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## MEMBER COMPLAINTS POLICY & PROCEDURE

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### JURISDICTION

1. APSO will investigate complaints against Members that arise out of an allegation of a breach of the Code of Ethics, Codes of Professional Practice or any other unprofessional conduct.
2. Fee disputes must be lodged in accordance with the APSO Fee Dispute Resolution Policy and Procedure and will be adjudicated accordingly.
3. APSO may initiate an investigation if evidence or allegations made in the public domain come to its attention.
4. APSO will not consider:
  - a. employment disputes between company members and their employees;
  - b. disputes which are already subject to an investigation by a regulatory authority;
  - c. matters that are sub-judice;
  - d. anonymous complaints.

### AJUDICATORS

5. An Ethics Committee will be elected to adjudicate and make rulings on complaints lodged.

### LODGING A COMPLAINT

6. A formal complaint must be made within six (6) months of the incident complained about.
7. The complaint must be submitted **in writing** and must contain:
  - a. The names of the agency/company/individual against whom the complaint is made;
  - b. The principles or sections of the Codes alleged to have been breached;
  - c. Any additional parties involved in this complaint;
  - d. Dates when these events occurred;
  - e. The facts about what happened in chronological order;
  - f. Supporting evidence which is clearly identified and indexed.
8. Upon receipt of a completed complaint form, APSO will assess the merits thereof.
9. If the complaint is not considered to have merit an official response, giving reasons, will be provided to the complainant.

10. If the complaint is considered to have merit APSO will inform the complainant and call on the respondent to provide a written response.
11. The respondent will have ten (10) working days to submit a written response together with substantiating evidence.
12. It is the sole responsibilities of the parties to provide all relevant information and supporting documentation by the deadline. In the event that the either party fails to provide any information by the required deadline, APSO will make a finding based on the evidence at hand.
13. Parties will have access to relevant information in order for them to formulate a proper response.
14. APSO will proceed with the adjudication once the submission deadline has closed and will provide a written ruling to both parties as soon as the Committee/Panel appointed to hear the matter has completed its deliberations.
15. Subject to their right of appeal and their right to initiate arbitration, Members must comply with rulings made by APSO.

## **RIGHT TO APPEAL**

16. A party shall be entitled to apply for an appeal of the ruling, provided it is made in writing within five (5) working days from the date of original ruling.
17. The written application for appeal must contain:
  - a. Detailed grounds upon which the appeal is based; and
  - b. Supporting evidence
18. Grounds for consideration of appeal must fall within at least one of these categories:
  - a. Severity of the sanction imposed;
  - b. Material error in facts relied upon;
  - c. Relevant new evidence raised;
  - d. Dispute as to fairness of proceedings and/or gross irregularity;
  - e. Incorrect application or interpretation of a point of law.
19. APSO will consider the written appeal and thereafter advise the appellant within a reasonable time of its decision to grant or deny same.
20. If the appeal is denied the appellant will be advised in writing with reasons for the decision.
21. If the If the appeal is found to have merit the other party (respondent) will be advised and furnished with a copy of the appeal.
22. The respondent will have 5 days to respond thereto. If the respondent does not submit any

further argument or evidence the appeal will proceed on the content of the appeal.

23. APSO will then place the matter before the Board who will appoint an Appeal Board.

24. A decision/ruling will be communicated to the affected parties as soon as the Appeal Board has completed its deliberations.

### **ARBITRATION**

25. The party that loses the appeal shall have the right to initiate outside arbitration. This must be done in writing by the appellant no later than ten (10) working days from the date of the ruling handed down by the Appeal Board. The South African Institute of Arbitrators will be asked to propose an arbitrator. All costs relating to this arbitration procedure shall be borne by the appellant, unless otherwise ordered by the arbitrator.

26. As a quicker and more affordable alternative to formal arbitration the party that loses the appeal shall have the right to initiate expedited private arbitration by requesting APSO to refer the matter to a recognised Dispute Resolution organisation no later than ten (10) working days from the date of the ruling handed down by the Appeal Board. The dispute resolution organisation will appoint a commercial arbitrator. The arbitrator will consider the matter on written submissions from the parties. The arbitrator's decision will be final and binding on the parties. All costs relating to this arbitration procedure shall be borne by the appellant, unless ordered otherwise by the arbitrator

### **SANCTIONS**

27. If the Ethics Committee determines that a complaint is well founded it may, inter alia:

- a. Impose conditions relating to non-repetition of the offence within a stipulated period;
- b. Issue a written warning;
- c. Issue a reprimand;
- d. Impose a fine;
- e. Revoke a professional designation (in the case of an individual member);
- f. Suspend membership for any period not exceeding one (1) year;
- g. Cancel membership

28. Sanctions (e), (f) and (g) above would require approval by the Board after formal presentation of the recommendations of the Ethics Committee.

29. Members who do not abide by rulings made under the provisions of this code are liable to be sanctioned as provided for above.

30. An expelled member who can demonstrate that they have taken active steps to remedy their breach may apply for renewed membership after six (6) months of expulsion and may be reinstated at the discretion of the National Council.

31. A respondent who is an owner, principal, director, member or senior executive, may not plead that they are not responsible for the policy of their organisation, or the actions of its employees.

