



The peak body and leading voice for sonographers

# Complaints Handling and Disciplinary Process Information for Complainants and Respondents

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## **Section 1: Introduction**

The Australian Sonographers Association Limited ('ASA') is the peak body and leading voice for sonographers.

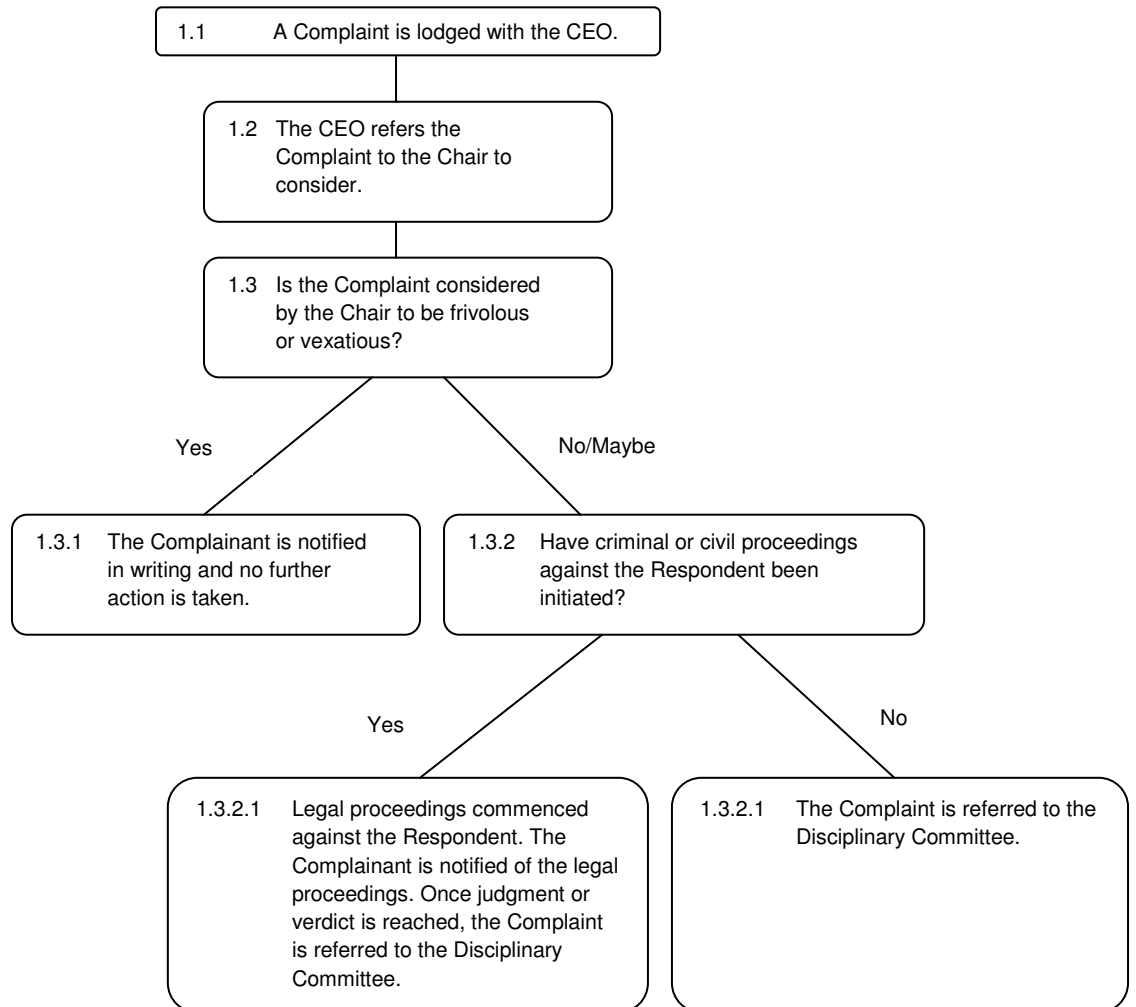
Financial Ordinary and Student members ('members') of the ASA voluntarily agree to meet stated standards of behaviour under a program of self-regulation. The behaviour expected of members is outlined in the Association's Code of Professional Conduct. A copy of the Code of Professional Conduct is available on the Association's website, or a printed copy can be obtained from the Association.

An important feature of the self-regulation program is its independence from the general governance arrangements of the Association. To the greatest extent possible, there is a separation of powers between the functional components of the self-regulation program and the Association's Board. This independence helps to ensure fairness and impartiality in the operation of the program, as well as minimise potential conflicts of interest.

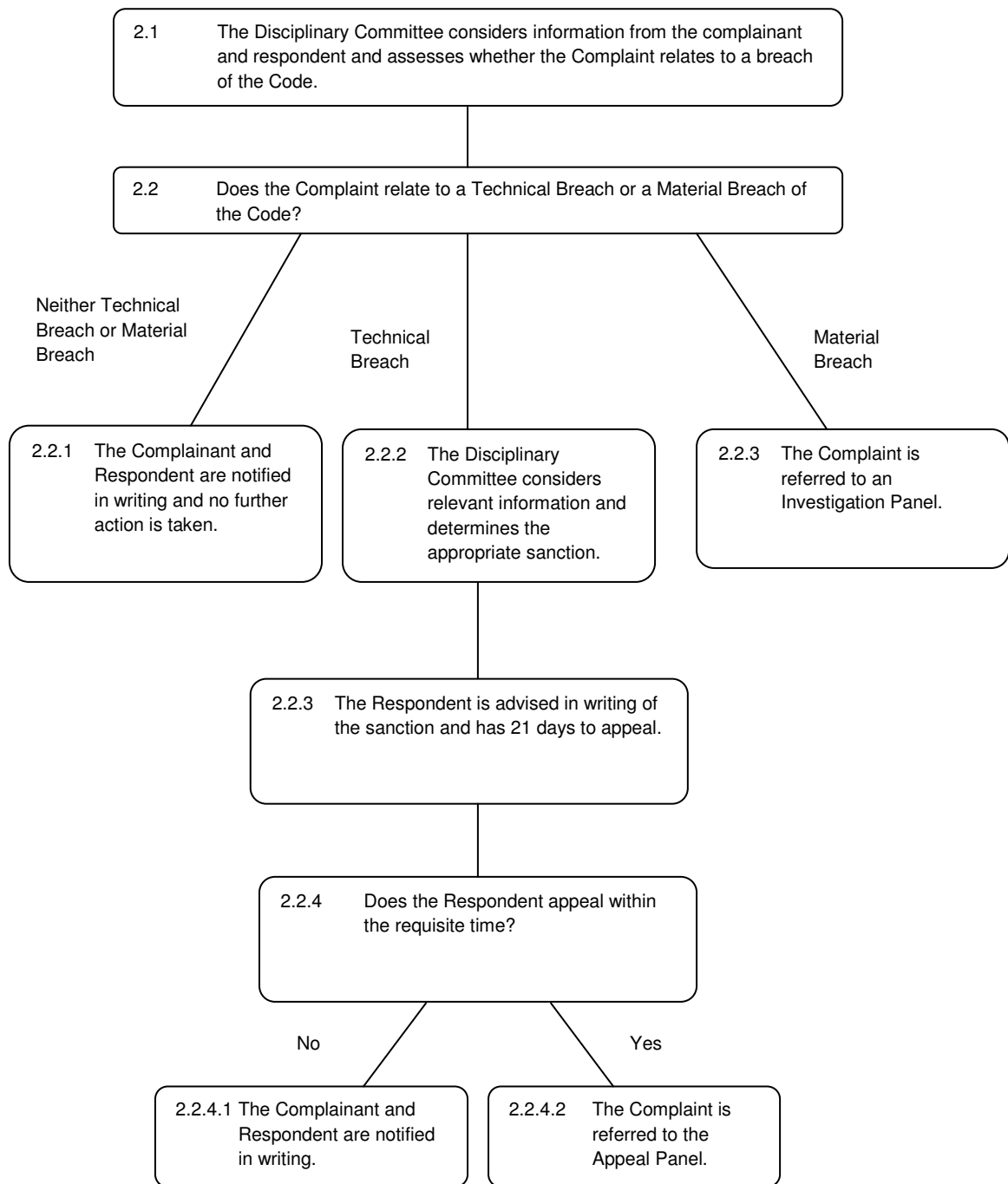
The Code of Professional Conduct aims to ensure that members provide professional, high-quality sonographic services. The Association has a formal process to receive and investigate complaints about its members, and to take disciplinary action where appropriate. This complaints handling process is an important part of ensuring that professional standards are maintained by all members.

## Section 2: The Complaints Handling Process

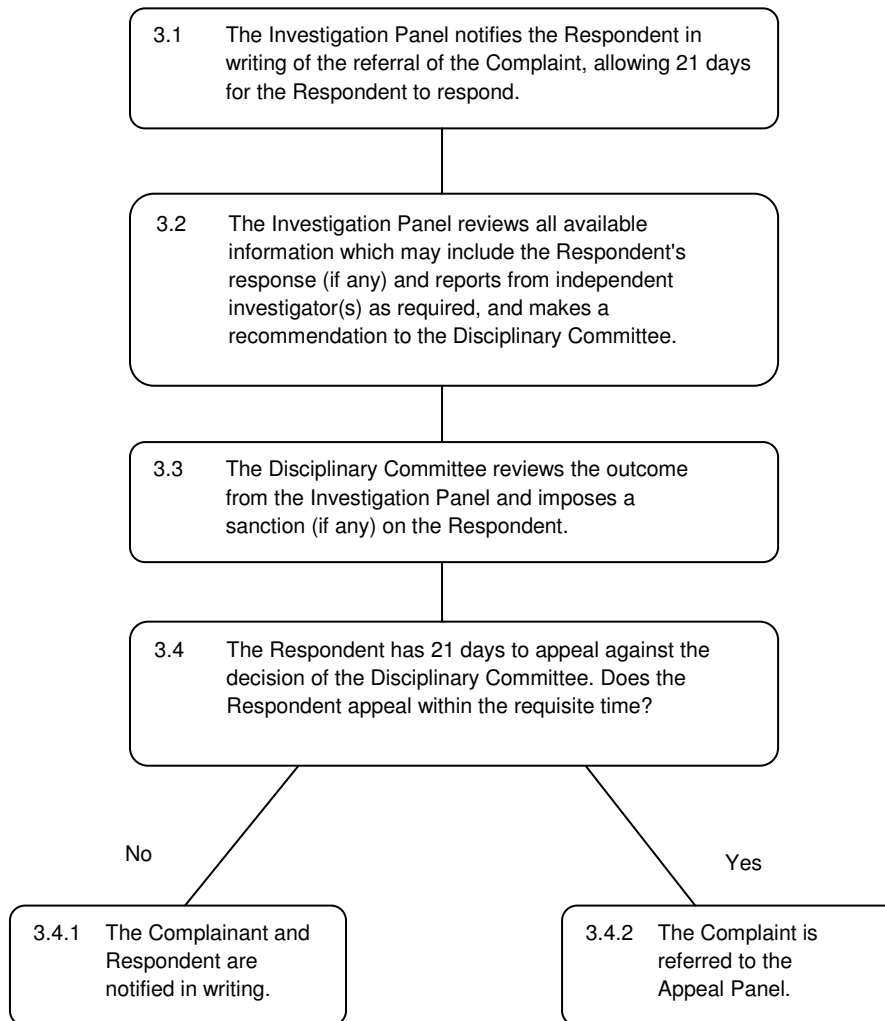
### Stage 1: Lodgement of Complaint



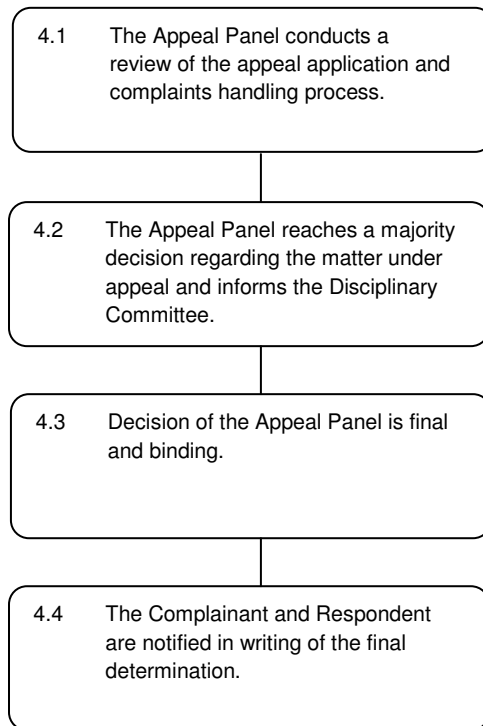
## Stage 2: Referral to the Disciplinary Committee



### Stage 3: Referral to the Investigation Panel



#### Stage 4: Referral to the Appeal Panel



## Section 3: Information for Complainants

This information describes how the Australian Sonographers Association Ltd responds to complaints about its members.

### What is the Australian Sonographers Association Ltd?

The Australian Sonographers Association Ltd ('ASA') is the professional association for qualified sonographers. It provides continuing education for sonographers, promotes best practice in sonography, advocates members' interests, raises the profile of the profession, provides a forum for communication and provides member services and benefits. One of the ASA's activities is to ensure ethical and professional conduct by its members.

In order to be a member of the ASA, a sonographer must complete an accredited Australian sonography program or have reached an equivalent level of training, or – in the case of student members – be studying towards this goal.

Not all sonographers are members of the ASA. Membership is voluntary, however many sonographers maintain membership because it seeks to establish high standards for the profession, provides sonographers with a strong connection to their profession, regularly communicates in relation to issues relevant to sonographers, and provides access to professional indemnity insurance and opportunities for continuing professional development. In June 2010, more than 2800 sonographers, representing approximately 70% of the profession, were financial members of the ASA.

### What is professional conduct?

Professional conduct is the behaviour expected of sonographers in their work, and the guidelines for such conduct are included in the Association's Code of Professional Conduct. In summary, such conduct for sonographers includes:

- Competent sonography service
- Professional integrity
- Practice competence
- Responsibilities to clients, colleagues, the workplace and the profession.

Misconduct occurs when a sonographer acts outside of these guidelines.

### What happens when a sonographer behaves unprofessionally?

If the sonographer is a member of the ASA the matter will initially be handled by the ASA's CEO who refers the complaint to the chair of the ASA Disciplinary Committee to determine the most appropriate response to the complaint. If the sonographer complained about is not a financial member of the ASA, the ASA will seek to provide the complainant with information on other options for making a complaint.

### What is the ASA Disciplinary Committee?

The ASA Disciplinary Committee is approved by the ASA's Board of Directors. It includes experienced sonographers as well as consumer and legal representatives. The Committee, which operates independently, meets regularly to oversee the disciplinary process and determine penalties for breaches of the Code of Professional Conduct.

## **What can be complained about?**

Complaints can only be made about the professionalism of an individual sonographer – we are unable to accept complaints about practices or departments. If a sonographer does not comply with the Code of Professional Conduct, a complaint can be lodged with the ASA. The ASA accepts complaints about any sonographer, however the Code is only enforceable for financial Ordinary or Student members of the ASA. A complaint may be in relation to such matters as the standard of sonography service, the professional integrity or competence of the sonographer, or issues in relation to the way the sonographer meets responsibilities to clients, colleagues, the workplace and the profession.

## **Who can make a complaint?**

Anybody is entitled to make a complaint about the conduct of a sonographer. The complaint will normally be made by the person to whom the alleged misconduct has been directed. However if the person who has a grievance against the sonographer is unable to make the complaint themselves, a complaint can be made by someone authorised to act on their behalf. Health professionals and colleagues of sonographers can also make complaints.

The complaints handling process is not a legal one. Complainants and respondents (the sonographer about whom the complaint is made) are not able to have lawyers act for them in this process.

Prior to making a complaint it is suggested that efforts be made to resolve the issue directly with the sonographer concerned.

## **When did the conduct being complained about occur?**

This complaints handling process commenced on 1 July 2010 and only issues which occurred on or after 1 July 2010 can be investigated under this process. Complaints about sonographers for actions which occurred prior to this time can be referred to the ASA which will provide information on other options for lodging a complaint.

## **What happens when a complaint is lodged with the ASA?**

- The complaint is reviewed to establish whether it falls within the scope of the Code, including whether the sonographer is a member of the ASA
- If the complaint is not accepted, the complainant is provided with a response and further information as necessary
- If accepted, the Disciplinary Committees follow the process laid out in the Section 2 of this document to reach a resolution: Stage 1 – Lodgement of Complaint, Stage 2 – Referral to the Disciplinary Committee, Stage 3 – Referral to the Investigation Panel, and Stage 4 – Referral to the Appeals Panel.

Complaints will be investigated thoroughly, impartially and in a timely manner. Complaint investigation follows the principles of procedural fairness, confidentiality and independence.

Any legal action must be completed before the ASA will investigate a complaint.

## **Will the Disciplinary Committee always respond?**

The Disciplinary Committee will always respond to your complaint. However, the Disciplinary Committee may not investigate the complaint if the information provided is inadequate or if the complaint is considered vexatious, frivolous, misconceived or lacking in substance, or if it is considered a technical breach of the Code. In addition a complaint which is already subject to police investigation or legal proceedings cannot be dealt with until all other enquiries or proceedings are completed.

### **Will the sonographer know that I have complained?**

To provide an equitable process, the sonographer will be shown the complaint and be asked to respond to it. Except in certain circumstances, the sonographer will be told your name but will not be given your personal contact information. The ASA is not able to investigate complaints that are made anonymously. However, the Disciplinary Committee will consider requests that the details of the complainant are not passed on to the sonographer but, of course, this will be balanced with the sonographer's right to understand the nature of the complaint so that they can respond appropriately. If you believe you might be at risk if you make a complaint, you might consider taking your complaint to the police.

In certain circumstances, the ASA also reserves the right to refer the matter to the police.

### **Do I have to see the sonographer?**

No. In the course of an investigation you may be required to give oral evidence, however this will not be in the presence of the sonographer/respondent.

### **Can I appeal a decision of the Disciplinary Committee?**

It is not possible for the complainant to appeal a decision of the Disciplinary Committee. The Disciplinary Committee's decision will be final.

### **What happens to a sonographer if the complaint is proven?**

There are a variety of different responses that can occur if a complaint is proven, ranging from a recommendation that additional, targeted continuing professional development be undertaken to ineligibility for membership of the ASA.

### **Can I do something else rather than make a formal complaint?**

Yes, there are other options available to you. You could consider contacting the sonographer, through their practice or department manager, or contacting your state's health commission service.

The ASA can provide you with details of how to contact your state health commission service. However, if the behaviour of the sonographer appears to be a serious breach of professional behaviour you should consider making a formal complaint. If the complaint is about criminal behaviour, you should contact the police. In certain circumstances, the ASA may refer complaints it receives to the police.

### **How long do I have to make a complaint?**

Complaints about a sonographer should be made as soon as possible and must normally be made within two years of the misconduct having occurred. If there is some reason why the ASA should consider a complaint that is older than two years, please contact the ASA to discuss it. Please be mindful that complaints arising from incidents prior to 1 July 2010 are not covered by the ASA's Code of Professional Conduct.

### **How long will it take?**

The Disciplinary Committee endeavours to respond to complaints in a timely manner and where possible the ASA sets out specific timelines for the various stages of the complaints handling process. However, there are a number of things that may make the time involved longer, such as waiting for reports from investigations, waiting for responses, and so on. It is possible that a complex case may take up to twelve months to be finalised.

## **How do I make a complaint?**

The ASA is unable to accept verbal complaints. All complaints must be made in writing, either by completing and transmitting the prescribed form or using the online form. This will ensure that all the required information is provided with the initial complaint. You should provide all the information that you have about the complaint, including any documents and reports.

The Complaints Form needs to be completed in full and, unless submitted online, signed by the complainant. You can download a form from [www.a-s-a.com.au](http://www.a-s-a.com.au), or contact the ASA via e: [regulation@a-s-a.com.au](mailto:regulation@a-s-a.com.au) or p: 03 9585 2996 to request a form.

The complaint must:

- Contain the facts and be objective
- Say who the complaint is about
- Say when and where the misconduct occurred
- Include any other documents that may be relevant
- Advise, where possible, what kind of result or outcome it is hoped will be achieved, however this will not necessarily dictate the remedy that might ultimately apply.

Once the complaint is received, the ASA may request further information from the complainant.

## **Does it cost to make a complaint?**

There is no fee associated with making a complaint. However any expenses incurred by the complainant in making a complaint are entirely the complainant's responsibility.

The ASA budgets for costs to support the Disciplinary Committee in the execution of its duties, with both complainants and respondents meeting their own costs.

## **Is this a confidential process?**

Yes, this is a confidential process. The respondent will receive a copy of the complaint, including the name of the complainant, however the complaints handling process is set up to ensure that only relevant parties have access to complaint materials. Relevant parties include the ASA's CEO, the Disciplinary Committee and, if applicable, an independent investigator, witnesses and the Appeal Panel. All complaint materials (both paper and electronic) are stored securely.

All parties involved in the complaints handling process are required to maintain strict standards regarding confidentiality.

## **Can I get help to make a complaint?**

Yes, you may get help to make a complaint. The best assistance is from people who know you and are close to you. This could be a friend, relative or work colleague.

## **Where do I send the complaint?**

The completed Complaints Form (and any relevant documents) can be forwarded electronically via the ASA's website. Alternatively you may wish to complete and sign the prescribed form and post to:

Confidential - CEO  
Australian Sonographers Association Ltd  
PO Box 709  
Moorabbin Vic 3189

**Who can I telephone about this complaint?**

The best person to call if you want to discuss the process, or request copies of the Complaints Form or the Code of Professional Conduct is the CEO at the ASA's National Office. Please phone 03 9585 2996 during business hours, or email [regulation@a-s-a.com.au](mailto:regulation@a-s-a.com.au).

## **Section 4: Information for Respondents**

This section provides members with information about the complaints handling process of the Australian Sonographers Association Limited (ASA). It should be read in conjunction with the ASA's Code of Professional Conduct which can be downloaded from the ASA website.

### **What is the complaints handling process?**

The ASA, as part of its commitment to ensuring high standards of professional behaviour by members of the Association, provides a complaints handling process to respond to complaints of alleged unprofessional conduct by ASA members.

The ASA Disciplinary Committee is approved by the ASA's Board of Directors. It includes experienced sonographers as well as consumer and legal representatives. The Committee, which operates independently, meets regularly to oversee the disciplinary process and determine penalties for breaches of the Code of Professional Conduct.

### **Who can make a complaint?**

Anybody is entitled to make a complaint about the conduct of a sonographer. The complaint will normally be made by the person to whom the alleged misconduct has been directed. However if the person who has a grievance against the sonographer is unable to make the complaint themselves, a complaint can be made by someone authorised to act on their behalf. Health professionals and colleagues of sonographers can also make complaints.

The complaints handling process is not a legal one. Complainants and respondents (the sonographer about whom the complaint is made) are not able to have lawyers act for them in this process.

Prior to making a complaint it is suggested that efforts be made to resolve the issue directly with the sonographer concerned.

### **What happens when a complaint is lodged with the ASA?**

If a complaint is lodged with the ASA in relation to your professional conduct as a sonographer, in the first instance the CEO will forward all information to the chair of the Disciplinary Committee who will determine if the complaint requires further investigation.

If further investigation is to be undertaken, you will be contacted and the complaints handling process explained in full. You will be sent a copy of all of the complaint documents and you will be asked to provide a written response to the complaint. The Disciplinary Committee may appoint an Investigation Panel to review all relevant information and make a recommendation as to the appropriate action to take.

For a summary of how the process works, please refer to Section 2 of this document.

### **How do I respond to a complaint?**

You will be provided with a copy of all of the complaint materials submitted by the complainant. Your response should individually address each aspect of the complaint. 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 of Professional Conduct, the easier it is for the situation to be fully understood. Examples of information you may wish to include in your response could be specific dates as backed up in a work diary, availability of worksheets, interim reports or images if needed, or other verification of events.

You must respond within the specified time.

**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, or other trusted person of your choice.

**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 supervisor. Any statements or letters from third parties must be submitted by you at the time you lodge your response. The ASA 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 ASA. All documents 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 21 days from the date the complaint documents are sent to you.

**Do I have to respond to a complaint against me?**

Yes. The Code of Professional Conduct states that members “must cooperate with duly constituted committees of the Board, particularly those with the duty to investigate any complaints against members. This includes responding promptly and fully to any enquiries.”

**Do I have to see the complainant?**

No. In the course of an investigation you may be required to give oral evidence, however this will not be in the presence of the person who made the complaint.

**Where do I send my response?**

Your written response should be sent to:

Confidential - CEO  
Australian Sonographers Association Ltd  
PO Box 709  
Moorabbin Vic 3189

Or you may wish to email your response to [regulation@a-s-a.com.au](mailto:regulation@a-s-a.com.au)

**Is this a confidential process?**

Yes, this is a confidential process. You will receive a copy of the complaint, including – in most instances - the name of the complainant, however the complaints handling process is set up to ensure that only relevant parties have access to complaint materials. Relevant parties include the ASA’s CEO, the Disciplinary Committee and, if applicable, an independent investigator, witnesses and the Appeal Panel. All complaint materials (both paper and electronic) are stored securely. The Disciplinary Committee may approve the withholding of a complainant’s name in limited circumstances, however only if this does not prejudice the respondent’s ability to refute the complaint.

**Are there any limitations to my confidentiality?**

Confidentiality will be limited where the ASA 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 complaint is found to be substantiated, and a penalty that affects confidentiality (eg notification to employer, or ineligibility for ASA membership), is imposed.

### **Do I need to notify anyone that the ASA 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. Most Professional Indemnity and Legal Benefits insurance policies require the insured to lodge an incident report as soon as the insured becomes aware of a potential claim.

If you hold professional indemnity insurance as part of your membership of the ASA, the contact information is available on the ASA's website – the confidentiality of the complaints process does not allow us to fulfil this obligation on your behalf.

### **What happens after I have submitted my response?**

For a technical breach the Disciplinary Committee makes a determination. For a material breach the Investigation Panel considers the complaint and your response and decides if further information is required in relation to the matter or if a recommendation can be made to the Disciplinary Committee. You will be notified of the decision.

### **Can I appeal a decision of the Disciplinary Committee?**

Yes, it is possible to appeal the decision of the Disciplinary Committee.

If the grounds of the appeal are accepted, an Appeal Panel will be formed. The decision of the Appeal Panel is binding. 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 during the investigation of the complaint 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 variety of different responses that can occur if a complaint is proven, ranging from a recommendation that additional, targeted continuing professional development be undertaken to ineligibility for membership of the ASA.

### **How long will it take?**

The Disciplinary Committee endeavours to respond to complaints in a timely manner and where possible the ASA sets out specific timelines for the various stages of the complaints handling process. However, there are a number of things that may make the time involved longer, such as waiting for reports from investigations, waiting for responses, and so on. It is possible that a complex case may take up to twelve months to be finalised.

### **Who can I telephone about this complaint?**

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### **Cost of responding to a complaint**

Any expenses incurred in responding to a complaint are entirely the respondent's responsibility.

The ASA budgets for costs to support the Disciplinary Committee in the execution of its duties, with both complainants and respondents meeting their own costs.