



Code for Complaints and Discipline

1. Name of Code:

This code is the Occupational Associations (Complaints and Discipline) Code.

2. Meaning of Council in this code:

Council means the Professional Standards Council established in the various State and Territory jurisdictions under the relevant legislation.

3. What actions may be the subject of a complaint?

(1) A complaint may be made that a member of the occupational association has acted (or has failed to act) in such a way as to justify the taking of disciplinary action against the member under this code.

(2) A complaint may be made and dealt with even though the person about whom it is made has ceased to be a member.

4. Who may make a complaint?

Any person may make a complaint (including the occupational association and the council).

5. How is a complaint made?

(1) A complaint may be made to the occupational association.

(2) The complaint must be in writing and contain the particulars of the allegations on which it is founded.

(3) The occupational association must notify the council of each complaint made to it (other than a complaint made by the council).

6. What happens after a complaint is made?

(1) The occupational association must consider a complaint as soon as practicable after the complaint is made to it or notified to it by the council.

(2) The association may do 1 or more of the following:

- (a) require the complainant to provide further particulars of the complaint;
- (b) carry out an investigation into the complaint;
- (c) attempt to resolve the complaint by conciliation;
- (d) decline to consider the complaint (because, for example, the complaint is frivolous, vexatious, misconceived or lacking in substance);
- (e) conduct a hearing into the complaint.

(3) The occupational association is bound by the rules of natural justice in conducting a hearing into the complaint.

7. What action may be taken after a hearing into a complaint?

- (1) After an occupational association has conducted a hearing into a complaint against a Member, it may, if it finds the complaint substantiated, do 1 or more of the following:
 - (a) caution or reprimand the person;
 - (b) impose conditions relating to the carrying out of the person's occupation;
 - (c) require the person to complete specified courses of training or instruction;
 - (d) require the person to report about the carrying out of the person's occupation at the times, in the way and to the people specified by the association;
 - (e) order the person to obtain advice about the carrying out of the person's occupation from the people specified by the association;
 - (f) expel the person from membership of the association.
- (2) If the association does not find the complaint substantiated, it must dismiss the complaint.
- (3) The association is not entitled to make an award of compensation.

8. Notices of decisions:

- (1) Within 30 days after the day a decision is made by an occupational association about a complaint, the complainant and the person against whom the complaint is made must be given a written statement of the decision.
- (2) The statement must include the reasons for the decision.

9. What rights of representation do parties to a complaint have?

The complainant and the person about whom the complaint is made are not entitled to legal representation during attempts to resolve the complaint by conciliation but are entitled to legal representation during a hearing into the complaint.

10. How may occupational association's functions under code be exercised?

A function of an occupational association under this code may, in accordance with a resolution of the association, be exercised by the executive body of the association or by a person or people appointed for the purpose by the executive body.

11. Protection from liability:

- (1) A member of the executive body of an occupational association, or anyone acting in accordance with a resolution of the association, is not personally liable for anything done or omitted to be done honestly—
 - (a) in the exercise of a function under this schedule; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under this schedule.
- (2) Any liability that, apart from subsection (1), would attach to a person attaches instead to the council.