



INDIGENOUS
ART CODE

Complaints Handling Policy

IartC Dealer Complaints, Disputes and Concerns Policy

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1. Purpose

This document outlines the Indigenous Art Code Limited's (IartC) policies regarding:

- a) A formal complaint against an IartC Dealer Member
See handling policy Section 5
- b) A dispute against an IartC Dealer member
See handling policy Section 6
- c) Concerns relating to a Non-IartC member or IartC Dealer Member
See referral and advice at Section 7

2. Scope

In respect to IartC members (see Section 5 and 6), the policy puts into effect provisions outlined in the Indigenous Art Code (the Code) and the Constitution of the Indigenous Art Code Limited (the Constitution) and references them accordingly. It should be read in conjunction with the Code, the Constitution and IartC Membership Policy.

In respect to additional matters, not explicitly covered in the Code or Constitution, this policy provides clarity regarding what can and cannot be undertaken by IartC as it is beyond their present remit and level of resourcing.

The IartC cannot and will not provide legal advice. All Artists requiring legal advice will be referred to the Arts Law Centre of Australia.

3. Definitions

Agent	A person or organisation who sells Artwork for or on behalf of an Artist in return for a commission.
Agreement	A written or verbal agreement between a Dealer Member and an Artist for the supply or acquisition of Artwork.
Artist	An artist, whether living or deceased, of Aboriginal and/or Torres Strait Islander descent who identifies, or who, prior to their death, identified, as Aboriginal and/or Torres Strait Islander, and is, or, prior to their death was, recognised as such by members of the community with which the artist identifies or identified.

Artist representative	A person who is authorised by the Artist to speak or act for the Artist, but does not include an Agent.
Artwork	A work of visual art or craft produced by an Artist, whether or not incorporated into another work of visual art or craft produced by that Artist or another person, including but not limited to painting, drawing, artists' books, woodwork, ceramics, glass, jewellery, sculpture, fibre work, printmaking, photography, installation, video and multimedia.
(the) Code	The Indigenous Art Code.
Complaint	Under this policy, a complaint relates to a serious and formal matter (see section 5.2 below) raised with IartC against a Dealer Member and therefore covered under the Code. All other matters are referred to as disputes or concerns as defined below.
Complaint Handling Procedures	Procedures determined from time to time by the Directors for handling complaints arising under the Code, which are to be available to Dealer Members upon a request in writing to the Company.
Complainant	The individual or individuals who raises a complaint, dispute or concern regarding a Dealer with the IartC.
Concern	Under this policy, a concern refers to matters that are <u>not</u> complaints nor disputes against a Dealer Member, though the complainant may be able to be assisted through IartC providing relevant information, verbal advice or making a referral.
(the) Constitution	Constitution of the Indigenous Art Code Limited.
Dealer	An Agent or other person or organisation who acquires Artwork, or who carries on a business involving the acquisition of Artwork, for re-supply by means of sale or other distribution.
Dealer Member	A Dealer who is a member of the Company and a signatory to the Code.

Dispute	Under this policy, a dispute refers to a concern, a difference of opinion or argument raised with IartC related to: a) a Dealer Member prior to a formal complaint being raised b) a dealer, organisations or individual that are not IartC members and therefore fall outside the remit of the IartC, under normal circumstances.
IartC	The Indigenous Art Code Limited (<i>also referred to as “the Company” in the Constitution and Code</i>).
IartC staff	A person who works for the Indigenous Art Code Limited.
Member	A person admitted to the membership of the Company in accordance with the provisions of the Constitution.

4. Principles

This policy will be implemented consistent with the principles outlined in the IartC Membership Policy, with a supplementary principle added to protect the privacy and confidentiality of the complainant and the person who is the subject of the complaint:

Aligned	This policy derives from the Code and Constitution. All content following is aligned to these two critical documents.
Compliant	This policy is compliant with privacy laws and other legislation, plus IartC legal responsibilities.
Open	This policy, and key supporting documentation, will be public. IartC will provide complainants and those complained against with clear and timely information around decisions.
Confidential	This policy, and associated procedures, will ensure all specific details related to a complaint, including the name and details of the complainant and the person complained against, will be reviewed in confidence. No information will be shared with third parties, unless required to by law.

Transparent	The policy will be administered and applied using clear, transparent and consistent processes.
Efficient	The policy will be administered as efficiently as possible within IartC's current resources.

5. IartC Dealer Member Complaints

5.1 Policy requirements

This section only applies to IartC Dealer Members. It is activated when someone (whether or not they are a member of the IartC) raises a serious matter, or makes a formal complaint to the IartC, against a Dealer Member that relates to a potential breach of any aspect of the Code.

5.2 Lodging a complaint

To be considered a serious matter or formal complaint, and therefore subject to investigation under this Policy:

- a) the complainant must have first brought the matter directly to the attention of the Dealer Member (unless deemed impossible or inappropriate), and:
 - i. made a serious attempt to resolve the matter directly and/or
 - ii. the outcome of the attempt to resolve the matter with the Dealer Member is considered unsatisfactory and deemed unacceptable under the Code.
- b) the substance of the complaint must:
 - i. directly relate to a breach of one or more sections of the Code
 - ii. be supported by some evidence, or details, to allow the complaint to be investigated. (Hearsay or second or third-hand matters are unlikely to meet this requirement).
- c) the complainant must consider the matter a serious breach of the Code and that it warrants formal IartC investigation under this policy.

- d) the complaint must be in writing, either:
 - i. prepared and submitted directly by the complainant
 - ii. documented by lartC staff, should the complainant:
 - a. not be willing or able to forward a written complaint themselves
 - b. agree to the information provided be recorded for the purposes of documenting a formal complaint.
- e) the complainant must be willing for the lartC to disclose necessary details of the complaint to the Dealer Member who is the subject of the complaint.

5.3 Investigating a Complaint

Once a complaint is lodged (see requirements above) lartC will conduct or commission a review of the complaint in so far as they relate to provisions in the Code (Code s. 7.2 (b)).

The review will be conducted in accordance with the Complaints and Disputes Handling Procedures, the Code and the Constitution (Code s.7). This may require lartC to request more information be provided to allow the complaint to be appropriately investigated. These requests could be asked of either or both:

- a) the complainant to substantiate the claims and/or provide more specific details
- b) the Dealer Member to clarify the circumstances and provide information about how the matter had been handled to date.

5.4 Determining the Complaint

If, after following the complaints handling procedures and reviewing the evidence, the lartC determines the Dealer Member has not complied with the Code, one of three outcomes can result:

- a) **impose conditions** on the Dealer Member, and request actions that may include, though not be limited to, one or more of the following:
 - i. apologising and remedying the complaint through measures such as remunerating the complainant or providing other remedies that redress the breach in the Code
 - ii. promptly implementing good practice measures to ensure there will be no repetition of the matter concerning the complaint (for example, putting in place a clear written agreement that clarifies the matter)

- iii. producing other evidence of improvement in policies and practices to align with the Code and in turn to prevent subsequent complaints from other individuals.

and/or

- b) **suspend** the Dealer Member as a signatory to the Code for a defined period of time (in which case, the Dealer Member's rights and privileges of membership of the Company will also be suspended in accordance with the Constitution), in some instances the suspension only lifting if conditions (as outlined at a above) are met

and/or

- c) **remove** the Dealer Member as a signatory to the Code (in which case, the Dealer Member will also cease to be a member of the Company in accordance with the Constitution) (Code s.7.2 (a)).

The Dealer Member will be notified in writing of the IartC decision and provided with information related to making an appeal.

6. Dealer Member Dispute Handling

For matters raised against Dealer Members that are either outside of the Code, and/or do not meet the criteria for a formal complaint as defined at Section 5.2, the following disputes handling policy applies.

6.1 Raising a Dispute

To instigate a dispute under this policy a person may contact the IartC, verbally or in writing:

- a) with an issue regarding the actions of a specific Dealer Member
- b) to seek advice on options to resolve an issue with a Dealer Member, that is not considered to be a formal complaint.

As appropriate, and based on available information, IartC staff will aim to resolve the dispute, by either/or:

- a) providing verbal advice about options to resolve the dispute directly with the Dealer Member

- b) forwarding relevant IartC information, fact sheets or referral information that could assist
- c) referring the complainant to other organisations that may have coverage of the matter if outside the Code and not directly related to a Code complaint as documented at Section 5 above.
- d) providing low-level mediation between the complainant and Dealer Member in an attempt to resolve the dispute before it is considered a formal complaint.

7. Issues and Concerns Management

This section applies to issues or concerns raised with IartC:

- a) that are currently not considered a dispute or complaint (as defined above) against a Dealer Member
or
- b) relate to a non-Member Dealer and the complainant is merely seeking advice on options to resolve the manner.

7.1 Raising and handling a Concern

To raise a concern under this Policy a complainant may contact the IartC, verbally or in writing.

As appropriate, and based on available information, IartC will make best efforts to assist the complainant, where they have capacity to do so, by:

- a) providing verbal advice about options to resolve the dispute directly with the Dealer
- b) forwarding relevant IartC information, fact sheets or referral information that could assist with resolving the issue
- c) referring the complainant to other organisations that may be best placed to assist the complainant especially in cases:
 - i. not related to IartC Dealer Member
 - ii. where legal advice is needed.
- d) in some instances, assist them to escalate their complaint with the relevant external organisations (as appropriate).

8. Roles and responsibilities

The owner of this policy is the IartC Board. To implement this policy, IartC Board and IartC staff will:

- a) Ensure all complaints are within the remit of the IartC before investigating the complaint
- b) Adhere to the Complaints Handling Procedures and associated process map
- c) Create complaint files and keep accurate records of all complaints received, and ensure they are stored in a safe and secure place
- d) Protect the privacy and confidentiality of the complainant, the Dealer Member complained against and the nature of their complaint unless required to disclose under the law
- e) Maintain a de-identified register of all complaints received, recording the number, nature and response to complaints, while ensuring that strict confidentiality or privacy of any individual matter is protected
- f) Ensure the register is regularly reviewed to identify if:
 - i. any advocacy actions are required based on the complaints received
 - ii. additional advice, information or support is needed to assist Dealer Members to fully comply with the Code into the future
 - iii. the Code or Constitution needs amending to clarify the requirements of Dealer Members.

9. Related documents

To activate this policy, the IartC will also use the following documents:

<ul style="list-style-type: none"> • <i>Indigenous Art Code</i> • <i>Constitution of the Indigenous Art Code Limited</i> 	<ul style="list-style-type: none"> • <i>IartC Membership Policy</i> • <i>Register of IartC Members</i> • <i>IartC Complaint Handling Process Map</i>
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