



**Strata Community Association Ltd**

**ABN: 15 151 156 357**

## **CODE OF CONDUCT / ETHICS**

### **Complaints Management Process (CMP) for the Strata Community Association**

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## 1 Principles of the Complaints Management Process (CMP)

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The fundamental goal of this Complaints Management Process is to promote best practice to encourage ethical and professional practice and conduct by all Members of the Strata Community Association (SCA).

The principles that the CMP seeks to apply are:

<b>Accessible</b>	the CMP should be available to Members and the public, in plain language, at a low cost. Application fees for successful complaints may be refunded
<b>Accountable</b>	the CMP should report outcomes and give reasons for its decisions.
<b>Data collection</b>	the CMP should provide a process for collection and analysis of complaint data.
<b>Efficient</b>	the CMP should be conducted in a timely manner with adequate assistance provided to Complainants.
<b>Effective</b>	the CMP should provide sanctions appropriate to an offence committed and provide an opportunity to monitor.
<b>Fairness</b>	the CMP should be fair and transparent to all parties.
<b>Process review</b>	the CMP should be reviewed periodically by the Board to ensure SCA's standards of ethical and professional practice and conduct by its Members are effective, and Complaints are handled efficiently.
<b>Professional integrity</b>	the CMP should be adequately resourced and ensure sanctions are seen to be effective and enforceable.

## 2 To whom does this Complaints Process apply?

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- 2.1 Any person or Organisation may contact SCA with a query in relation to the "Code of Conduct" (CoC) without resorting to the CMP. Such an inquiry may clarify whether lodging a Complaint Management Form is warranted in relation to particular activities or actions of a Member, and whether these activities or actions constitute a possible breach of the Code of Conduct.
- 2.2 A Member is encouraged to notify possible breaches of the Code of Conduct. Members taking this course of action will have this taken into account should any formal complaint be lodged.
- 2.3 Any person or Organisation may lodge a Complaint under this CMP alleging a breach of the Code of Conduct by a Member. The Complainant need not be a Member.
- 2.4 The SCA Board may initiate a complaint unilaterally if a member is found by the Courts to have breached laws that relate to the work of industry or if a member has accepted an adverse settlement arising from civil litigation.
- 2.5 The CMP neither replaces nor overrides any rights available to a person or Organisation at law.

- 2.6 Members acknowledge that they have:
- (a) no right of action in any court or jurisdiction; and
  - (b) no right to damages or any form of compensation or indemnity;
- as against:
- (c) SCA;
  - (d) any Officer of SCA; or
  - (e) any Complainant;
- as a consequence of:
- (f) any costs of any nature which the Member may incur (including, but not limited to, legal costs) in answering a Complaint; or
  - (g) any losses or damages of any nature which the Member may incur directly or indirectly due to the Professional Standards and Membership Board Advisory Group (PSMBAG) making a finding as against that Member.
- 2.7 Application applies to schemes captured by the region's legislation.

### 3 Definitions

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In this document, unless the context otherwise requires:

<b>Appeals Officer</b>	means a person appointed by the Board to conduct an appeal under this CMP
<b>Board</b>	means the board of directors of SCA
<b>Code of Conduct (CoC)</b>	means the Code of Conduct (CoC) setting out the standards of ethical and professional practice and conduct for Members as referred to in clause 33 of the SCA Constitution.
<b>Complainant</b>	means a person or Organisation who or which makes a Complaint to SCA
<b>Complaint</b>	means a notice in writing sent by any person or Organisation to SCA, by way of a completed Complaint Management Form (CMF), concerning a breach by a Member of any part of the CoC
<b>Complaint Management Form (CMF)</b>	means the CMF accessible on SCA's website, a sample of which is included as Appendix 1 of this document.
<b>Complaints Process</b>	means this complaints process as amended from time to time by the Board, which is the process which promotes and ensures compliance with the CoC.
<b>Member</b>	includes an SCA member who is bound by the CoC
<b>Misconduct - Professional</b>	means conduct by a Member that is in violation of the CoC that: <ul style="list-style-type: none"> <li>(a) has serious adverse consequences to a Complainant; or</li> </ul>

	(b) was committed intentionally by the SCA Member; or both.
<b>Misconduct - Unsatisfactory</b>	means conduct by a Member that: <ul style="list-style-type: none"> <li>(a) fails to abide by the standards of best practice and conduct expressed in the CoC as amended from time to time, or</li> <li>(b) has minor adverse consequences to a Complainant; or both.</li> </ul>
<b>Officer</b>	has the meaning given to it in the <i>Corporations Act (Cth) 2001</i> .
<b>Organisation</b>	means an unincorporated entity or an entity incorporated under Commonwealth, State or Territory legislation.
<b>Panel</b>	means a panel of Members as referred to in clause 4.25. (The Board may establish the Panel by virtue of the power it is granted pursuant to clause 36 of the SCA Constitution.)
<b>Professional Standards and Membership Board Advisory Group (PSMBAG)</b>	means the committee panel established by the Board for the purposes of making determinations on Complaints against a Member for breaching the CoC.
<b>PSMBAG Member</b>	means a current member of the PSMBAG.
<b>SCA</b>	means Strata Community Association
<b>Senior Executive</b>	means the General Management or Company Secretary of SCA.
<b>Successful</b>	means that an adverse finding against the code of conduct is handed down by the PSMBAG
<b>Stage 1</b>	means the procedure set out in clauses 4.2 to 4.11 inclusive of the CMP
<b>Stage 2</b>	means the procedure set out in clauses 4.12 to 4.22 inclusive of the CMP
<b>Stage 3</b>	means the procedure set out in clauses 4.23 to 4.46 of the CMP
<b>Subject Member</b>	means a Member who is alleged to have breached the CoC and is the subject of a Complaint.

## 4 Complaints Process

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- 4.1 A person or Organisation wishing to make a Complaint about the conduct of a Member, must use the process in clauses 4 and 5.
- (a) The process is in 3 stages:
    - (i) Stage 1 *Lodging a Complaint and Initial Processing of a Complaint*;
    - (ii) Stage 2 *Investigation of a Complaint*; and
    - (iii) Stage 3 *Analysis of a Complaint*.

### Stage 1

#### ***Lodging a Complaint***

- 4.2 A Complaint must:
- (a) be in writing;
  - (b) be lodged with SCA online following the process and using the Complaint Management Form (CMF) provided on SCA's website to identify it as a formal complaint; and
  - (c) contain sufficient details to enable SCA to identify the Complainant, the Subject Member and the nature of the Complaint.
- 4.3 The Complainant must complete an online CMF, an example of which is located at Appendix 1. The Complainant is required to indicate on the CMF the part(s) of the CoC alleged to have been breached by the Subject Member.
- 4.4 In lodging a Complaint, the Complainant accepts that they may be required to explain and answer questions in relation to the Complaint to an Officer(s) nominated by SCA. The purpose of this requirement is to discourage frivolous or vexatious Complaints and enable the Subject Member an opportunity to respond in relation to the allegations.
- 4.5 If the Complaint concerns **Misconduct – Unsatisfactory**, it must be lodged within six (6) months of discovery of an alleged breach of the CoC.
- 4.6 If the Complaint concerns **Misconduct - Professional**, it may be lodged at any time after discovery of an alleged breach of the CoC.

#### ***Initial processing of a Complaint***

- 4.7 The Complaint must be directed initially to the Senior Executive of SCA who:
- (a) must promptly acknowledge receipt of the Complaint to the Complainant; and
  - (b) may request further information from the Complainant if the Senior Executive considers it necessary for the resolution of the Complaint; and
  - (c) if there is insufficient information to warrant investigation or it appears, in the Senior Executive's reasonable opinion, that the Complaint is frivolous, vexatious or otherwise without merit as determined by guidelines nominated by the Board from time to time, will reject the Complaint; or
  - (d) if there is sufficient information to warrant investigation, must refer the Complaint to the Subject Member for a response.

- 4.8 The Senior Executive will provide to the Subject Member a link to the latest CoC, the Complaint and further information obtained pursuant to clause 4.7(b) within 14 days of the Senior Executive receiving the Complaint.
- 4.9 If any party to a Complaint has any questions in relation to the Complaint prior to the analysis by the PSMBAG, these questions must be put to the Senior Executive in writing, by soft copy:
- (a) if the party is the Complainant, within 14 days of having lodged the Complaint; or
  - (b) if the party is the Subject Member, within 14 days of the Subject Member receiving the documents referred to in clause 4.8.
- 4.10 The Subject Member may respond to the Complaint by writing to the Senior Executive, and if they choose to do so, must submit his/her response within:
- (a) 14 days of receiving the Complaint pursuant to clause 4.8; or
  - (b) such longer time as notified by the Senior Executive to the Subject Member if further information is required from the Complainant under clause 4.7(b).
- 4.11 If the Subject Member does not respond to the Complaint within the permitted time pursuant to clause 4.10, the Senior Executive will continue the CMP and ensure the Subject Member is informed of the outcome.

## Stage 2

### ***Investigation of a Complaint***

- 4.12 The Senior Executive must investigate the Complaint in such manner as they deem appropriate and may delegate investigation of the Complaint to SCA staff members, Officers or another nominee of the Senior Executive as previously approved by the PSMBAG.
- 4.13 Within 90 days of:
- (a) receiving the Subject Member's response to the Complaint pursuant to clause 4.10 (or such longer time as the Senior Executive deems necessary); or
  - (b) the deadline referred to in clause 4.10 in the event that the Subject Member did not respond;
- the Senior Executive must:
- (c) analyse and investigate the Complaint;
  - (d) make a preliminary assessment of the Complaint; and
  - (e) seek such further information as may be necessary.
- 4.14 In conducting the investigation, the Senior Executive may deal with the Complaint summarily as set out in clause 4.15.
- 4.15 If the Senior Executive makes a finding that the Complaint is without substance or refers to a non-member, the Senior Executive must:
- (a) dismiss the Complaint summarily and the Complainant referred to an alternative dispute resolution process; and
  - (b) report the dismissal to the PSMBAG.
- 4.16 If at any time both the Complainant and the Subject Member are satisfied with the resolution of the Complaint, and acknowledge their satisfaction in writing to the Senior Executive, the Complaint will be deemed to be resolved as between them.

- 4.17 When a Complaint is resolved under clause 4.17, the Senior Executive will report in writing the Complaint and its resolution to the PSMBAG.
- 4.18 If a Complaint concerns **Misconduct - Professional**, it cannot be withdrawn after being made by the Complainant. SCA will retain all documents provided to it by the Complainant:
- (a) to facilitate the Senior Executive's investigation; and
  - (b) for the information of the PSMBAG to facilitate the analysis and determination of the Complaint.
- 4.19 If the Senior Executive makes a finding of Professional Misconduct which involves a potential criminal component (including, without limitation, fraud, embezzlement, theft or any other illegal activity), the Senior Executive must:
- (a) refer the Complaint to the police for further investigation; and
  - (b) revoke the membership of the Subject Member.
- 4.20 A failure by the Subject Member to co-operate with investigations by or on behalf of the Senior Executive or the PSMBAG may constitute either Unsatisfactory Conduct or Professional Misconduct, depending on the Senior Executive's assessment of the nature of the Complaint and the nature of the Subject Member's failure to co-operate.

### Stage 3

#### ***Analysis of a Complaint***

- 4.21 When a Complaint is referred to the PSMBAG, the Senior Executive will provide the following information about the Complaint to the PSMBAG:
- (a) the Complaint;
  - (b) the Subject Member's response to the Complaint (if any); and
  - (c) the outcome of the Senior Executive's investigation of the Complaint, together with any relevant documents.
- 4.22 The PSMBAG may:
- (a) seek legal advice in relation to the handling of the Complaint; or
  - (b) if the Senior Executive has not already done so under clause 4.21, refer the Complaint to a government agency (such as the Police, ASIC, ACCC or Fair Trading / Consumer Affairs) where appropriate.
- 4.23 Complaint Management:
- (a) the PSMBAG may, if it deems appropriate to do so, for the purpose of investigating a Complaint, appoint a Panel comprising three (3) persons, such persons to be present PSMBAG Members.
  - (b) if the PSMBAG considers it appropriate to do so, the PSMBAG may analyse the Complaint without appointing a Panel.
  - (c) the Senior Executive will notify, not less than 10 days prior, the Complainant and the Subject Member of the time and date at which the PSMBAG/Panel will analyse the Complaint.
- 4.24 The Complainant and the Subject Member may also be invited or directed by the Senior Executive to produce documents and provide witness statements relevant to the Complaint. A party producing documents to the PSMBAG/Panel must provide copies of



those documents to the other parties as well.

- 4.25 The PSMBAG/Panel must analyse the Complaint as soon as practicable and may:
- (a) determine the Complaint; or
  - (b) adjourn the Complaint; or
  - (c) refer the Complaint to the Senior Executive to undertake or arrange for further investigation.
  - (d) The PSMBAG/Panel may adopt specific procedures for the analysis of the complaint. The Senior Executive may determine that when the PSMBAG/Panel considers the Complaint, the Complainant and the Subject Member may be given an opportunity to make submissions to the PSMBAG/Panel.
- 4.26 The PSMBAG/Panel and the Subject Member may be given an opportunity to ask questions of the Complainant through the Senior Executive. The PSMBAG/Panel will also have an opportunity to ask questions of the Subject Member.
- 4.27 The process is not subject to formal rules of evidence and a transcript will not be made. Parties have no right to legal representation
- 4.28 The PSMBAG/Panel may, at its discretion, allow one or more of the parties to apply to adjourn the analysis of the Complaint being considered under this Stage 3.

### ***Findings and disciplinary action***

- 4.29 In relation to a Complaint, by majority vote, the PSMBAG/Panel may:
- (a) dismiss the Complaint; or
  - (b) uphold the Complaint and find that the conduct constitutes **Misconduct – Unsatisfactory**; or
  - (c) uphold the Complaint and find that the conduct constitutes **Misconduct - Professional**.
- 4.30 Where the PSMBAG/Panel makes a finding of **Misconduct – Unsatisfactory** or **Misconduct - Professional** against a Subject Member, it may impose on the Subject Member any requirements and/or directions it deems appropriate such as the following:
- (a) require a written undertaking to the PSMBAG/Panel by the Subject Member to attend at the Subject Member's expense an SCA seminar, appropriate counselling or some other undertaking as determined by the PSMBAG/Panel;
  - (b) issue a letter of reprimand to the Subject Member;
  - (c) issue a letter of censure to the Subject Member;
  - (d) prohibit the Subject Member from holding office in SCA;
  - (e) require the parties to mediate;
  - (f) require the parties to submit to binding arbitration;
  - (g) issue a public or private apology in writing which may include media advertising;
  - (h) direct the SCA secretariat to suspend the membership of the Subject Member;
  - (i) direct the SCA secretariat to expel the Subject Member from membership of SCA;
  - (j) make a recommendation to the Subject Member's licensing authority supported by papers and information in the possession of SCA;
  - (k) subject to any Board approval, any other penalty the PSMBAG/Panel determines

is appropriate.

### ***PSMBAG/Panel Responsibilities in relation to complaints management***

- 4.31 The PSMBAG/Panel must publish to the Complainant and Subject Member within 28 days:
- (a) the determination and reasons for the determination pursuant to clause 4.32; and
  - (b) the penalty pursuant to clause 4.34.
- 4.32 Subject to clause 4.37, SCA will make available a copy of the reasons for the determination and the penalty to any Member upon receipt of a written request in writing and at the requesting Member's expense.
- 4.33 A Complainant or Subject Member may request, by notice in writing to the PSMBAG within 5 working days of receiving the determination, that his/her details be suppressed, which may be determined by the PSMBAG in its sole and absolute discretion.
- 4.34 The PSMBAG is not obliged to suppress identification of the Subject Member.
- 4.35 In circumstances where a Subject Member's membership has been suspended or cancelled, SCA may note such suspension and cancellation but will not record details of the Complaint or the reasons for the suspension or expulsion apart from the following:
- (a) **Suspension** – *"[Subject Member] is not currently a member of the SCA. [Subject Member's] SCA membership was suspended due to a finding of the PSMBAG on [date]."*  
The above notation in relation to a suspension will remain for the period of suspension.
  - (b) **Cancellation** - *"[Subject Member] is no longer a member of the SCA. [Subject Member's] SCA membership was cancelled due to a finding of the PSMBAG on [date]."*  
The above annotation will remain on file for as long as may be determined by the Board.
- 4.36 An SCA Member whose membership has been cancelled will not be permitted to renew his/her membership until permitted to do so pursuant to a resolution of the Board.
- (a) Where the PSMBAG/Panel directs a membership suspension or cancellation as a result of **Misconduct – Unsatisfactory**, the Subject Member may reapply 12 months after the sanction to have their membership reinstated.
  - (b) Where the PSMBAG/Panel directs a membership suspension or cancellation as a result of **Misconduct – Professional**, the Subject Member may reapply 5 years after the sanction to have their membership reinstated.
- 4.37 The PSMBAG must report to the Senior Executive and Board in relation to the activities and all inquiries of the PSMBAG/Panel and the Complaints Process. This will be a standard agenda item of every regular meeting of the Board and on terms and conditions determined by the Board.
- 4.38 The PSMBAG must monitor compliance by a Subject Member with any requirements or directions imposed against the subject member under clause 4.34.
- 4.39 The PSMBAG must undertake a periodic assessment of complaints received under this CMP every three (3) years, or earlier if so directed by the Board, to determine if amendments should be made to this CMP.
- 4.40 The PSMBAG may make recommendations to the Board to amend the CoC.

- 4.41 SCA must keep records of all correspondence with a Complainant and Subject Member and must keep that correspondence confidential and secure in accordance with the Privacy Policy, as set out on the SCA website (<https://www.strata.community/>) and otherwise determined by the Board from time to time.
- 4.42 Where a member of the PSMBAG/Panel, the Senior Executive, Officer or a delegated representative is, or becomes, aware that in relation to a particular complaint about a Subject Member, they have an interest, whether business, financial or personal, that may or will make it difficult for them to discharge their duties under this CMP or that may bring the CMP into disrepute, they must declare that interest and stand aside from the CMP relating to that Subject Member.

## 5 Appeals Process

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- 5.1 An appeal against a determination made by the PSMBAG/Panel under clause 4.32 of the Complaints Process must:
- (a) be in writing;
  - (b) be addressed to the Appeals Officer;
  - (c) be lodged with SCA within 28 days of notice of the determination by the PSMBAG/Panel pursuant to clause 4.35; and
  - (d) state the grounds on which the appeal is made.
- 5.2 The grounds for an appeal by a Complainant or Subject Member are limited to one or more of the following:
- (a) failure by the PSMBAG/Panel to follow the Complaint Process, or criteria, policies or procedures published by the Board in the Code of Conduct;
  - (b) a material error or omission of fact by the PSMBAG/Panel; and/or
  - (c) the severity of the penalty imposed by the PSMBAG/Panel.
- 5.3 The Appeals Officer must not be a member of the PSMBAG/Panel that took part in the analysis and determination of the Complaint which is being appealed.
- 5.4 The Appeals Officer must make a determination within a reasonable time (e.g. 28 days of receipt of the appeal by SCA) to:
- (a) dismiss the appeal; or
  - (b) uphold the appeal.
- 5.5 Where the Appeals Officer determines to dismiss an appeal, no further action is required by the Appeals Officer and the PSMBAG/Panel except to inform the parties of the Appeals Officer's decision.
- 5.6 Where the Appeals Officer determines to uphold an appeal, the Appeals Officer may:
- (a) substitute its own determination for that of the PSMBAG/Panel; or
  - (b) remit the Complaint to the PSMBAG/Panel for further determination as required, with directions as to issues which require reconsideration.
- 5.7 The Appeals Officer must inform the parties and the PSMBAG/Panel of the Appeals Officer's determination and the reasons for the determination within 28 days of making the determination.