance according to the Code of Ethics and Standards of Professional Conduct in operation at the time of the event(s); and
- b. the Grievance Form must be completed, dated and signed by the person who has a Grievance and sent to the DTAA Office.

A Grievance not satisfying the above requirements will not be accepted or processed by the DTAA.

#### 6.3.2. Receipt of a Grievance

- a. The DTAA Grievance Delegate acknowledges receipt of the Grievance in writing within five (5) working days.
- b. The Grievances Committee will determine, within ten (10) working days if it is appropriate for DTAA to proceed with the Grievance. The Person who had lodged a Grievance will be informed of the Grievances Committee's decision.

There are three possible outcomes once a Grievance is received:

1. The matter will not proceed as it is determined that it is not appropriate for DTAA to consider the matter;
2. The matter will not proceed as it is determined that there is no alleged breach of the DTAA Code of Ethics and Standards of Professional Conduct that can be identified; or
3. The matter will proceed as it is determined that it is appropriate for DTAA to consider the Grievance.

### 6.4 Processing a Grievance

6.4.1. Grievances are heard by the Grievances Committee.

6.4.2. The Grievances Committee will hear a specific Grievance.

6.4.3. It may be feasible to co-opt a person with specialized expertise on to the panel for a particular situation – the Grievances Committee may seek this external expertise in consultation with the Convenor of the Grievances Committee, who retains the option of declining.

6.4.4. The DTAA Grievances Committee member who is participating in this process will not participate in DTAA Ethics Committee meetings or electronic communication whenever this Grievance is discussed.

6.4.5. Grievances Committee members are required to declare any conflicts of interest they may become aware of once they have been issued with the name of the person who has lodged a Grievance and the name of the DTAA Member.

6.4.6. Grievances Committee members are required to consider any factors that may influence their ability, or be seen to influence their ability, to be impartial. All committee members will receive a conflict of interest declaration that they will be asked to sign and return to the DTAA Grievance Delegate before the Grievances Committee can convene.

6.4.7. To hear the Grievance, the Grievances Committee will convene, via teleconference, web conference or in person, and consider all the documentation regarding the Grievance provided to DTAA by all parties concerned. The Grievances Committee may request clarification from the person who has lodged a Grievance and/or the DTAA Member. This request may include interviews with the parties involved or additional written documentation.

6.4.8. The Grievances Process is described in the Supplemental Documents (V).

## **6.5 Outcomes and Reporting**

6.5.1. After hearing of the Grievance and investigation by the Grievances Committee, the Grievances Committee must issue its decision.

6.5.2. The Convenor of the Grievances Committee is responsible for preparing the Report for the Grievances Committee within thirty (30) working days of receiving the report of the investigation. The Report must consist of a Findings Report and a Grievances Committee Report.

6.5.3. The Findings Report is a succinct report which includes:

- a. The findings of the Grievances Committee in terms of the Grievance, namely:
  - Confirmation, or not, that there are grounds for a Grievance;
  - If applicable, any ethical misconduct identified by the Grievances Committee as well as any provisions of the Code of Ethics and Standards of Professional Conduct that the Grievances Committee finds have been breached, not limited to those provisions identified by the Complainant in the Grievance Form;
- b. the recommendations to the Grievances Committee in terms of any sanctions that may be applied

6.5.4. The Committee will write recommendations to the Complainant, the Respondent or any other involved person and include any supporting documents.

6.5.5. The Findings Report will be sent to both parties after having been endorsed by the Grievances Committee.

6.5.6. The Findings Report is confidential and will be kept securely by the DTAA Office together with all relevant documentation in accordance with the record keeping requirements.

6.5.7. The Grievances Committee Report is intended to inform the DTAA Grievances Committee when examining the Grievances Committee findings and recommendations. It is confidential and includes:

- details of supporting documents examined by the Grievances Committee;
- a description of the process followed by the Grievances Committee;
- the findings of the Grievances Committee; and
- the recommendations for the Grievances Committee.

6.5.8. The Grievances Committee Report is confidential and will be kept securely by the DTAA Office together with all relevant documentation in accordance with the record keeping requirements.

## **6.6 Sanctions**

### **6.6.1. Imposition of Sanctions**

After one or more violations of the Code of Ethics and Standards of Professional Conduct by the Member involved in the Grievance process are found, the Grievances Committee may recommend one or more of the following sanctions to the Board:

- a. Undertaking specified supervision, professional development or additional training as explicitly defined in the Findings Report;
- b. Suspension of membership of the Association for a specific period agreed to by the Board;
- c. Termination of membership of the Association for a specified period of time;
- d. Removal of the Member from any held office in the Association;
- e. Rescinding the Member's registration; and/or
- f. any other action which the Grievances Committee deems appropriate.

6.6.2. If the Grievances Committee determines that no sanctions be taken against the alleged Member:

- a. The Convener of the Grievances Committee issues a written reprimand to the Respondent in relation to the Complaint;
- b. The Committee may request implementation of the Code of Ethics and Standards of Professional Conduct;
- c. The Committee may request the Respondent develop appropriate practices; and/or
- d. The Committee may request any other appropriate course of action such as the issue of an apology to the Complainant.

6.6.3. If the decision is that the membership be rescinded, the President of the DTAA will take this matter to the Board.

6.6.4. If the Board agrees that the membership be rescinded, this needs to be communicated diplomatically by the Grievance Delegate to the Complainant, the Respondent and any other person involved.

### **6.6.5. Lifting of Sanctions**

- a. The DTAA President will monitor implementation of sanctions imposed on DTAA Member(s) and keep the Ethics Committee informed.

- b. Member(s) against whom sanctions are imposed are required to provide the Grievances Committee with the evidence that the sanctions have been fulfilled within the required timeline.
- c. The Grievances Committee will inform the DTAA Member when appropriate that it is satisfied that the sanctions have been fulfilled and the case is closed.

#### 6.6.6. Non-Compliance of Sanctions

- a. If the sanctions are not fulfilled within the required timeline without valid explanation, the Grievances Committee will take further action. This may include suspension of membership until a valid explanation is provided or the sanctions are fulfilled, or de-registration.
- b. Refusal to comply with the sanctions may result in the DTAA Member being removed from the DTAA register and/or their permanent disqualification from DTAA membership or registration.

The DTAA Member subject to the sanctions will be notified of any such decision in writing.

## 7. Appeals Procedures

### 7.1 Request for an Appeal

Either the Complainant or Respondent can in writing appeal against the Grievances Committee's Findings Report, as endorsed by the Grievances Committee.

The Appeal must:

- be in writing and be made on the official DTAA Appeal Form ([Supplemental Document 3](#));
- be submitted to the President of the DTAA within twenty-eight (28) days of the date of receiving the Findings Report;
- be dated, signed, and sent to the Convenor of the Grievances Committee who confirms receipt of the Appeal Form within five (5) working days; and
- must include the grounds under which the Appeal is being made (see below 7.2.1.).

### 7.2 The Grounds under which an Appeal will be considered

7.2.1 An Appeal will only be considered by the DTAA if one or both of the following apply:

- a. There are new facts or /and evidence that warrants consideration of an Appeal that was not available at the time of the Complaint being heard by the Grievances Committee;
- b. There has been an inappropriate procedure that has caused the Grievances Committee to make findings and/or recommendations adversely to the rights and legitimate interest of the person appealing ('Appellant') that it would not have made were it not for the inappropriate procedure;
- c. The imposed sanctions may not seem to be appropriate.

7.2.2. Appeals that do not satisfy one or both of those conditions will not be accepted or addressed under these procedures.

7.2.3. The DTAA will not hear Appeals relating to a matter that is currently before:

- a legal body such as a Court of law;
- a statutory body such as a Health Care Complaints Entity; or
- another professional association.

7.2.4. If either party decides to employ legal representation, the DTAA has the right to terminate the Appeal procedure and hand the case to the relevant Health Care Complaints Entity.

### **7.3. Assessing the Appeal**

7.3.1. Notice of the Appeal is submitted to the Ethics Committee who appoints an Independent Person from the DTAA, within ten (10) working days of receiving the Appeal, to decide whether it is suitable that the Appeal proceeds through the DTAA Appeal Procedure. The Independent Person must have had no previous involvement in the complaint under Appeal.

7.3.2. If the Appeal is lodged pursuant to clause (7.2.1.a) the Independent Person must determine whether the Appeal lodged by the Appellant:

- a. discloses new evidence relevant to the original complaint that was not be included or was not available to the parties at or before the time the Grievances Committee made its findings or recommendations;
- b. discloses that the Appellant can provide that evidence for the conduct of an Appeal; and
- c. that the new evidence offers a reasonable basis for the decision of the Grievances Committee to be reviewed.

7.3.3. If the Appeal is lodged pursuant to clause (7.2.1.b) the Independent Person must determine whether the Appeal lodged by the Appellant:

- a. discloses that the Appellant has a right or legitimate interest that has been adversely affected by the Grievances Committee;
- b. discloses a valid reason that the decision of the Grievances Committee was affected by an inappropriate procedure; or
- c. explains why the inappropriate procedure caused the Grievances Committee to make an error in its findings or recommendations.

7.3.4. If the Independent Person determines that each of the requirements of either 7.3.2. or 7.3.3. have not been satisfied, the Appellant will be formally notified of this outcome in writing. This decision is final and cannot be further appealed.

7.3.5. If the Independent Person determines that each of the requirements of either 7.3.2. or 7.3.3. have been satisfied, the Appeal is allowed to proceed. The Appellant (and the DTAA Member, if the DTAA Member is not the Appellant) will be formally notified in writing that the Appeal is proceeding and:

- a. if the Appeal is lodged pursuant to clause 7.2.1.a the Independent Person will notify the Member (if the Appellant is the Person who lodged the Complaint) or the Person who lodged the Complaint (if the Appellant is the DTAA ) what the new evidence is; or
- b. if the Appeal is lodged pursuant to clause 7.2.1.b the Independent Person will notify the Person who lodged the Complaint (if the Appellant is the DTAA Member) that the decision is under review or the DTAA Member (if the Person who lodged the Complaint is the Appellant) of the matters in clause 7.3.3. and in either case will notify the Grievances Committee of the matters in clause 7.3.3.

7.3.6. If an Appeal under clause 7.2.1.b is lodged by the DTAA Member, the Grievances Committee will be the Respondent to the Appeal. If it is lodged by the Person who lodged the Complaint, the Grievances Committee and the DTAA Member will be the Respondents.

7.3.7. The Respondent(s) will be given the opportunity to respond to the specified Appeal grounds in writing within fifteen (15) working days.



#### **7.4 Hearing of the Appeal**

7.4.1 On receipt of the Appeal, the Independent Person is to form the Appeals Committee which will comprise of two Professional Members in addition to the Independent Person and one of them will chair the Appeals Committee. The Appeals Committee is solely formed for the purpose of hearing a specific Appeal and is administratively assisted by a Grievances Committee Member. The Independent Person is not a part of the Appeals Committee.

7.4.2 Appeals Committee Members are required to declare any conflicts of interest once they have been issued with the name of the Appellant and of the Respondent who is the subject of the Appeal. Appeals Committee Members are required to consider any factors that may influence their ability, or be seen to influence their ability, to be impartial. All Appeals Committee Members will receive a conflict of interest declaration and will be asked to sign and return these forms to the Grievances Committee prior to the Appeal being heard.

7.4.3 All Appeals documentation is supplied to the Appeals Committee via email with instructions to produce a Report within twenty (20) working days.

7.4.4 The Appeals Committee will convene, via teleconference, video link or in person, and consider all the information provided to hear the Appeal. The Appeals Committee may request clarification from the Appellant or the Respondent who is the subject of the Appeal.

#### **7.5 Appeals Outcomes and Actions**

7.5.1. There are two possible outcomes to an Appeal:

- a. The Appeal is dismissed because one or both of the grounds for Appeal have not been met; or
- b. The Appeal is upheld because one or both of the grounds for Appeal have been met.

7.5.2. Where the Appeal is dismissed, the original decision is confirmed.

7.5.3 Where the Appeal is upheld, the following actions may be taken by the Appeals Committee:

- a. The original decision may be amended to reflect the Appeal findings;
- b. Sanctions may be applied; and
- c. In exceptional circumstances, a new hearing may be ordered.

7.5.4 If the Appeals Committee cannot reach agreement as to their decision:

- a. The Convenor of the Grievances Committee will be notified confidentially by the Appeals Committee that there is a deadlock;
- b. the Appeals Committee will provide the Convenor of the Grievances Committee with all material and submissions from both parties and reasons for the lack of agreement from each Appeals Committee member; and
- c. the Convenor of the Grievances Committee will then determine the outcome of the Appeal.

#### **7.6 Communicating the Appeal Decision**

7.6.1. The decision of the Appeals Committee is described in an Appeals Committee Report to the Independent Person. This includes supporting documents and detailed background to the Appeals Procedure.

7.6.2. The Appeals Committee Report includes a Findings Report which summarizes the decisions of the Appeals Committee. Once approved by the Independent Person, the report will be sent to the Appellant and the Respondent who is the subject of the Appeal.

7.6.3. Within ten (10) working days, the Independent Person will either:

- a. approve the reports and recommendations or
- b. disapprove the reports and recommendations and provide reasons.

7.6.4. If disapproved, the Appeals Committee may be requested by the Independent Person to re-draft the report within ten (10) working days, with input from the Independent Person.

7.6.5. Once the reports are approved by the Independent Person, the decision will be communicated to both parties and the Convener of the Grievances Committee. The decision is final and further cannot be appealed.

7.6.6. The Appeals Committee Report is sent by email by the Grievance Delegate to the Appellant and Respondent who is the subject of the Appeal with a request for confirmation of receipt.

7.6.7. The Appeals Committee Report together with all documentation will be kept by DTAA in a confidential file in accordance with the record keeping requirements in Section 8.2.2.

7.6.8. The DTAA Grievance Delegate will monitor the compliance of recommendations with the report and report all outcomes and processes to the Convener of the Grievances Committee.

## **8. Records of Complaints, Grievances and Appeals**

### **8.1 Costs incurred by parties to Complaints, Grievances, or Appeals**

DTAA is not responsible for travel or any other expenses incurred by a Complainant, Person who has lodged a Grievance, Appellant, DTAA Member, or any other representative. In addition, DTAA has no capacity to order one party in a Complaint, Grievance or Appeal to pay another party's costs.

### **8.2 Records of Complaints, Grievances and Appeals**

8.2.1. Records of Complaints, Grievances and Appeals are confidential and will be filed confidentially and securely by the DTAA Administrator.

8.2.2 Access to records of Complaints, Grievances and Appeals is only given to those investigating or processing a Complaint, Grievance, or Appeal, to the extent reasonably necessary to pursue a thorough investigation.

8.2.3. Records of Complaints, Grievances and Appeals may be relied on by DTAA for at least:

- a. In the case of records concerning Unsatisfactory Professional Conduct, for a period of three (3) years following the final resolution of the Complaint, Grievance or Appeal;
- b. In the case of records concerning Professional Misconduct, for a period of seven (7) years following the final resolution of the Complaint, Grievance or Appeal; and
- c. In the case of records concerning Bringing the Profession into Disrepute, permanently.

### **8.3 The Ethics Committee's Obligations**

The Ethics Committee may inform government authorities and other professional organizations of any disciplinary action taken against a Member for breaching the Code of Ethics and Standards of Professional Conduct.

## **9. Review of Complaints, Grievances and Appeals**

The Complaints, Grievances and Appeals Procedure shall be reviewed by the Ethics Committee every three years as defined in the DTAA bylaws. In changing the Complaints, Grievances and Appeals Procedure, the Ethics Committee discusses the details and takes these to the Board to update the document.

## **10. Acknowledgements**

In writing this Complaints, Grievances and Appeals Procedure, the DTAA has referred to the Psychotherapy and Counselling Federation of Australia's (PACFA) Complaints Procedure. As a Member Association of PACFA, DTAA has permission to use its documents to shape our own.

## **11. Correspondence**

Correspondence should be forwarded to the Convenor, DTAA Code of Ethics Committee via email, at [vicepresident@dtaa.org.au](mailto:vicepresident@dtaa.org.au).