

Procedures to deal with Complaints of Breaches of the Code of Business Practice, Professional Conduct and Ethics (non-certified practicing ecological consultants)

Interpretations & Definitions

For the purpose of this procedure:

ECA means - *Ecological Consultants Association of NSW*

ECA Council means – the Council elected under *Rule 14 of the Association of Ecological Consultants of NSW Rules*

Member means – *the ECA member alleged to have breached the Code*

President means – President elected under *Rule 14 of the Association of Ecological Consultants of NSW Rules*

The Code means - *Code of Business Practice, Professional Conduct and Ethics*

The Committee means - *Professional Conduct Committee of the ECA constituted under Rule 20 of the Association of Ecological Consultants of NSW Rules*

Application of this Procedure

This procedure is to be used for complaints made against Members of the ECA where there is an alleged breach of the *Code of Business Practice, Professional Conduct and Ethics* and provides an outline of the administrative process to deal with such complaints.

Complaints can be made by any person despite whether they are members or non-members of the ECA

Complaints can only be made against ECA members that are signatory to the *Code of Business Practice, Professional Conduct and Ethics*.

Any person may informally discuss potential complaints, with the Chairperson of the Professional Conduct Committee before considering whether to make a formal complaint. Any discussions at this point in time will be without prejudice and shall not be considered by the Professional Conduct Committee in formal complaint procedures.

Where the Member in question is a Certified Practising Ecological Consultant, the procedures and regulations prepared under such an accreditation scheme shall override and replace these procedures.

Procedures to Deal with Complaints

1. Prior to making a complaint, the Complainant is to ensure that they have read and understand the *Code of Business Practice, Professional Conduct and Ethics*.
2. A complaint needs to be made, in writing, to the Chairperson of the Professional Conduct Committee. (The chairperson's contact details can be found on the ECA's website).
3. Once the complaint has been received, the Chairperson of the Professional Conduct Committee is to advise the ECA Council, the Complainant and the Member that a formal complaint has been received. At this stage the name of the Complainant and Member should not be divulged outside those referred to in this procedure.
4. The Chairperson of the Professional Conduct Committee will contact the Complainant seeking further information, if necessary.
5. On receiving the complaint and any further information, the Professional Conduct Committee will convene to consider the complaint and relevant sections of *The Code*.
6. The Chairperson of the Professional Conduct Committee will inform the Member of the specific nature of the complaint and information provided by the Complainant will be available to the Member.
7. The Chairperson of the Professional Conduct Committee will seek information from the Member in response to the complaint by means of interview and, or any written submission provided by the Member.
8. The Professional Conduct Committee will provide a Confidential Report to the ECA Council of the Committee's findings and recommendations.
9. Confidential Reports produced by the Professional Conduct Committee shall not be made public and shall be held in confidence by the President of the ECA or delegated officer.
10. The ECA Council shall consider the Committee's report, findings and recommendations and will resolve a formal decision which may include penalties. During this process the Council may defer a resolution to seek legal advice concerning pending decisions.
11. The resolution of the ECA Council will be conveyed by the ECA President, in writing, to the Complainant and the Member.

Procedures to Deal with Appeals

12. The Member will have 30 days in which to lodge an appeal to the ECA President in writing.
13. The President will inform the ECA Council and the ECA Council will appoint a specific Appeals Panel.
14. Appeals will follow the same procedures to those in dealing with complaints with the exception that the Appeals Panel will replace the Committee.

Administration

The Member or Complainant shall use all reasonable endeavours to assist the Professional Conduct Committee and or Appeals Panel. If he or she fails to do so, the Professional Conduct Committee shall be entitled to draw such adverse inference from the Member's or Complainant's failure to assist it as it shall think fit.

The Member or Complainant has the right to call witnesses at the formal interviews and the Professional Conduct Committee may:

- require the Member or Complainant to attend;
- require the Member or Complainant to produce documents in his /her possession which it considers relevant; and
- request the attendance of witnesses at the formal hearing.

At the formal hearing, the Professional Conduct Committee may, at its absolute discretion:

- proceed in the Member's or Complainant's absence;
- admit new evidence;
- adjourn the hearing for no more than four weeks; and/or
- accept the Member's or Complainant's submission that the complaint is justified.

The Appeal Panel may:

- allow the appeal;
- refuse the appeal;
- remit the matter to the Professional Conduct Committee for a re-hearing.

Penalties

The Professional Conduct Committee can recommend penalties at its discretion where there is breach of the Code of Business Practice, Professional Conduct and Ethics. Penalties recommended by the Committee shall be:

- Remind the member of the *Code of Business Practice, Professional Conduct and Ethics* and the members responsibilities to uphold the *Code*;
- Require undertakings of the Member in such terms as it considers fit;
- Impose loss of membership for a limited time; or
- Impose permanent loss of membership.