



# **Grievances Procedure**

## **(June 2021)**

This document sets out the procedure for complaints or feedback from members of the Society of Construction Law Australia (**SoCLA**).

## **Grievances**

1. Grievances are complaints or feedback from any member of SoCLA (an **Aggrieved Member**) regarding any matter that:
  - (a) is an alleged breach of SoCLA's Constitution, and its formal rules, by-laws or policies or is likely to be disputed by any person including members, employees, consultants or guests of SoCLA as to the facts forming the basis of the complaint or feedback or any conclusion or opinion expressed by the Aggrieved Member and is likely to affect the reputation of SoCLA but does not include a Claim as defined in (b) below (**Disputed Matter**); or
  - (b) is the subject of an actual or threatened claim, notice, demand, action, proceeding, litigation, or investigation against SoCLA, or any member of the Board in their capacity as a member of the Board or a committee of SoCLA (**Claim**),(both, a **Grievance** or **Grievances**).
2. All Grievances will be handled in accordance with this Grievances Procedure.
3. If the subject of a Grievance (**Respondent**) is a member of SoCLA's Executive or Board, then references to 'Executive' or 'Board' in this procedure are to the members of the 'Executive' or 'Board' (as the case may be) excluding the Respondent.

## **Procedure for Grievances**

4. An Aggrieved Member may make a Grievance orally or in writing to a Board member. The Board member will refer all Grievances to the Chair of the Board (**Chair**) within seven days of receipt of the Grievance.
5. SoCLA will treat all Grievances with confidentiality, except where it is necessary to disclose information to carry out a fair investigation.

## **Consideration of Disputed Matters**

6. If the Grievance concerns a Disputed Matter, the Chair will refer it to the Chair, Vice-Chair, Treasurer and Secretary of the Board (**Executive**).
7. As soon as reasonably practicable after a Grievance concerning a Disputed Matter is brought to the attention of the Executive, the Executive will meet and determine the most appropriate course of action to take in relation to the Disputed Matter.
8. The Executive may decline to refer malicious, vexatious or frivolous Disputed Matters. Alternatively, the Executive may determine that the Disputed Matter is not one which SoCLA is obliged to investigate. Upon rejection, the Executive shall inform the Aggrieved Member with brief reasons within 14 days of receipt of the Grievance.
9. If the Executive determines that the Disputed Matter is one which requires further action or investigation by SoCLA, the Executive will within 14 days of receipt of the Disputed Matter inform the Aggrieved Member of this determination and request the Aggrieved Member to submit written details of the Disputed Matter including a detailed description of the breach alleged or incident or conduct that is the subject of the Disputed Matter the outcome sought, details of witnesses (if any) and copies of any other documents or evidence relied upon in support of the Disputed Matter.
10. Following receipt of such requested information from the Aggrieved Member, the Executive may take whatever action it determines is appropriate provided that the Executive will bring the Disputed Matter to the attention of the Board if it determines at any time that:
  - (a) the Disputed Matter could become an issue that in the reasonable opinion of the Executive is likely to have a material effect on the reputation of SoCLA; or
  - (b) members of the Board may be asked about the Disputed Matter.
11. If a Disputed Matter is brought to the attention of the Board, the Board may direct the Executive to take whatever action the Board considers appropriate and the Executive will comply with such direction.

## **Actions in Response to Disputed Matters**

12. Actions taken in response to a Disputed Matter may include without limitation:
- (a) dealing with the matter informally, such as:
    - (i) nominating a person to speak to the Respondent to inform them of the Disputed Matter and reminding them of SoCLA's Constitution or relevant rules, by-laws or policies without further investigation;
    - (ii) requesting any Member to issue an apology;
    - (iii) requesting any Member to attend training on any reasonable topic to seek to address the Grievance; and/or
    - (iv) recommending to the Board that any private venue, supplier, service provider or other third party no longer be used or contracted with by SoCLA;
  - (b) dealing with the matter formally through convening a formal hearing in which case the following shall apply:
    - (i) the Executive will agree the terms of reference of any hearing and will determine the timing of the hearing and will communicate the process to both the Aggrieved Member and the Respondent;
    - (ii) the Executive will appoint three persons from the Executive and the Board to form a committee to hear the Grievance and will determine whether the Grievance is well founded and, if so, any action to be taken;
    - (iii) all such hearings will be conducted without legal formality and any person may be accompanied by a friend;
    - (iv) any Respondent will have the right to be told the nature of the allegations made, to respond in writing in advance and to attend at any hearing and speak or answer questions;
    - (v) there is no obligation upon any person to attend a hearing and there is no right for any party to cross-examine or question another party; and
    - (vi) if the committee hearing the Grievance decides that further action against a Respondent is appropriate, they shall record their decision and the reasons for it in writing and shall send a copy of the reasoned decision to the parties within 10 days.

## **Consideration of Claims**

13. If the Grievance concerns a Claim, the Chair will promptly bring it to the attention of the Board.
14. The Board will immediately:
- (a) consider whether to appoint solicitors to act;
  - (b) ensure that documents (including electronic documents) which are generated in relation to the matter, are generated for the purpose of instructing solicitors; and
  - (c) investigate whether any insurance policy could apply to cover any liability or costs arising out of the issue and, if so, notify insurers forthwith.