

Code of Ethics

Bylaws for Grievance Procedures

Definitions

Throughout this document:

- *Complainant* - refers to the person bringing forth the complaint of an alleged infringement.
- *Respondent* - refers to the person against whom the complaint of an alleged infringement is made.
- *Association* - means the Australian Music Therapy Association Incorporated.
- *President* - means the President of the Association.
- *Board* - means the governing body of the Association.
- *Ethics Committee* - means the Committee of that name as provided for in section G13 b) of the Constitution of the Association.
- *Registered Music Therapist* - means a person who has been accredited by the Association.
- *Code of Ethics* - means the Code approved and issued by the Association.
- *Standards of Practice* - means the Standards approved and issued by the Association.
- *A Client* - means a person who is served professionally by:
 - A Registered Music Therapist, or
 - A student in training whilst under the Supervision of a Registered Music Therapist.

Preamble

Documentation

All members who are involved in the process of resolving a complaint about an alleged infringement must make sincere efforts to resolve differing viewpoints before the Formal Grievance Procedure (see Section 3 below) is set in motion by communicating with each other either in writing and/or in person. Documentation of these communications is to be kept.

Natural justice provisions

The Respondent shall have access to all written reports made by the Chair of the Ethics Committee or by the Grievance Committee as well as all documents relating to the complaint. The Respondent shall have the right to reply to the content of allegations and written reports.

Legal representation

The Respondent may be assisted by a person with legal qualifications and/or a family member/friend who may act as an advocate during the Formal Grievance Procedure. Where the Complainant and/or Respondent choose to have legal representation, the fees for such legal representation will be borne by the Complainant and/or Respondent. Where the Association seeks legal advice, it is to meet its own legal costs.

Confidentiality

All members involved in the complaint resolution procedures and their representatives are obliged to maintain strict confidentiality with respect to information concerning a complaint of an alleged infringement. All documents (and computer files) produced during the complaints resolution procedure are to be marked private and confidential and must remain confidential until destroyed. It is a condition of allowing a respondent to be assisted by a person that such person is required to meet these confidentiality requirements.

Record keeping

Written documentation of the complaints resolution procedures are to be held in confidence for a period of 12 months from the completion of the process. After this time, the case record comprising name, nature of the complaint, action and outcome, is to be retained in a permanent file, but all other material is to be destroyed. Computer files and any copies thereof are to be destroyed at the completion of the complaints resolution procedure.

Formal Grievance Procedure

The Chair of the Ethics Committee shall instigate the Formal Grievance Procedure as follows:

An ad hoc Grievance Committee will be constituted for the purpose of investigating the alleged infringement of the Code of Ethics or Standards of Practice under question.

Its term of office is limited to the length of time required to report to the Board of the Association.

The Grievance Committee shall comprise:

- a) the Chairperson of the Ethics Committee (or appointee in the case of conflict of interest);
- b) one other member of the Ethics Committee with at least 2 years clinical experience;
- c) a third member who may be a Registered Music Therapist, or a professional person outside of the Association from a professional organisation of similar mission with experience in handling such situations; and
- d) any further member/s that the Chair agrees to appoint in response to a request from the Committee
- e) at the discretion of the Chair, an independent legal practitioner

One of the above persons is to be appointed Chairperson of the Committee by the Chair of the Ethics Committee.

All members of the Committee must be free of conflict of interest and disclose any such conflict or potential conflict.

The Role of the Grievance Committee.

The role of the Grievance Committee is to establish the facts of the case; seek to obtain all available evidence, both favourable and unfavourable to all parties involved, and prepare a report including recommendations as set out below.

The Committee is empowered to:

- a) *Call meetings.*
- b) *Require the Complainant and/or Respondent and/or any other appropriate party to make available documents for examination and/or copying.*
- c) *Interview all persons who are likely to have information relevant to the complaint of the alleged infringement.*
- d) *Call witnesses to provide evidence in relation to the complaint of the alleged infringement.*
- e) *Access necessary legal and/or other professional services with the agreement of the President in regard to the related costs that are to be met by the Association.*

The Committee is required to prepare a report that must contain the following:

- a) *a summary of the facts as established.*
- b) *details of the investigation undertaken and procedures followed including particulars of individuals interviewed, documents examined and other relevant matters.*
- c) *the sections of the Code of Ethics and/or Standards of Practice which have been considered.*
- d) *the Committee's findings in regard to the alleged infringement.*
- e) *Recommendations to the Chair of the Ethics Committee on action to be taken as a consequence.*

The report is to be completed within 6 weeks from the date the Grievance Committee is established, unless there are extenuating circumstances, in which case, the President may consider and approve an extension of the time to complete the report.

Hearing of the Complaint

The Complainant and the Respondent are to be notified in writing that the Formal Grievance Procedure has commenced or is about to commence.

In the event that the issue involves only the Complainant and the Respondent, the Grievance Committee shall immediately convene a hearing in terms of Section 6.

In the event that the issue involves a third party, the Complainant and Respondent should make available to the Grievance Committee a list of person/s they would like the Committee to contact in order to gain information relevant to the complaint.

The Grievance Committee is to contact the abovementioned person/s either by interview, written correspondence or telephone. In the case of personal and telephone interviews, the Grievance Committee member/s involved are to prepare a written summary report that is to form the record of interview.

The Grievance Committee is to convene a meeting to review the above data and activate the hearing procedure.

Hearing Procedure

The hearing is to take the following form or a similar form as agreed between the Grievance Committee, the Complainant and the Respondent:

- *a brief summary from the Chair of the Grievance Committee, and thereafter a final opportunity for resolution*
- *a brief break, then*
- *opening statement by the Complainant*
- *questions by the Committee to the Complainant*
- *opening statement by the Respondent*
- *questions by the Committee to the Respondent*
- *Complainant's rebuttal of the Respondent's statement*
- *Respondent's rebuttal of the Complainant's statement*
- *Complainant's witness/es,*
- *questions by the Committee and the Respondent*
- *Respondent's witness/es,*
- *questions by the Committee and Complainant*
- *brief recess for the Committee to review progress*
- *final questions to the Complainant by the Committee*
- *final questions to the Respondent by the Committee*
- *final statement by the Complainant*
- *final statement by the Respondent.*

The Committee shall, as soon as practicable:

- a) *Decide whether the complaint should be dismissed or upheld, and if upheld, a penalty that should be applied (in terms of Section 8)*
- b) *Make recommendations accordingly in its report to the Chair of the Ethics Committee*
- c) *Include supporting information in its report which forms the basis for its recommendations.*

Penalties

If the penalty does not affect Membership and/or Registration, the Grievance Committee may recommend that the Chair of Ethics:

- a) *formally reprimand the Respondent in writing;*
- b) *impose conditions of practice;*
- c) *where appropriate, offer interventions which would enable the Respondent to develop more appropriate practice; and/or*
- d) *any other course of action which is deemed appropriate e.g. apology.*

If the penalty does affect Membership and/or Registration, the Grievance Committee may recommend to the Board that:

- a) *Membership of the Association be suspended for a specific period of time;*
- b) *Membership of the Association be terminated and the member be precluded from eligibility for Membership for a fixed term;*

- c) *the member be removed from any office held in the Association ;*
- d) *Registration be rescinded; and/or*
- e) *any other course of action deemed appropriate be taken.*

Consideration of the Grievance Committee report.

The Chair of the Ethics Committee/Ad hoc committee is to convey the written recommendation/s of the Grievance Committee and the accompanying documentation which supports the recommendation/s to the Complainant, the Respondent, and any other person involved, within 14 working days of receipt of the Committee's report.

In the event the action requires that Membership/Registration be rescinded, the President takes the matter to the Board for action.

The decision to rescind Membership/Registration is to be conveyed promptly to the Complainant, the Respondent and any other person involved in writing.

Request for an Appeal

An appeal for re-consideration of the Board's decision in regard to the above resolution of a complaint may be made by either the Complainant or the Respondent in writing.

Appeals may be made on the grounds of:

- a) *improper procedure;*
- b) *the penalty imposed is considered inappropriate; and/or*
- c) *new evidence.*

A request for an appeal for reconsideration of a decision is to be submitted in writing to the President within 28 days of the date of correspondence from the Association setting out the Board's decision as in 8 iii) above. The request is to include the grounds upon which the appeal is made.

Upon receipt of a request for an appeal, the President is to appoint an Appeals Committee, which shall comprise:

- a) *delegate of the President provided that such person has not participated in the original Grievance Committee;*
- b) *one Registered Music Therapist who was not on the original Grievance Committee;*
- c) *a third member who may be a Registered Music Therapist, or a professional person outside of the Association from a professional organisation of similar mission with experience in handling such situations, who was not on the original Grievance Committee; and*
- d) *any further member/s that the President agrees to appoint in response to a request from the Committee.*
- e) *a lawyer if required*

Appeals Procedure

The Appeals Committee is to decide whether an adequate case has been presented to justify the appeal against the previous decision.

If the Appeals Committee determines that there are insufficient grounds for reconsideration of the matter, the Committee is to advise the President in writing of its decision and the reasons for such a decision.

In the case that the Appeals Committee decides that there are sufficient grounds for reconsideration, a hearing date for the Appeals Procedure is to be set within 28 days of notifying the parties involved. The Appeals Procedure is to be the same as the Formal Grievance Procedure.

The President is to convey the written recommendation/s of the Appeals Committee to the Complainant, the Respondent, and any other person/s involved within 14 working days of receipt of the Appeals Committee's report.

The President considers the report from the Appeals Committee and decides whether to accept any or all of its recommendations.

In the event the action requires that Registration be rescinded, the President takes the matter to the Board for action.

The decision of the President (or Board in the event Registration is to be rescinded) shall be conveyed promptly to the Complainant, the Respondent and any other person involved in writing. It is also to be published in the Newsletter of the Association.

The decision that is taken at the end of the Appeals Procedure is final, and binding on parties who are members of the Association.

Acknowledgements

In writing the Grievance Procedure, the following documents were consulted, and some material has been re-produced with permission.

- *Music and Imagery Association of Australia Inc.*
- *Australian Psychological Society Ltd*
- *Psychotherapy and Counselling Federation of Australia (PACFA)*