



INFORMATION FOR RESPONDENTS

Ethics Complaints Management Process (ECMP)

This document provides members with information about the Australian Association of Social Workers (AASW) Ethics Complaints Management Process (ECMP), and how to prepare a response if the AASW receives a complaint about your alleged professional conduct as a social worker. It is a summary document and includes information about:

- the ECMP;
- how to respond to a complaint; and
- the roles of the National Ethics Panel and National Ethics Officer.

For a full understanding of the ECMP this document is best read in conjunction with the AASW's *Code of Ethics* (1999 or 2010 edition, whichever is appropriate) and the *AASW By-Laws on Ethics* (2007). These documents can be downloaded from the AASW website www.aasw.asn.au/publications/forms-resources

What is the Ethics Complaints Management Process?

The AASW, as part of its commitment to ensuring high standards of ethical conduct by members of the Association, provides the ECMP. This is the process which responds to complaints of alleged unprofessional conduct by members of the AASW.

The National Ethics Panel oversees the ECMP, and is appointed by and accountable to the AASW Board of Directors. The National Ethics Panel consists of three members who are qualified social workers with extensive experience in relation to ethical practice. The Panel meets regularly to respond to complaints.

The following principles underpin the ECMP:

Right to complain

The AASW upholds the rights of clients or others to complain about the conduct or standard of practice of member social workers.

Natural justice

All procedures for receiving, investigating and hearing complaints and appeals will be dealt with fairly and impartially and will be conducted with due regard for the principles of natural justice and the respective interest of all parties.

Support

The rights of complainants and respondents to appropriate assistance in submitting or responding to a complaint will be respected. Complainants and respondents are entitled to have a support person attend Hearings and Appeals.

Participation

Parties to a complaint will be encouraged to participate at all stages of the formal complaint process. They will be kept informed regarding its progress and outcome and given opportunities to make responses. All correspondence will use plain language, particularly for those participants who are not familiar with the language of the social work profession, its *Code of Ethics* (1999 or 2010 edition, whichever is appropriate) or its *By-Laws on Ethics* (2007).

Respect

All parties in the process will be treated with respect and in a non-authoritarian manner. Where appropriate, correspondence should be preceded by phone calls – however this should not impede the process unnecessarily.

Confidentiality

Complaints will be dealt with in a confidential manner and records of such matters will be stored securely for seven years.

Non-discrimination

No party to a complaint will be discriminated against. The rights of complainants to complain and to continue to receive services will be supported, as will the rights of respondents in defending complaints.

Accountability

Persons dealing with complaints and investigations on behalf of the AASW will be accountable for their decision-making processes, actions and subsequent judgements in regard to a complaint.

Appeal

The right of appeal will be extended to all parties of a complaint.



Who can make a complaint?

Anybody is entitled to make a complaint to the AASW about your conduct as a social worker. However, the National Ethics Panel normally will not accept a complaint unless it is made by the person to whom the alleged misconduct has been directed. In some unusual circumstances a person for some reason may be unable to make a complaint themselves. They may authorise another person to act for them. The ECMP is not a legal one. Complainants (the person making the complaint) and respondents (the person about whom the complaint is made) are not able to have lawyers act for them in this process.

What happens when a complaint is lodged with the AASW?

If a complaint is lodged with the AASW in relation to your professional conduct as a social worker, in the first instance the National Ethics Officer will attempt to contact you by phone to advise you that the complaint has been received, and to explain the process to you. You will be sent a copy of all the complaint documents via registered post and you will be asked to provide a written response to it.

The National Ethics Officer and Ethics Panel will then work closely together to decide if there is a complaint to be answered and whether a Hearing Panel should be set up. The Hearing Panel can request an investigation into the matter. The Investigator will be someone who is highly trained in investigative work, and understands social work.

For a summary of how the process works, please refer to the flowchart (Appendix 1) at the end of this information sheet.

How do I respond to a complaint?

You will be provided with a copy of all of the complaint materials submitted by the complainant. The Complaints Form requires the complainant to indicate the specific sections of the *Code of Ethics* (1999 or 2010 edition, whichever is appropriate) that relate to their complaint. Your response should individually address each section of the *Code of Ethics* (1999 or 2010 edition, whichever is appropriate) that the complainant alleges has been breached.

Your response must be in writing. In responding to the complaint, you should be as specific and provide as much information as you can. The clearer your response is, and the more directly you address the alleged breaches of the *Code*, the easier it is for the National Ethics Panel to understand the situation. Some examples of information you may wish to include in your response may include specific dates as backed up in a work diary, availability of case notes or other records if needed, or other verification of events.

Can I get help to prepare my response?

Yes, you may get help to prepare your response. Assistance may be sought from a colleague, supervisor, counsellor or other trusted person of your choice. If you do not have anyone to help you, and you need it, the National Ethics Officer may have some suggestions for you.

Can I provide a statement/letter from a relevant third party as part of my response?

Yes, you may provide statements or letters from relevant third parties as part of your response. A relevant third party may include your employer or professional supervisor.

Any statements or letters from third parties must be submitted **by you at the time you lodge your response**. The AASW needs to ensure that you have approved all materials submitted in relation to your response, so it is important that third parties do not send materials directly to the National Ethics Officer. They must be attached to your response, and cannot be accepted after you have submitted your response.

How long do I have to provide a written response?

You have 20 working days from the date the complaint documents are sent to you.

Do I have to respond to a complaint against me?

Yes. Section 4.6 e) of the *Code of Ethics* (1999) (or Section 5.6 e) of the 2010 edition) states that “*Social workers will cooperate with both AASW investigations into matters of complaint against themselves or other social workers and the requirements of any associated disciplinary hearings*”.

Where do I send my response?

Your written response should be sent to:

National Ethics Officer
AASW – Melbourne National Office
PO Box 13087
LAW COURTS VIC 8010

Or you may wish to email your response to ethicscomplaint@asw.asn.au



Is this a confidential process?

Yes, this is a confidential process. The ECMP is set up to ensure that only relevant parties have access to complaint materials. Relevant parties include the AASW Ethics staff, National Ethics Panel, and the Hearing Panel members (if applicable). All complaint materials (both paper and electronic) are stored securely and in accordance with the National Privacy Principles.

All parties involved in the ECMP are required to maintain strict standards regarding confidentiality. All parties are required to sign the Confidentiality Agreement prior to engaging in the ECMP.

Are there any limitations to my confidentiality?

Confidentiality will be limited where the AASW assesses that compelling ethical or legal reasons prevail (e.g. where there are issues of harm to self or others, or if issues arise which, under law, must be disclosed).

Confidentiality will also be limited if a Hearing Panel finds a complaint to be substantiated, and imposes a penalty that affects confidentiality, (eg notification to employer, or ineligibility for AASW membership).

Do I need to notify anyone that the AASW has received a complaint about me?

This is a matter for you to decide. You should check any relevant policies or procedures within your workplace to determine your obligations in this regard. You should also check any professional indemnity insurances that you may hold as to whether you have an obligation to notify them that the AASW has received a complaint. This includes the professional indemnity insurance policy that you hold as a result of being a member of the AASW. The AASW insurer can be contacted via Civic Insurance Brokers on 02 6262 6115.

Will the complainant receive a copy of my response?

Yes, the complainant will be sent a full copy of your response documents and any attachments.

Your personal contact details (e.g. address/telephone numbers) will be deleted from the copy sent to the complainant.

What happens after I have submitted my response?

The National Ethics Panel then considers the complaint and your response and decides if the matter should be referred to a Hearing Panel for determination, which will be via a face to face hearing process where possible.

If the matter is referred to a Hearing Panel, you will be provided with detailed information about the Hearing process, including how to prepare for the Hearing, and the role of support people and witnesses.

Do I have to see the complainant?

If a face to face Hearing is conducted it is usual that the person who made the complaint attends to explain why they have made the complaint and what harm they perceive it has caused them. It is also usual that the person responding to the complaint attends to explain their actions and respond to the allegations.

Can I appeal a decision of a Hearing Panel?

It is possible to appeal to the National Ethics Panel if you do not agree with the decision of a Hearing Panel. If the National Ethics Panel agrees that the decision should be reviewed, it can set up an Appeal Panel. The decision of the Appeal Panel is binding. Please be aware that the Appeals process is limited to a review of: the procedures that were used; the misuse of natural justice; or inappropriateness of the penalty. You will not be able to introduce new information at this stage. Any relevant information you have that you wish to be considered by the National Ethics Panel and Hearing Panel must be included in your initial response. New information cannot be brought into an Appeal.

What happens if the complaint is proven?

There are a number of different responses that can occur if a complaint is proven. These responses range from there being no penalty awarded, through to the social worker being ineligible for membership of the AASW. Other penalties include specialised supervision and fines.



How long will it take?

The National Ethics Panel tries to respond to complaints quickly, and the *By-Laws on Ethics* and associated policy set out specific deadlines for the National Ethics Panel, Hearing Panels, Investigators and Appeal Panels to meet. However, there are a number of things that may take longer – such as waiting for reports from investigations, waiting for responses from complainants and respondents, difficulty in setting Hearing dates, and if appeals are made. It is possible that a case may take up to eight months to be finalised.

Who can I telephone about this complaint?

The best person to call if you want to discuss the complaint, or get copies of the *Code of Ethics* (1999 or 2010 edition, whichever is appropriate) or the *By-Laws on Ethics* (2007) is the National Ethics Officer. The National Ethics Officer is based at the Melbourne National Office of the AASW, and can be contacted on 03 9642 2967 or at ethicscomplaint@asw.asn.au.

APPENDIX 1: Summary Flow chart

