

Administration of the Code

Guidelines

10. Administration of the Code

- 10.1 A Fundraising Institute Australia (FIA) Member is entitled to fair and equitable treatment under the Code.
- 10.2 The Code is administered by the Code Authority (CA) which is established under the constitution¹ of FIA. CA members are appointed by the FIA Board.
- 10.3 The CA:
 - a) Is responsible for the effective operation and administration of the Code including monitoring, complaints handling and appeals. In this capacity, it may appoint subcommittees and delegate to them the management of any aspect of Code administration including monitoring, complaints handling, and appeals.
 - b) Terms of reference are outlined in Appendix 1.
- 10.4 Promoting Awareness of the Code
 - c) FIA will undertake an awareness campaign every time more than minor changes are made to the Code.
 - d) FIA will ensure the Code is available on the FIA website at all times and encourage Members to reference and provide links to the Code on their own websites.
 - e) FIA will encourage Members to promote awareness of the Code by their staff, suppliers and supporters on a regular basis.
- 10.5 Training on the Code
 - f) FIA will ensure that ongoing training is provided to Members to promote awareness of and compliance with the Code.
 - g) FIA will ensure education programs are updated every time more than minor changes are made to the Code.

¹ To avoid doubt the term 'Code Authority' has the same meaning under the FIA Constitution as 'Ethics Committee' (the term used in the Constitution).

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11. Complaints Handling

11.1 General

- h) All Complaints and responses must be in writing.
- i) All information about a Member, a Complainant, and the subject matter of a Complaint, will be kept confidential until all avenues of appeal are exhausted and outcomes of appeals known.
- j) Before lodging a Complaint, the Complainant is encouraged to attempt to resolve the matter directly with the Member.
- k) A Complainant may request to have their name withheld from the Member and from public release.
- l) The Code Administrator (CAadm) will, having completed the steps outlined in clause 11.3, forward any evidence of Code Breach provided by the Complainant for consideration by the CA.
- m) If the CA determines that a Member may have Breached the Code, it may:
 - i. Notify the Member of the apparent Breach of the Code and require the Member to undertake Training or Education or, in circumstances where there is compelling evidence of a Code Breach, but where lodging a Complaint could, in the judgement of the CA, result in the real risk of detriment to the Complainant, the CA may agree to accept a confidential Complaint.
 - ii. If the CA determines that a request for confidentiality is unjustified in the circumstances, it may reject the request and provide the Complainant with an opportunity to withdraw the Complaint.
 - iii. Other options available to the CA include, but are not limited to, hearing the Complaint, referring a complaint for examination by a subcommittee, requesting further information from the Complainant or Member, or referring the matter to another complaint handling forum.
 - iv. Contact the Member to indicate that a Breach of the Code may have occurred, giving the reasons why the CA has formed this opinion, and invite the Member to supply any further material which the Member considers relevant to the process.
- n) Where clause 11.1 f(ii) applies, the CA will, having given the Member a reasonable opportunity to respond, consider any response provided by the Member and, if it still considers that a Breach of the Code may have occurred, proceed under clause 11.1.
- o) Where the CA, having considered any response of the Member under clause 11.1, determines that it is appropriate to refer a matter as a Complaint, it will:
 - v. Send a copy of the Complaint to the Member and to FIA; and
 - vi. Ask the Member to provide a written response to the Complaint within 15 working days from the date the complaint is sent to the Member.

11.2 Process for making a complaint

- a) A Complaint must be in writing with supporting material and should:

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- i. State the nature of the conduct in question
- ii. State the provision of the Code alleged to have been breached and the reasons for asserting a Breach has occurred; and
- iii. Provide evidence to support the claim of Code breach to the CA.

11.3 Steps to be taken following receipt of a Complaint

- p) When a Complaint is received, the CAdm will acknowledge the Complaint in writing within seven working days of its receipt and deal with the Complaint expeditiously.
- q) The CAdm will, on behalf of the CA Chair, forward a copy of the Complaint to the Chief Executive Officer of the Member within seven working days of receiving the Complaint.
- r) The Member must respond in writing to the CAdm within 15 working days.
- s) The CAdm will prepare a report to the CA.

11.4 Complaints against an entity that is not a Member

- a) When a Complaint is received about a non-member, the CAdm will acknowledge the Complaint in writing within seven working days of its receipt.
- b) The CAdm will forward a copy of the Complaint to the respondent which is the subject of the Complaint within seven working days of receiving the Complaint. The respondent will be invited to have the complaint adjudicated by the CA and asked to indicate whether it agrees to abide by the CA's decision and any sanctions imposed.
- c) If the respondent agrees to abide by the CA's decision and any sanctions imposed, the Complaint will proceed in accordance with the Complaints Handling provisions of the Code as if the respondent were a Member of FIA.
- d) If the respondent declines to participate in Complaint resolution or does not respond within 15 working days, the CAdm may forward the Complaint to the relevant authority² for further action.
- e) The CAdm will provide the Complainant with a copy of any response from the respondent.

12. Withdrawal or Decision not to Proceed with Complaint

- a) The Complainant may withdraw a Complaint at any time, in which event the Member will be informed in writing and the Complaints handling procedure will be terminated.
- b) The CA may decline to consider a Complaint if it is satisfied that:
 - i. The Complaint is trivial, vexatious, misconceived, or lacking in substance; or
 - ii. The subject matter of the complaint has been dealt with previously by the CA or another authority; or

² Other relevant authorities may include: the Public Fundraising Regulatory Association; the Australian Council for International Development; the Association for Data-driven Marketing & Advertising; the Advertising Standards Bureau, the Australian Consumer and Competition Commission, and State or Territory Fair Trading Departments.

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- iii. The subject matter of the Complaint can be more effectively or conveniently dealt with by another Authority and the CA refers the Complaint to that Authority.
- c) If the Complaint is treated as withdrawn under clause 12 (b), the CAAdm will inform the Complainant and the Member in writing, detailing the reasons.
- d) Termination of the Complaints handling procedure under clause 12 will not preclude the CA from referring to the Board for its consideration any action or conduct on the part of a Member which in its opinion may be likely to bring the Sector into disrepute.
- e) A Complainant who is a Member and withdraws their Complaint will reimburse FIA its costs and out-of-pocket expenses associated with the Complaint, unless the CA determines otherwise.

13. Sanctions

13.1 Classifications of Breaches

- a) Where a Breach of the Code has been established, before determining any sanction under clause 13.2, the CA will first classify the severity of the Breach, in accordance with the classification set out below:
 - i. *Minor Breach:* a Breach of the Code that has no negative implications for sector reputation.
 - ii. *Moderate Breach:* a Breach of the Code likely to have short-term implications for sector reputation.
 - iii. *Severe Breach:* a Breach of the Code that is likely to have long-term implications for sector reputation.

13.2 Available Sanctions

- a) Where the CA finds that a Member Breached the Code, the CA will apply one or more of the following sanctions.
 - i. A requirement that the Member take immediate action to discontinue or modify any practice which is determined to constitute a Breach of the Code, in which event the Member will confirm in writing to the CA that it has taken the required action within 15 working days of receipt of the decision.
 - ii. A requirement that the Member undertake remedial action to address any harm resulting from the activity or practice that gave rise to the breach.
 - iii. A recommendation to the FIA Board that the Member be suspended or expelled from membership of FIA.
 - iv. Publication on the FIA website of details of the breach and sanctions applied.
 - v. Notification of the relevant Regulator.

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14. Appeal Procedure

14.1 General

- a) A Member who has been found to be in Breach of the Code may lodge an appeal against the findings and any imposed sanctions with the CAdm within 15 working days of receipt of the decision.
- b) A Member must lodge notice of its intention to appeal in writing with the CAdm within five working days of receiving advice of the decision and/or notice of sanctions. The Member then has a further 10 working days in which to lodge material in support of its appeal.
- c) The FIA Board will establish a Code Complaints Appeals Subcommittee (CCAS) to consider the appeal within 15 working days of receipt of an appeal by a Member.
- d) The CAdm will provide a copy of the written appeal to CCAS.
- e) The CAdm will provide a copy of the response to the appellant within five working days of receiving it.
- f) The findings of the CCAS are final and binding on the Member.

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