

GUIDELINE ON MAKING A COMPLAINT AGAINST AN AMSRS MEMBER

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Anyone may make a complaint about a member of the Australian Market and Social Research Society (AMSRS) if they believe that the member has breached the AMSRS Code of Professional Behaviour (the Code), failed to comply with the Constitution or Regulations of AMSRS or has engaged in conduct that is prejudicial to AMSRS.

Members are required to adhere to the Code, a framework for self-regulation by members. Its aims are:

- to set out the ethical rules which market, social and organisational researchers must follow;
- to enhance the public's confidence in market, social and organisational research by emphasising the rights and safeguards to which they are entitled under the Code;
- to emphasise the need for a special responsibility when seeking the opinions of children, young people and vulnerable groups in the community;
- to minimise the need for governmental and/or intergovernmental legislation or regulation.

Copies of the Code, Constitution and Regulations can be found on the AMSRS website or obtained from the AMSRS office.

AMSRS takes complaints against members very seriously and will conduct an investigation into any complaint made.

Procedure for making a complaint

A complaint must be made in writing. It must identify the member against whom the complaint is made, the Rule of the Code or section of the Constitution or Regulations alleged to have been breached and the facts supporting the allegation. It should be sent to the Chief Executive Officer of AMSRS.

The AMSRS office can provide help on how to make a complaint.

Next steps

The complaint will be acknowledged and passed to the AMSRS Professional Standards Officer, who will check that all relevant details of the complaint have been provided. They will then:

- contact the complainant to clarify any details and ask for any further information required
- send a copy of the complaint to the member in question
- investigate the complaint and
- report on the findings of the investigation.

The Professional Standards Officer may dismiss the complaint, seek to resolve the complaint through mediation or recommend a hearing into the complaint if they believe the member has breached the Code or the Constitution. Any hearing is held by the Professional Conduct Committee, which reports its findings and recommendations to the Board of AMSRS.

The person making the complaint will receive a written report detailing the findings of the investigation and outcomes.

Penalties

If the complaint is upheld, a penalty may be imposed on the member. A range of penalties are available and the member may be:

- counselled in a program set up by the Professional Conduct Committee
- reprimanded
- have some or all of their membership rights suspended for up to 12 months or
- expelled from AMSRS

More information

Details of the complaints procedure can be found in Section 12 of the AMSRS Regulations, appended to this document.

The AMSRS website has copies of the Code, the Constitution and Regulations: www.amsrs.com.au

The AMSRS office can be contacted on 02 9566 3100.

APPENDIX: AMSRS REGULATIONS – SECTION 12

12. Complaints

12.1 Authorising Provisions

This regulation is made under clauses 13 and 44 of the constitution.

12.2 Definitions

In this regulation:

- a) “business day” means a day that is not a Saturday, a Sunday or a public holiday in the place concerned;
- b) “complainant” means the person making the complaint;
- c) “constitution” means the constitution of the Society;
- d) “Professional Conduct Committee” means the discipline committee established under clause 13.4 of the constitution;
- e) “Professional Standards Officer” (Conciliator) means the officer appointed under clause 17.3 and 17.4;
- f) “respondent” means the member of the Society against whom the complaint is made; and
- g) words otherwise have the same meaning as in the constitution.

12.3 Application of Regulation

- a) Under clause 44.2 of the constitution, this regulation is binding on all members of the Society.
- b) This regulation applies to all complaints to the Society about members of the Society, including:
 - i. Complaints by a non-member about a member;
 - ii. Complaints by one member about another member; and
 - iii. Complaints by the Board, the Professional Standards Committee or the Professional Standards Officer about a member.
- c) To avoid doubt, a member who is a Director is not precluded by that office from making a complaint about another member.
- d) A complaint about a company or firm can only be made against those individuals within the company or firm who are members of the Society.

12.4 Assistance with Complaints

The Professional Standards Officer must assist any person wishing to make a complaint about a member of the Society:

- a) by providing copies of the constitution, this regulation, the Code of Professional Behaviour, the AMSRS Guideline on making a complaint against an AMSRS member and any other relevant information; and
- b) by advising the complainant on how to make a complaint in accordance with this regulation, in particular clause 12.6 (Form of Complaint).

12.5 Grounds of Complaint

A complaint may only be made on 1 or more of the following grounds:

- a) that the member has failed to comply with the Code of Professional Behaviour;
- b) that the member has failed to comply with the Constitution or Regulations; or
- c) that the member has engaged in conduct prejudicial to the Society.

12.6 Form of Complaint

A complaint must:

- a) be in writing;
- b) identify the member (or members) against whom the complaint is made;
- c) state the grounds of complaint, including any provisions of the Code of Professional Behaviour, Constitution and Regulations alleged to have been breached;
- d) set out the facts on which the complaint is based; and
- e) be lodged with the Secretariat.

12.7 Action by Professional Standards Officer

- a) The complaint must be referred as soon as practicable to the Professional Standards Officer. The Board must also be informed of the complaint.
- b) The Professional Standards Officer is responsible for (as appropriate):
 - i. ensuring that the complaint complies with clause 12.6 of the regulations, including clarifying the complaint with the complainant and obtaining any necessary additional information;
 - ii. giving the respondent:
 - a) a copy of the complaint, and
 - b) copies of the Constitution, this Regulation, the Code of Professional Behaviour and any other relevant information;
 - iii. investigating the complaint, including interviewing and obtaining information from the complainant and respondent;
 - iv. dismissing a complaint that does not disclose an arguable case against the respondent;
 - v. seeking to resolve the complaint by communication between the parties and/or mediation; and
 - vi. reporting to the Professional Conduct Committee where a complaint is either dismissed or resolved.

12.8 Temporary Suspension

- a. At any stage after receiving the complaint, the Professional Standards Officer may recommend to the Professional Conduct Committee that the respondent be suspended from membership until the complaint has been dealt with.
- b. The Professional Conduct Committee may by resolution passed with at least 2 votes in favour suspend the respondent from membership until the complaint has been dealt with if it is reasonably satisfied that:
 - i. there is an arguable case against the respondent; and
 - ii. it is in the best interests of the public or the Society to do so.

12.9 Formal Response by Respondent

- a) If the complaint is not dismissed by the Professional Standards Officer or otherwise resolved within 20 business days of the complaint being received, the Professional Standards Officer must write to the respondent requesting a formal response to the complaint.
- b) The respondent must provide the Professional Standards Officer with a response in writing to the complaint within 10 business days of the request being communicated to them.
- c) The Professional Standards Officer may, based on the formal written response, dismiss the complaint.

12.10 Report by Professional Standards Officer

- a) If the complaint is not dismissed, within 10 business days of receiving the formal written response from the Respondent, the Professional Standards Officer must prepare and submit a report to the Professional Conduct Committee that includes:
 - i. the complaint,
 - ii. the response,
 - iii. the findings of the investigations carried out by the Professional Standards Officer, and
 - iv. the recommendations of the Professional Standards Officer in relation to the complaint.
- b) At the same time the Professional Standards Officer submits the report to the Professional Conduct Committee, the Professional Standards Officer must send a copy to the complainant and the respondent.

12.11 Notice of Hearing

- a) Within 20 business days of receiving the report, the Professional Conduct Committee must arrange a hearing into the complaint.
- b) The complainant and respondent must be given at least 10 business days' notice in writing of the hearing.
- c) The Professional Conduct Committee may conduct a hearing despite the absence of a party if it is satisfied that the party has been given notice of the hearing in accordance with clause 12.11b.

12.12 Procedure at Hearing

- a) Hearings may be held by teleconference.
- b) The complainant and respondent are not entitled to legal representation.
- c) The Professional Conduct Committee is not bound by the rules of evidence, and may inform itself as it thinks appropriate, including asking for more information from the complainant and/or respondent and asking for further submissions from the PSO.
- d) A matter of fact is to be taken to be proved if it is established to the reasonable satisfaction of the Professional Conduct Committee.
- e) The Professional Conduct Committee may otherwise regulate its own procedure, subject to the constitution and this regulation.
- f) All matters relating to the Hearing and subsequent deliberations are confidential.

12.13 Hearing of Complaint

- a) At the hearing, the Professional Conduct Committee must:
 - i. consider the report of the Professional Standards Officer and its recommendations;
 - ii. give both the complainant and the respondent a reasonable opportunity to make oral and/or written submissions in relation to the complaint;
 - iii. consider any additional submissions of the Professional Standards Officer, if made, and
 - iv. seek to resolve the complaint by communication between the parties.
- b) If the complaint is not resolved, the Professional Conduct Committee must by resolution passed with at least 2 votes in favour decide whether to uphold or dismiss the complaint..

12.14 Penalty

- a) The Professional Standards Officer may also make a submission in relation to penalty.
- b) If the Professional Conduct Committee upholds the complaint, it may by resolution passed with at least 2 votes in favour recommend one the following penalties:
 - i. counselling in accordance with a program set by the Professional Conduct Committee,
 - ii. reprimand,
 - iii. suspension for up to 12 months of some or all of the rights of membership, and
 - iv. expulsion from the Society.

APPENDIX: AMSRS REGULATIONS – SECTION 12

12.15 Decisions of Professional Conduct Committee

- a) The Professional Conduct Committee must promptly report its decision in relation to the complaint to the Board.
- b) The Professional Conduct Committee is not required to give reasons for its decision.
- c) Decisions of the Professional Conduct Committee under this regulation are final and there is no appeal.
- d) Decisions of the Professional Conduct Committee may be reported in the Society's publications.

Decisions of the Board

The Board must review and accept the decision of the Professional Conduct Committee.

If the Board upholds the complaint, before imposing any penalty, it must give the complainant and the respondent a reasonable opportunity to make further submissions in relation to penalty.

12.16 Variation of Time Limits

The time limits set out in this part 9 – Complaints – are intended for guidance for the parties and to encourage the timely resolution of complaints. Non-compliance with the time limits will not constitute a breach of these regulations unless the Professional Conduct Committee determines that the failure to adhere to the time limits is such that the relevant party is failing to genuinely participate in the process set out above.

12.17 Professional Standards Officer

- a) The Board must appoint (and may remove) a Professional Standards Officer.
- b) The Professional Standards Officer must:
 - i. be a full member of the Society; and
 - ii. have a minimum of 5 years' experience in market and social research.
- c) The Professional Standards Officer has the responsibilities given in this regulation.
- d) If in relation to a complaint:
 - i. the complaint is about or involves the Professional Standards Officer;
 - ii. the Professional Standards Officer otherwise has a conflict of interest; or
 - iii. the Professional Standards Officer is otherwise unable to act;the Board must appoint an acting Professional Standards Officer in relation to that complaint.

12.18 Professional Conduct Committee

- a) The Board must appoint a Professional Conduct Committee consisting of 3 members.
- b) The Professional Conduct Committee is the discipline committee for the purposes of clause 13.4 of the constitution.
- c) The Board delegates its powers under clause 13.4 of the constitution to the Professional Conduct Committee.
- d) The members of the Professional Conduct Committee must:
 - i. be full members of the Society; and
 - ii. have a minimum of 5 years' experience in market and social research.
- e) The Professional Standards Officer must not be a member of the Professional Conduct Committee.
- f) The Professional Conduct Committee has the responsibilities given in this regulation.
- g) Any member of the Professional Conduct Committee must declare any conflict of interest in relation to the complaint.
- h) The Board may remove a member (or members) of the Professional Conduct Committee.
- i) If in relation to a complaint:
 - i. the complaint is about or involves a member of the Professional Conduct Committee;
 - ii. a member of the Professional Conduct Committee otherwise has a conflict of interest; or
 - iii. a member of the Professional Conduct Committee is otherwise unable to act;the Board must appoint an alternate member of the Professional Conduct Committee in relation to that complaint.