

Financial Counsellors' Association of NSW Inc (FCAN)

COMPLAINTS AND DISPUTES POLICY AND PROCEDURES

This policy sets out the manner in which Complaints, Disputes or Grievances may be dealt with by staff, the EO, the Board or the relevant Committee.

Complaints, Disputes or Grievances may arise between the following parties;

- A member(s) and FCAN acting in its role as a membership association.
- A member(s) and another member(s) including Board Members
- An external party (eg client) and a member(s)
- An employee and FCAN or another employee or member. Note: in this instance it is a Workplace dispute and may be subject to external legal obligations.

In all cases the complainant, in the first instant, should lodge their complaint with the EO. In the event that the complainant believes there is a conflict of interest or for any other reason, they may lodge the complaint with the FCAN Chair.

Nothing in this policy relating to the procedure for handling the complaint prevents the complainant from seeking resolution in external forums.

Disciplinary allegations are a sub-set of Complaints, Disputes or Grievances which suggest unsatisfactory professional conduct or professional misconduct on the part of a member, including a Board member(s), in the course of their duties as a Financial Counsellor or otherwise, which could give rise to disciplinary action pursuant to FCAN's Constitution or FCA's Disciplinary Process and Procedures (as adopted by FCAN.)

Generally, a Disciplinary allegation about a Financial Counsellor in the course of their employment should be made to that Financial Counsellor's employing agency and only made to FCAN in the event it is not satisfactorily resolved.

Dealing with a Complaint, Dispute or Grievance

Upon receipt of a Complaint, Dispute or Grievance FCAN should, where appropriate, ensure that:

1. privacy is observed
2. it is referred to the appropriate person or body as set out above
3. it is handled fairly and without conflict of interest
4. the complainant is kept advised of progress
5. all parties are informed of the substance of the Complaint, Dispute or Grievance
6. all parties have an opportunity to respond
7. advocates may participate
8. it only discusses a matter concerning a member with an employing or funding body in the event that it is necessary for the purpose of an investigation or the matter is found to be substantiated and is material

9. in the case of notifiable or criminal allegations, the complainant or matter is referred to the appropriate outside authority
10. in the case of disability, language or literacy difficulties, the complainant is assisted to prepare their Complaint, Dispute or Grievance or referred to an appropriate agency for such assistance
11. the complainant is informed that their Complaint, Dispute or Grievance, or relevant particulars of same, will be made available to all parties the subject of the matter, and may be made available to individuals or organisations to whom the matter relates in accordance with this policy.

FCAN Constitution

FCAN's Constitution contains clauses in relation to both the Resolution of Disputes and the Disciplining of Members. For ease of reference, the Clause relating to the Resolution of Disputes states:

- 1) *"A dispute between a member and another member (in their capacity as members) of the association, or a dispute between a member or members and the association, will be dealt with by the parties to the dispute who must meet and discuss the matter in dispute, and, if possible resolve the dispute within fourteen (14) days after the dispute comes to the attention of all the parties.*
- 2) *If the parties are unable to resolve the dispute at the meeting, or, if a party fails to attend that meeting, then the parties must within 30 days (or as soon as practicable) hold a meeting in the presence of a mediator.*
- 3) *The mediator must be:*
 - a) *a person chosen by agreement by the parties; or*
 - b) *in the absence of agreement:*
 - i. *in the case of a dispute between a member and another member, a person appointed by the Board;*
 - ii. *in the case of a dispute between a member and the Board, a person who is a mediator appointed or employed by Community Justice Centres pursuant to the Community Justice Act 1983.*
- 4) *If a dispute is not resolved by mediation within three (3) months of the referral to a community justice centre, the dispute is to be referred to arbitration.*
- 5) *The Commercial Arbitration Act 2010 applies to any such dispute referred to arbitration."*

Procedure for dealing with Complaints, Disputes or Grievances that do not involve a Disciplinary allegation

1. **Early resolution:** If at all possible, such a Complaint, Dispute or Grievance should be resolved informally between the parties before formal lodgement with FCAN.
2. **Procedure:** where necessary, possible and/or appropriate, the EO or Chairperson to whom the complaint is lodged will:
 - acknowledge the complaint;

- assess, consider and, if necessary, investigate it;
 - convene meetings with the complainant and/or the parties, together or separately, if it appears it may be useful, to clarify each party's position, assess the problem or provide guidance;
 - determine an outcome, noting their reasons;
 - inform the complainant and all necessary parties; and
 - close the complaint, documenting all relevant steps of this procedure.
3. If a complaint is not or cannot be resolved by adopting the procedure above, the complaint should be escalated to the Board who must refer the matter to its Complaints and Disputes Committee (**the Committee**). This Committee can consist of the EO and/or 3 members of the Board, providing no members of the Committee are involved in the complaint (or co-opt non-Board members where necessary or specific skills are required.)
 4. The role of the Committee is to attempt to:
 - a) resolve the matter following the procedure outlined above as it sees fit;
 - b) determine the complaint, if necessary and appropriate; and/or
 - c) report and recommend a course of action to the Board.
 5. If the above procedure or meetings do not resolve the matter, or if a party fails to attend such meetings, then the parties must within 30 days (or as soon as practicable) hold a meeting in the presence of a mediator in accordance with the relevant Clause of the Constitution referred to above.
 6. If the matter is not resolved by mediation within three (3) months of the referral to a community justice centre, the dispute is to be referred to arbitration.
 7. The Commercial Arbitration Act 2010 applies to any such dispute referred to arbitration.

Procedure for dealing with Complaints, Disputes or Grievances that involve Disciplinary Allegations

FCAN deals with disciplinary allegations in accordance with the relevant clause of FCAN's Constitution and may consider adopting all or any of Financial Counselling Australia's "Disciplinary Process: Policy and Procedures" or take this into account when dealing with disciplinary allegations.