

Institute of Arbitrators and Mediators of Australia

Procedure for Managing Complaints Against Members of the Institute of Arbitrators and Mediators of Australia (Victoria)

1. The purpose of this procedure is to set out a method for the Institute of Arbitrators and Mediators of Australia, Victoria Chapter (IAMA) to handle complaints made against its members by members of the public.
2. Claimants and respondents involved in any adjudication process through IAMA Victoria are informed of IAMA Victoria's Complaints Procedure and are able to contact the Adjudication Administrator at any time for further details.
3. The IAMA Victoria Complaints Procedure can be found on the IAMA website and is easily accessible to members of the public.
4. The Adjudication Administrator is often the recipient of the complaint in the first instance. If the initial complaint is made to the Adjudication Administrator orally, the Complainant should be informed that the complaint must then be put in writing by the Complainant with materials attached in support of his or her position. Should the Complainant have any questions regarding the form or content of the written complaint, the Adjudication Administrator shall provide them with assistance in that regard.
5. The Adjudication Administrator is not to respond to a written complaint, except to acknowledge the receipt of the material provided and to advise that the complaint is being forwarded to the CEO for referral to the Chair of the National Professional Affairs Committee (PAC).
6. The Adjudication Administrator shall then send the material to the CEO, together with a brief report setting out any knowledge that the Adjudication Administrator may have of the background to the situation giving rise to the complaint.
7. The CEO shall acknowledge receipt of the material to the Adjudication Administrator and Complainant and advise that the material is being forwarded to the Chair of the PAC and shall then forward the material as advised within 3 business days of receipt.
8. The Chair of the PAC shall review the material within 5 business days after receipt and may seek clarification or request additional material from the Complainant as the Chair of the PAC considers appropriate. Taking into account what is fair and reasonable, industry practise and relevant industry codes of practise, and having regard to the law, if the Chair of the PAC forms the view from the materials submitted by the Complainant that there is a prima facie case, then

the Member complained against shall be given reasonable opportunity to provide a written response to the complaint.

9. The Complainant shall be provided with a copy of the written response to the complaint provided by the Member.
10. If the Chair of the PAC forms the view from the material submitted by the Complainant that there is no prima facie case, then the Complainant is to be promptly advised by the CEO or Chair of the PAC in writing that the PAC has determined that there is no reasonable basis for the complaint. The Chair of the PAC shall assist the CEO to prepare any response by the CEO.
11. If the Chair of the PAC forms the view that there is a prima facie case, then as soon as reasonably practicable after the completion of the procedure in paragraph 8, the Chair of the PAC shall make a recommendation to the PAC as to what action IAMA should take in respect of the complaint.
12. The PAC shall report to the Executive whether on the material available there is a sufficient basis to refer the matter to Council for consideration of whether or not to hold an enquiry under Article 37A of the Articles of Association, and shall recommend what action should be taken which is appropriate in all the circumstance of the case. The recommendation may be that some action other than the holding of an enquiry be taken, including counselling, further education or the imposition of a period of probation.
13. The Executive shall consider the matter and may refer the matter to Council under Article 37A, or, the Executive may delegate an appropriate Member of the Council, or the CEO, to ascertain whether the Member is prepared to consent to and comply with the action recommended by the PAC, or any variation of that action as the Executive considers fit, or, the Executive may dismiss the complaint. If the Member is given the opportunity to consent and comply with some such action and fails to do so, the Executive, if it is considered appropriate, may refer the matter to Council under Article 37A.
14. The Complainant shall be advised in writing by the CEO as soon as practicable after the Executive has determined the action to be taken under paragraph 10 above, or if applicable after the Member has consented to any action recommended (other than a referral under Article 37A). If the complaint is to be referred to Council under Article 37A the CEO shall advise the Complainant in writing of the outcome of that referral.

15. If the Complainant is not satisfied with the response provided by the CEO then the Complainant may give written notice of an intention to maintain the complaint. Upon receipt of such notice the CEO will refer the complaint for external review by an independent complaint handler nominated by the Chartered Institute of Arbitrators.
16. IAMA will abide by any outcome or agreement reached during any arbitration conducted by the nominated arbitrator.
17. Complainants have the right to take their complaint to the legal system or elsewhere if dissatisfied with the procedure or outcome. Should any court action arise relating to or affecting an adjudication made to IAMA, IAMA shall notify the appropriate authorities as soon as practicable.
18. An annual report shall be compiled by the Adjudication Administrator and provided to the PAC, the Executive, and members of IAMA's staff, regarding complaints lodged, outcomes of those complaints, and noting systemic problems that the complaints have addressed.
19. Every 3 years the complaints procedure shall be reviewed by an independent expert nominated by the Chair of the PAC, at IAMA's expense. The review shall address the functionality and effectiveness of the complaints procedure, member and complaint satisfaction under the complaints procedure, equitability of access to the complaints procedure, and that the alternate dispute resolution processes within the procedure are just and reasonable. This review shall be provided to the PAC, the Executive, and members of IAMA's staff, and shall be available to the public upon request.