



Royal Australasian College
of Dental Surgeons

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COMPLAINTS POLICY

November 2019

Document Information

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1. Purpose and Scope

The purpose of this policy is to provide a process to address and resolve matters or complaints against any member of the Royal Australasian College of Dental Surgeons (**College**) made by other members, colleagues or other sources where the complaint relates to:

- (a) the professional or ethical standards of conduct of a member;
- (b) the conduct of a member which affects the honour, good reputation, interests, or work of the College; or
- (c) the College [Code of Conduct]

Clause 4.2.1 of the Constitution also applies where any matter or complaint under this policy may result in termination of membership of a 'member' of the College.

2. Definitions

Unless the context otherwise implies, '**member**' means Fellow, Member, Honorary Fellows, Life Members, Associates and Registrars, of the College, and includes any external person serving on the Board of Directors (**the Board**), on a committee or other entity of the Board or as a College representative.

3. General Principles

1.1 Confidentiality

The matter or complaint shall be dealt with, as far as possible, on a confidential basis and consistent with the protection offered by the legal principle of qualified privilege. The College does not, however, guarantee anonymity of those making complaints.

1.2 Procedural Fairness

Any member against whom a matter or complaint is made is entitled to receive sufficient details of the nature and circumstances of the allegations as will allow him or her to fully respond to the allegations and as the rules of procedural fairness and natural justice may require. This may necessitate the disclosure of the identity of the complainant.

The member is also entitled to respond to all allegations by making written submissions to the Complaints Committee (**Committee**) and/or by making oral submissions at the Committee meeting or hearing at which the matter is considered.

4. Complaints Process

No matter or complaint shall be considered unless it is:

- (a) made in accordance with clause 4.1, or
- (b) notified under clause 4.2 in the name of the Chief Executive Officer (**CEO**).

1.3 Lodging a Complaint

Any complaint made by a person against a member of the College must:

- (a) be made in writing
- (b) include the name and address of the complainant or complainants, and
- (c) be lodged with the CEO at the College office

As per definition, the CEO is not a member of the College. Complaints against the CEO are outside the scope of this policy and should be directed to the President. If the complaint involves the President, the CEO will ensure that the President is excluded from process of the complaint.

Receipt of the complaint shall be acknowledged by the CEO in writing.

1.4 Notification by Chief Executive Officer

Where the College becomes aware of a particular matter or conduct by a member that is considered to fall within the purview of this policy (including investigations by a statutory complaints authority, professional standards committee, medical or dental board or other relevant authority (**Authority**) or notifications from employers), the CEO may refer the matter in accordance with this policy by notifying the President that the matter is to be dealt with in accordance with this policy.

1.5 Initial Review of Complaint

- (1) Investigation and consideration of a matter or complaint shall be dealt with as expeditiously as the circumstances permit.
- (2) Prior to making any decision regarding the disposition of a matter or complaint, the CEO and the President shall consider whether the matter or complaint:
 - (a) falls within the scope of this policy;
 - (b) would more appropriately be dealt with internally, pursuant to another policy;
 - (c) would be more appropriately dealt with by an external Authority;
 - (d) is currently being dealt with by another Authority; or
 - (e) should be adjourned or not dealt with, pending a hearing or determination by another Authority.
- (3) Following the initial review, the CEO and the President may determine to:
 - (a) take no action;
 - (b) notify the complainant that the matter should be directed to a more appropriate authority;
 - (c) refer the complaint to the Committee for consideration; or

- (d) if it is considered that the conduct that is the subject of the matter or complaint may be of such a serious nature that it may constitute serious professional misconduct, refer the complaint to an Authority (as appropriate, based on the location of the conduct).
- (4) The CEO shall keep the Board fully apprised of all such matters and complaints notified, including the decision made based on the initial review.

5. Referral to Complaints Committee

- (1) On receipt of a matter or complaint, the Committee shall decide whether or not there is a prima facie case to answer. If it is so decided, the Committee shall, at least **21 days** prior to the meeting of the Committee at which the matter or complaint will be considered, give the member written notice of:
 - (a) the intention of the Committee to consider the matter;
 - (b) the time, date and place of the meeting;
 - (c) particulars of the nature of the matter or complaint under consideration as specified in clause 3.2, and
 - (d) advice that the member:
 - (i) may attend and give oral or written submissions at that meeting in respect of the matter; and
 - (ii) is entitled may be accompanied by a support person, but shall not be entitled to have an advocate or to be legally represented without the prior consent of the Committee.

1.6 Complaints Committee

- (1) The Committee is an *ad hoc* committee of the Board, convened by the President or CEO as required to consider matters or complaints made in accordance with the terms of this policy.
- (2) A Committee shall consist of a minimum of three (3) members, comprising:
 - (a) a member of the Board;
 - (b) one other Fellow as the Board shall determine; and
 - (c) one person who is not a member of the College, as the Board shall determine.

none of whom was involved in the matter or complaint or had previously made a decision in relation to the matter or complaint, or who otherwise has a conflict of interest, whether actual or perceived, with the member and complainant concerned.
- (3) The CEO shall attend meetings of the Committee as an observer and to act as secretary to the Committee.

1.7 Conduct of Meetings

- (1) The Committee shall conduct its affairs with as little formality as possible but otherwise, subject to this policy, shall have full power to regulate its conduct and operation, including convening and adjourning any meeting as it may require. The Committee is not bound by the rules of evidence and, subject to the rules of procedural fairness, may inform itself on any matter and in such manner as it thinks fit.
- (2) The Committee is entitled:
 - (a) to make its own enquiries and seek legal or other professional advice in relation to any matter or complaint under consideration; and
 - (b) to consider all relevant information which it thinks fit and may invite any person to appear before it or to provide information.
- (3) The Committee may meet in person or by telephone or other electronic means, or by correspondence for the purpose of the members of the Committee carrying out their functions.

- (4) The member shall be given an opportunity to be heard, and the Committee shall give due consideration to any written or oral submissions made by the member.
- (5) The member is entitled to and may be accompanied by a support person, but shall not be entitled to have an advocate or to be legally represented without the prior consent of the Committee.
- (6) The Committee shall keep appropriate minutes of meetings, including details of any decisions made in relation to any matter or complaint before it. Minutes of hearings of the Committee may be confirmed to a report of the decision made by the Committee.

1.8 Outcome of Hearing

- (1) After consideration of a complaint or matter, the Committee may:
 - (a) take no action;
 - (b) dismiss the matter or complaint and exonerate the member;
 - (c) counsel the member and/or require him or her to participate in any relevant College recommended program or activity;
 - (d) censure the member;
 - (e) where the member is a Fellow, refer the matter or complaint to the Board for consideration (if the Committee believes the matter or complaint is sufficiently serious as to merit possible suspension or termination of the membership, or removal of any College award or dignity); and/or
 - (f) refer the matter or complaint to an appropriate Authority.
- (2) The committee may decide to refer the matter or complaint to an appropriate Authority at any time after receipt of the matter or complaint.

1.9 Notification of Outcome

- (1) Subject to clause 3, meetings and hearings of the Committee shall be confidential. Information relating to the matter or complaint will usually not be disclosed except in relation to:
 - the reporting of progress;
 - appropriate reporting to the parties involved;
 - reporting of the decision and reasons to the Board;
 - referral of the matter or complaint to an external Authority;
 - referral of the matter or complaint to the Board, and
 - any other disclosure which is otherwise allowed or mandated by law.
- (2) The Committee shall report on its decision, including a summary of the reasons for the decision, to the Board at the next meeting of the Board following the making of the decision by the Committee.
- (3) At the conclusion of the hearing, the complainant (where appropriate) and the member shall be notified in writing of the outcome.

6. Referral to the Board

- (1) Where a matter or complaint is referred to the Board by the Committee pursuant to clause 5.3(e) and except where otherwise provided, the Board shall consider the matter or complaint afresh. Following such consideration, the Board may decide to:
 - (a) take no action;
 - (b) dismiss the matter or complaint and exonerate the member;

- (c) counsel the member and/or require the member to participate in any relevant College program or activity;
 - (d) censure the member;
 - (e) suspend the membership of the member;
 - (f) terminate the membership of the member;
 - (g) refer the matter to any appropriate Authority; and/or
 - (h) remove any College award or dignity held by the member.
- (2) The Board may decide to refer the matter or complaint to an appropriate external Authority at any time after referral of the matter or complaint by the Committee.

7. Appeal of Decision

Any appeal against a decision of the Complaints Committee or the Board under this policy may be made only in accordance with the provisions of the College's Appeals Policy.

8. Review of Policy

This policy will be subject to regular review and evaluation every five (5) years.

Complaints and/or applications made under this policy will be subject to regular evaluation and assessment, on a de-identification basis, to consider: -

- effectiveness
- trends/common issues
- whether it is contemporary

A register will be maintained by the College of all complaints and/or applications made under this policy.