Professional Conduct and Complaints Procedure

Management Consultants Association NZ

1. Purpose

The Management Consultants Association NZ is committed to maintaining confidence in the professional standards of its members.

This Procedure establishes how concerns and formal complaints about the professional conduct of members will be received, assessed, investigated and determined.

It is designed to ensure that matters are handled fairly, objectively, proportionately and with procedural fairness to all parties.

The standards against which conduct is assessed are established in the Association's Code of Conduct and Ethics and other applicable Association policies.

2. What Can Be Complained About?

A complaint may be made where a person believes that a member has breached the Code of Conduct and Ethics, failed to meet a relevant professional obligation, engaged in dishonest or misleading professional conduct, improperly handled confidential information, failed to appropriately disclose or manage a conflict of interest, misrepresented qualifications or experience, or otherwise acted inconsistently with the standards expected of members.

3. Internal Consultants and Legitimate Organisational Context

A complaint should not be upheld merely because an internal consultant's advice was aligned with the legitimate interests of their employer, because a consultant's advice was not adopted, or because a complainant disagreed with a professional judgement.

The relevant question is whether the member acted consistently with the applicable professional standards, including honesty, objectivity, competence, appropriate disclosure and professional judgement within the context of their role and authority.

4. Matters Outside the Association's Role

The Association is not a substitute for courts, tribunals, statutory regulators, licensing authorities, law-enforcement agencies or contractual dispute-resolution mechanisms. It will not ordinarily determine contractual disputes, claims for compensation or damages, employment disputes unrelated to membership standards, or matters properly the responsibility of another authority.

5. Who May Make a Complaint?

A complaint may be made by a client, employer, member, colleague, professional, organisation, stakeholder or other person with a legitimate interest in the matter. The Association may also initiate

consideration of a matter where credible information comes to its attention suggesting that a member's conduct may warrant investigation.

6. Informal Resolution

Where appropriate, concerns should initially be raised with the member. This is not mandatory where the matter is serious, direct contact would be inappropriate, there is a significant power imbalance, the complainant believes it could prejudice the matter, or another reason makes direct resolution inappropriate.

The Association may assist parties to resolve a matter informally where appropriate. Informal resolution does not prevent subsequent consideration under this Procedure.

7. Making a Formal Complaint

A formal complaint should be submitted in writing and should identify the member, describe the conduct complained about, identify relevant dates or circumstances, identify the relevant standard if known, provide supporting information where available, and describe any steps already taken to resolve the matter.

A complainant does not need to determine whether a breach has occurred. The Association will make that assessment.

8. Initial Assessment

The Association will assess whether the complaint falls within its jurisdiction, whether the person is a current member, whether sufficient information exists, whether another process or authority is more appropriate, whether immediate action is required, and whether the matter should proceed to investigation.

9. Conflicts of Interest in the Complaints Process

Anyone involved in assessing, investigating or determining a complaint must disclose any actual, potential or perceived conflict of interest. A person with a material conflict should not participate unless the conflict has been appropriately managed and the Association is satisfied that participation would not compromise fairness or confidence in the process.

10. Notification to the Member

Where a complaint proceeds beyond initial assessment, the member will ordinarily be informed that a complaint has been received, provided with sufficient information about the allegation and relevant supporting information subject to confidentiality and legal considerations, and given a reasonable opportunity to respond.

The fact that a complaint has been made is not a finding that the member has breached the Code.

11. Investigation

The Association may investigate using written submissions, interviews, documentary evidence, expert advice, independent investigation or other reasonable means of establishing relevant facts.

The investigation should focus on matters relevant to the complaint. The investigator must remain impartial and must not predetermine the outcome.

12. Standard of Assessment

The Association will assess the available evidence and determine whether, on the balance of probabilities, the conduct occurred and whether it constituted a breach of the applicable professional standard.

The Association may determine that no breach occurred, the evidence is insufficient, a minor or technical breach occurred, a substantive breach occurred, or the matter should be referred to another authority.

13. Findings

A finding should distinguish between established facts, disputed facts, relevant evidence, the applicable professional standard and the conclusion reached. Reasons for the decision should be documented.

14. Outcomes

Where no breach is established, the matter will be closed. Where a breach is established, the Association may apply proportionate action consistent with its Constitution and membership rules.

- no further action;
- guidance or education;
- agreed remedial action;
- professional development;
- formal warning;
- formal reprimand;
- conditions on membership;
- suspension; or
- termination of membership.

The Association should consider the nature, seriousness, circumstances and consequences of the conduct when determining an appropriate response.

15. Serious or External Matters

Where a matter involves possible criminal conduct, serious regulatory concerns, risks to public safety or another matter outside the Association's authority, the Association may refer or recommend referral to the appropriate authority.

16. Confidentiality

Complaints will be handled confidentially to the extent reasonably possible. Information will only be disclosed where necessary to investigate and determine the complaint, provide procedural fairness, comply with legal or regulatory requirements, protect a person or the public from significant harm, or administer the Association's responsibilities.

17. Anonymous Complaints

The Association may receive information anonymously. However, an anonymous complaint may be difficult to investigate where the member needs sufficient information to respond fairly. The Association may determine that an anonymous matter cannot proceed where there is insufficient information to conduct a fair investigation.

18. Review and Appeal

A member who is found to have breached the Code should have an opportunity to request a review or appeal in accordance with the Association's Constitution and applicable rules. The review or appeal should be undertaken by people who were not materially involved in the original decision.

19. Records

The Association will maintain appropriate records of complaints and outcomes and manage them in accordance with applicable privacy and information-management requirements.

20. Relationship with Other Documents

The Code of Conduct and Ethics establishes the professional standards. The Conflict of Interest Policy and Process establishes how conflicts are identified, disclosed and managed. Where a complaint concerns a conflict, that Policy may be used to establish whether the conflict was appropriately handled. A failure to comply with either document may, where appropriate, be considered under this Procedure.

21. Procedural Fairness

- a complaint is an allegation, not a finding;
- the complainant should be treated respectfully and their concern considered seriously;
- the member must have a reasonable opportunity to understand and respond to the allegation;
- decision-makers must be impartial;
- relevant evidence should be considered objectively; and
- findings should be based on the available evidence rather than assumptions.

The Association will seek to resolve matters as efficiently as reasonably possible while maintaining fairness and confidence in the process.

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