

ACT BAR ASSOCIATION

INDICATIVE COMPLAINT HANDLING PROCEDURE GUIDELINES

1. These guidelines provide practical guidance to implementing the complaint-handling process contained in the following policies of the ACT Bar Association:
 - Policy against Discrimination
 - Policy against Bullying
 - Policy against Sexual Harassment
2. These guidelines are indicative only and should be adapted as appropriate in a particular case.
3. A complaint will be made using the relevant form on the ACT Bar Association's website.
4. Upon receipt of the complaint the CEO will immediately forward the complaint to the Chair of the Equal Employment Opportunities Committee ("**the Chair**" and "**the Committee**").
5. If the complaint is about conduct allegedly directed towards a person other than the complainant, the Chair will, within 48 hours of receipt of the complaint, write to the person towards whom it is alleged the conduct occurred (copied to the complainant) and will:
 - a. provide them with a copy of the complaint;
 - b. ask them whether they wish to pursue the complaint in the terms in which it has been made or in other terms; and
 - c. ask for a response within 7 days unless an extension of time is sought.
6. If the person towards whom it is alleged the conduct occurred notifies the Chair that they do not wish to pursue the complaint or does not respond within 7 days or seek an extension, the Chair will notify the complainant that the matter will not be dealt with as a complaint but will be de-identified and treated as a Report under the relevant policy.

7. If the person towards whom it is alleged the conduct occurred notifies the Chair that they do wish to pursue the complaint, the complaint is taken to have been received on the date when that notification occurs and the person towards whom it is alleged the conduct occurred becomes the complainant. (The person who originated the complaint is referred to as the "**original complainant**").
8. Within 3 business days of receipt of the complaint the Chair will:
 - a. Determine whether any members of the Committee ("**members**") have an obvious conflict in respect of the complaint;
 - b. Notify any such conflicted member of that determination and that they will not be involved in dealing with the complaint;
 - c. Form a preliminary view as to whether there is a sufficient basis to justify investigation of the complaint and referral to a complaint-handler;
 - d. Provide all non-conflicted members with a copy of the complaint on a confidential basis;
 - e. Notify all non-conflicted members of the Chair's preliminary view on the investigation and referral issue and invite their own views;
 - f. If there is no agreement, convene a meeting of the Committee to decide the investigation and referral issue- such issue to be decided within one week of receipt of the complaint.
9. If a decision is made that there is not a sufficient basis to justify investigation of the complaint and referral to a complaint-handler, the Chair will notify the complainant (and the original complainant if relevant) with brief reasons. The person the subject of the complaint will not be notified of the complaint.
10. If a decision is made that there is a sufficient basis to justify investigation of the complaint and referral to a complaint-handler, within one week of the receipt of the complaint, the Chair will write to the complainant (and the original complainant if relevant) and the person the subject of the complaint:
 - a. providing them with a copy of the complaint;
 - b. reminding them of the requirement of confidentiality;
 - c. advising them that the complaint is being referred to a complaint-handler;
and
 - d. indicating that the complaint-handler will afford them both formal and informal opportunities to respond.
11. At this stage, the Chair will notify the Bar Council that a complaint has been made and is being referred for investigation, but the identities of the complainant, any

original complainant and the person the subject of the complaint will not be provided.

12. Within two weeks of receipt of the complaint the Chair will identify and brief an appropriate complaint-handler, including seeking approval from the Bar Council for any associated fee (such request not to identify the parties to the complaint). The complaint-handler should be either a barrister who has completed training on complaint-handling or a barrister who has previous experience conciliating and making decisions in relation to relevant kinds of complaints against barristers.
13. The complaint-handler is encouraged to contact the Chair to discuss the procedure to be adopted in handling the complaint.
14. Within one week of their appointment (3 weeks from the receipt of the complaint), the complaint-handler will determine the procedure to be adopted and will write to the complainant, the original complainant (if relevant) and the person the subject of the complaint:
 - a. notifying them of the complaint-handler's appointment;
 - b. reminding them of the requirement of confidentiality;
 - c. notifying them of the procedure they will adopt in dealing with the matter;
 - d. requesting their availability for a conciliation conference; and
 - e. if appropriate, asking the person the subject of the complaint to respond in writing in advance of that conciliation within one week.
15. Within 5 weeks from the receipt of the complaint, the complaint-handler will hold a conciliation conference. At the conclusion of the conciliation conference the complaint-handler will request that the complainant, any original complainant and the person the subject of the complaint provide them with any formal written responses within a further week.
16. Within two weeks of receiving any formal written responses the complaint-handler will send a draft report to the complainant, any original complainant and the person the subject of the complaint and ask for any comment to be provided with a further one week.
17. Within a further week of receiving any comments, the complaint-handler will finalise the report and send it to the Chair.

18. Upon receipt of the final report the Chair will:
 - a. send a copy of the final report to the complainant, any original complainant and the person the subject of the complaint on a confidential basis;
 - b. send a copy of the final report to the members of the Committee (excluded any conflicted members) on a confidential basis;
 - c. convene a meeting of the Committee (excluding any conflicted members) to consider the final report;
 - d. notify the complainant, any original complainant and the person the subject of the complaint of any further action being considered by the Committee and provide them with the opportunity to comment;
 - e. take such further action (if any) as the Committee decides to take;
 - f. notify the Bar Council of the outcome of the complaint- with such details as it is determined are appropriate in the circumstances.