



# Forestry Australia's Complaints Procedure

## Complaints against a Forestry Australia Member

### Purpose

This document sets out the procedures for submitting and determining a complaint alleging a breach of Forestry Australia's Code of Conduct by a current member.

Forestry Australia cannot accept complaints about those who are not Forestry Australia members.

### Procedure 1: Making a complaint

#### 1.1 Who can make a complaint?

A complaint can be submitted by any individual or organisation including members of Forestry Australia Board.

The person or organisation making the complaint is referred to as the "complainant".

#### 1.2 Who and what can be the subject of a complaint?

A complaint can be made if the complainant believes that a member, or members, of Forestry Australia has breached Forestry Australia's Code of Conduct.

The member, or members, of Forestry Australia against whom a complaint is made is referred to as the "member".

#### 1.3 Dispute resolution

Disputes may be better resolved through dialogue, where possible, complainants are strongly encouraged to seek to resolve the matter mutually before entering into this complaint process.

Forestry Australia shall expect to see that complainants have endeavoured to achieve resolution by discussion before a complaint is submitted.

#### 1.4 Time limitation

Forestry Australia shall normally only assess complaints made within six months of the last incident or last conduct that forms the basis of the complaint. The complainant needs to show good cause on grounds of equity and justice, for submitting a complaint beyond this time limit.

#### 1.5 Making a complaint

Before preparing a complaint, the complainant should refer to the guidance document, "**Making a Complaint – What you need to Know**", which shall be available on the Forestry Australia website.

A complaint must be made using Forestry Australia's official Complaint Form which must be completed in full and submitted to the Company Secretary. The Complaint Form shall be available on the Forestry Australia website.

### Procedure 2: Receipt and initial assessment of a complaint

#### 2.1 Receipt of a complaint

The Company Secretary shall acknowledge receipt of the complaint and advise that it will be subject to an initial assessment to determine whether there is a case to answer.

The Company Secretary shall forward the complaint to the designated Complaints Assessor.



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### 2.2 Initial processing of a complaint

The designated Complaints Assessor shall determine whether the Complaint Form and any supporting documentation provides sufficient information for making an initial assessment of the complaint.

If the Complaint Form provides insufficient information, it cannot be processed any further and the Complaints Assessor shall advise the complainant to complete and resubmit the Complaint Form.

If the Complaint Form provides sufficient information, the Complaints Assessor shall proceed to the initial assessment.

### 2.3 Initial assessment

The Complaints Assessor shall consider all the information provided by the complainant and determine whether the complaint is relevant and competent.

To be considered relevant and competent, the Complaints Assessor must be satisfied that four conditions are met:

- a) The complaint relates to a possible breach of the Code of Conduct.
- b) If substantiated, the alleged incident(s) could be a breach of the Code of Conduct.
- c) The complainant has provided sufficient information in support of the complaint for it to be put before the Complaints Panel.
- d) The complaint is not frivolous or vexatious in nature.

The Complaints Assessor may at their discretion seek clarification and/or request further information from the complainant regarding the complaint and may set a reasonable deadline for response. If considered relevant and competent, the complaint shall be considered compliant.

### 2.4 Compliant complaints

If a complaint is found to be compliant, it shall be referred to the Complaints Panel for determination by them.

### 2.5 Non-compliant complaints

If a complaint is found to be non-compliant, the Complaints Assessor shall provide a written report to the Company Secretary, or delegated person, setting out the reasons for their decision to reject the complaint.

The Company Secretary, or delegated person, shall:

- a) Notify the complainant and provide written reasons for the Complaints Assessor's rejection of the complaint.
- b) Notify the member that a complaint was made against them but following initial assessment, was found to be non-compliant and not referred to the Complaints Panel. Copies of the Complaint Form and written reasons for the Complaints Assessor's rejection of the complaint shall be provided with the notification.

## Procedure 3: Investigation of a compliant complaint

### 3.1 Complaints Panel

Forestry Australia's Board has established a Complaints Panel with an independent Chair to consider and determine all compliant complaints.

### 3.2 Notification of the parties



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The notification of the parties to a compliant complaint constitutes the start of the procedure to investigate and determine the complaint.

### 3.2.1 Complainant

The Company Secretary, or delegated person, shall notify the complainant in writing that following initial assessment their complaint is considered compliant and has been referred to the Complaints Panel.

### 3.2.2 Member

The Company Secretary, or delegated person, shall notify the member in writing that a complaint has been made against them and following initial assessment the complaint is considered compliant and has been referred to the Complaints Panel.

The Complaint Form and any other documentation received from the complainant shall be provided to the member.

The Company Secretary, or delegated person, shall invite the member to submit an Initial Response to the complaint and specify a date by which the member shall, if they wish, respond. The date should normally be within 14 clear days of the notification, but a later date may be specified by the Chair.

### 3.3 Compilation of dossier of documentation

The Company Secretary, or delegated person, shall be responsible for compiling an indexed dossier of documentation comprising all the documents provided by both parties.

The following procedure shall be adopted:

- a) The member's initial response and any other documentation received from the member, shall be copied to the complainant without undue delay.
- b) Both parties to the complaint shall then be invited to prepare a *written statement* which sets out, in summary, the case they will present to the panel at the determination meeting.
- c) The indexed dossier of documentation shall be finalised and shall include copies of the original complaint, the member's initial response, any further representations by either party, any additional documentation from either party, and the Written Statements of both parties.

### 3.4 Status of the complaint

Once the complaint procedure has started, the following will apply:

- a) The complaint procedure shall not be terminated by the voluntary resignation of the member against whom the complaint has been laid; and
- b) A member who has been notified of a compliant complaint against them and who thereafter resigns before the complaint procedure has been exhausted shall not have the right to re-apply for membership of Forestry Australia on any future occasion.

A complainant can withdraw their complaint by notifying the Company Secretary or delegated person in writing.

If, at any time, a complainant notifies the Company Secretary, or delegated person, that they wish to withdraw a complaint, the Company Secretary, or delegated person, shall immediately inform Forestry Australia's Board.



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When a complaint is withdrawn, the Board has the option to take the place of the original complainant. To exercise this option, the Board must notify the Company Secretary, or delegated person, within 28 clear days of being informed that the complaint has been withdrawn. Thereafter, the complaint shall proceed as if Forestry Australia's Board had been the original complainant.

### **Procedure 4: Determination Meeting**

#### **4.1 Calling the meeting**

The panel's Chair, or designated deputy, shall call a Determination Meeting to consider and determine the complaint. The Panel can hold physical meetings or meet by electronic means.

##### **4.1.1 Appointment of panel**

Considering the complexity of the case, the Chair shall appoint a panel of either three or five individuals. All appointed panel members other than the Chair shall be members of Forestry Australia. The Chair and the appointed panel members must not have any prejudicial interest in the complaint, or the parties involved.

##### **4.1.2 Quorum**

The quorum for decision-making for a three-person panel shall be two. The quorum for decision-making for a five-person panel shall be three.

##### **4.1.3 Meeting date**

The Company Secretary, or delegated person, shall use best endeavours to set a meeting date that both parties to the complaint can attend, if they so wish, and shall inform the complainant and the member of the date, time and location set for the meeting.

##### **4.1.4 Dossier of documentation**

No later than 14 clear days prior to the date set for the Determination Meeting, the Company Secretary, or delegated person, shall send copies of the dossier of documentation to the parties to the complaint, the Panel's Chair and to all those panel members appointed to consider the complaint.

##### **4.1.5 Attendance and representation**

The complainant and the member may attend, or be represented or accompanied at, the Determination Meeting. They must give seven clear days' notice of the names of the person or persons representing or accompanying them and of any witnesses they propose to call. It shall be the responsibility of the complainant or member to secure the attendance of any person appearing on their behalf.

##### **4.1.6 Expenses of the parties**

Any expenses incurred by the member or the complainant in attending a Determination Meeting shall not normally be met by Forestry Australia.

In exceptional circumstances, Forestry Australia may meet or contribute to the subsistence and/or travel expenses if the Panel is satisfied that grave financial hardship or injustice would result if such expenses were not met or contributed to by Forestry Australia.

Under no circumstances shall Forestry Australia be responsible for meeting the costs or fees of any person accompanying or representing the member or complainant, or for loss of earnings or salary or any other consequential losses suffered by the member or the complainant.

#### **4.2 Determination**

Having considered the evidence laid before them, the Panel members shall determine by majority vote whether the complaint should be upheld or dismissed.

In the event of a tied vote the Chair shall also cast a vote to determine the matter.



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### 4.3 Sanctions

If the complaint is upheld, the Panel will immediately proceed to decide by majority vote on the sanction to be applied:

- a) Issue a reprimand and/or an advisory recommendation on good conduct.
- b) Issue a severe reprimand and/or require that certain actions be completed within a specified timeframe as a condition of continued membership.
- c) Remove from membership without the opportunity to seek renewal of membership.

In the event of a tied vote the Chair shall also cast a vote to determine the matter.

### 4.4 Reporting

The Panel shall provide a written report to the Company Secretary, or delegated person, setting out the reasons for their decision to uphold or dismiss the complaint.

### 4.5 Notification of the parties

The Company Secretary, or delegated person, shall advise the parties to the complaint in writing of the Panel's decision and the reasons for the decision.

The Company Secretary, or delegated person, shall also advise the parties to the complaint of their right to appeal as set out in Procedure 5 and that any request for an appeal or review must be received within 28 clear days of being informed of the Panel's decision.

### 4.6 Implementation of sanction

If the Panel has upheld the complaint and neither party lodges an appeal within the 28-day period, then any disciplinary sanction shall immediately take effect.

If the Panel's decision is the subject of an appeal, no sanction will be put into effect until the appeal has been determined by the Complaints Appeal Board.

### 4.7 Publication of the Panel's decision

If the Panel upheld the complaint and the member has not lodged an appeal within the 28-day period, then the Panel's Chair, or designated deputy, may publish a brief statement of the Panel's decision in one or more of Forestry Australia's publications, including on-line publications.

The statement, at the panel's discretion, may identify the member, the nature of the complaint against them under the Code of Conduct and state that the complaint was upheld by the Panel and the date of the Determination Meeting.

If the Panel dismissed the complaint and the complainant has not lodged an appeal within the 28-day period, the member may specifically request that the Panel's Chair, or designated deputy, shall publish a brief statement in one or more of Forestry Australia's publications, including on-line publications. The statement shall identify the member and state that a complaint against them under the Code of Conduct was presented and after determination, was dismissed by the Panel.

If the Panel's decision is the subject of an appeal, publication of the decision shall be a matter for the Complaints Appeal Board once the appeal process has been determined.



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### Procedure 5: Appeal

#### 5.1 Right of Appeal

The member shall have the right of appeal against the Panel's decision.  
The complainant shall have the right to request review of the Panel's decision.

#### 5.2 Complaints Appeal Board

Forestry Australia Board shall convene a Complaints Appeal Board with an independent Chair to consider and determine all appeals.

##### 5.2.1 Appointment of Board

The Chair shall appoint a Board of three persons to consider an appeal.

- All appointed Board members shall be Members of Forestry Australia.
- The appointed Board members must not have any prejudicial interest in the complaint, or the parties involved, and shall not have taken part in the process that initially assessed or considered the case.

##### 5.2.2 Process and decision-making

The Board may determine its own procedure.

The quorum for decision-making shall be two and in the event of a tied vote the Chair shall also cast a vote to determine the matter.

The Board can hold physical meetings or meet by electronic means.

The Board's decision shall be final.

#### 5.3 Appeal by a member

##### 5.3.1 Grounds for appeal

A member who has been subject to a disciplinary sanction by the Panel shall be referred to as the "appellant".

The appellant may appeal to the Board on one or more of the following grounds:

- a) The procedure followed was defective in terms of the process.
- b) The procedure followed was unfair.
- c) The Panel reached a finding or imposed a sanction which no reasonable Panel could have reached or imposed in the circumstances of the case.
- d) Pertinent evidence, which could not reasonably have been made available to the Panel, has since come to light.

An appeal must be made in writing to the Company Secretary, or delegated person, and received within 28 clear days of the issue of the Panel's decision.

The Board shall consider all aspects of the appeal.

If, in whole or in part, the appeal relates to aspects 5.3.1 a, b, or c:

- The Company Secretary, or delegated person, shall in so far as it relates to these aspects, copy the appellant's letter and other relevant documentation received to the complainant. The complainant shall be requested to provide any written comments they wish to make within 14 clear days of the request.



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- The Board shall convene to consider the appellant's letter of appeal under paragraph 5.3.1 a, b or c, the decision of the Panel and accompanying reasons, and any comments provided by the complainant.
- The Board may dismiss the appeal, or uphold it or uphold it in part, may overturn the finding of the Panel or remove any sanction or substitute a different sanction from amongst those available to the Panel.

If, in whole or in part, the appeal relates to aspect 5.3.1 d:

- The appellant's letter must be accompanied by the new evidence.
- The Company Secretary, or delegated person, shall arrange for the Board to consider such new evidence, and if the Board is satisfied that it could not reasonably have been made available to the Panel at an earlier stage, shall direct the Panel to reconvene to consider it.

If the Board decides to direct the Panel to reconvene to consider new evidence, the Board shall provide its findings, where applicable, on aspects 5.3.1 a to c and the Panel shall accept these and remedy any issues relating to process, fairness and appropriateness of sanctions unless there is good cause to reject the Board's findings in light of the new evidence.

The Board's decisions shall be final.

### **5.4 Appeal by a complainant**

#### **5.4.1 Basis for appeal**

A complainant shall have the right, if dissatisfied with a finding of the Panel, to request that the matter be reviewed by the Board.

The complainant shall specify in writing the reasons for seeking such review but should be aware that the Board has no power to re-hear the case.

#### **5.4.2 Appeals procedure and determination**

An appeal must be made in writing to the Company Secretary, or delegated person, and received within 28 clear days of the issue of the Panel's decision.

The Company Secretary, or delegated person, shall copy the request to the member who has been the subject of disciplinary proceedings who may, but need not, respond. The member shall be requested to provide any written comments they wish to make within 14 clear days of the request.

If the Board considers there to be insufficient basis for a review it may decline to conduct a review or, having reviewed the matter, it may decide there is insufficient basis to take action.

If having reviewed the matter and concluded that there are exceptional circumstances indicating a possible miscarriage of justice, the Board may order the Panel to reconvene for a re-hearing of the case. In such circumstances the procedure specified in Procedures 3 to 4 of this process shall be followed to the extent necessary and possible.

The Board's decision shall be final.

### **5.5 Decision of the Board**

Decisions of the Board accompanied by reasons shall be notified in writing to the Company Secretary, or delegated person, who shall notify the parties to the case of the outcome.



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### **5.6 Further right of appeal**

If the Panel is reconvened in accordance with sections 5.3.2 or 5.4.2, the right of appeal for the member under section 5.3.1 and the right to seek review for the complainant under section 5.4.1 shall apply equally to the outcome of the reconvened hearing by the Panel.

### **5.7 Publication of the Board's decision**

If the complaint is upheld, the Board may publish a brief statement of the decision in one or more of Forestry Australia's publications, including on-line publications. The statement, at the Board's discretion, may identify the member, the nature of the complaint against them under the Code of Conduct and state that the complaint was upheld by the Complaints Appeal Board and the date of the review or appeal hearing.

If the complaint is dismissed, the member may request either that no publication shall be made in his or her case or may specifically request that the Board shall publish a brief statement in one or more of Forestry Australia's publications, including on-line publications. The statement shall identify the member and state that a complaint against them under the Code of Conduct was presented and after appeal, was dismissed by the Complaints Appeal Board and the date of the review or appeal hearing.