AIOH Professional Conduct, Complaints and Disciplinary Procedure

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Part 1 Governance

1.1 Purpose

1.1.1 The Australian Institute of Occupational Hygienists (AIOH), the Institute, is the peak professional association representing occupational hygienists in Australia. The Institute exists to support its members, advance the profession, and promote the protection of workers and the broader community through high standards of professional practice.

1.1.2 This Procedure establishes a fair, transparent and proportionate framework for considering concerns about the conduct of persons subject to this Procedure. For the purposes of this Procedure a "concern" includes a complaint under the Code of Ethics and a report under the Code of Conduct.

1.1.3 The objectives of this Procedure are to:

a) protect workers, the broader community, and people participating in Institute activities;

b) promote and uphold high standards of professional practice and behaviour;

c) ensure concerns are managed fairly, consistently and impartially;

d) provide proportionate, evidence-based responses;

e) encourage education, remediation and professional development where appropriate; and

f) maintain confidence in the occupational hygiene profession.

1.2 Role of the Institute

1.2.1 The Institute's role is to determine whether a person subject to this Procedure has complied with the professional and ethical standards expected of members and, where appropriate, to act in relation to membership, certification or other privileges conferred by the Institute.

1.2.2 The Institute does not replace or duplicate the functions of employers, regulators, courts, licensing authorities or other statutory bodies, and does not investigate matters that properly fall within their jurisdiction.

1.2.3 Concerns may arise in a variety of contexts, including workplaces, Institute activities, regulatory investigations, legal proceedings and public forums. All concerns will be managed confidentially and in accordance with procedural fairness. The Institute is committed to treating complainants and respondents with dignity, respect and impartiality.

1.3 Scope

This Procedure applies to:

1.3.1 concerns about conduct that may breach the AIOH Code of Ethics, the AIOH Code of Conduct, or any other Institute policy where non-compliance may constitute misconduct.

1.3.2 All covered persons as defined in the Code of Ethics, clause 3.1

1.3.3 conduct occurring while a person was covered by clause 1.3.2. Resignation, lapse of membership, certification, accreditation, recognition, or other Institute credential, non-payment of fees, or surrender of certification does not:

a) *prevent a concern being raised about conduct occurring while the person was covered;*

b) *terminate a matter already underway; or*

c) *prevent the Institute completing a matter, recording the outcome, and taking that outcome into account in any future application for membership, certification, accreditation, recognition, or other Institute credential.*

1.3.4 **Employees.** Concerns about AIOH employees are dealt with under the Institute's employment policies, not under this Procedure. An employee who is also a member may be dealt with under both, however, will not be penalised twice for the same conduct.

1.3.5 **Non-members.** Concerns about non-members participating in Institute activities are dealt with under clause 3.6 of the Code of Conduct and the terms and conditions applying to the activity.

1.4 Matters not ordinarily covered

1.4.1 This Procedure does not ordinarily apply to:

a) *commercial disputes between parties;*

b) differences in professional opinion;

c) workplace or employment disputes; or

d) disputes concerning fees, payment, contractual obligations or other purely commercial matters between parties.

1.4.2 **Limits on these exclusions.** A matter is not excluded under clause 1.4.1 merely because it involves a difference of professional opinion, arises in an employment or workplace context, or relates to an internal organisational or management matter. In particular:

a) A difference of professional opinion may be considered under this Procedure where the opinion falls outside the range of opinions that a reasonable occupational hygienist could hold, based on the available evidence, as per clause 1.4.1b).

b) Conduct may be considered under this Procedure where it may constitute a breach of either Code, even if it occurred, arose from, or contributed to an employment or workplace dispute.

c) Conduct that may breach the Code of Conduct, including bullying, harassment, sexual harassment, discrimination, vilification and victimisation, may be considered under this Procedure even where it occurs in an employment, workplace, organisational or management context, and is not excluded by clause 1.4.1(c) or (d).

1.5 Relationship with external processes

1.5.1 Where a matter is being investigated or determined by a regulator, court, coronial inquiry, licensing authority or other statutory body, the Institute will ordinarily defer consideration until that process has concluded and may then consider whether the findings or available evidence warrant action under this Procedure.

1.5.2 The Institute will not defer to an employer's internal process where the employer is a party to, or has an interest in, the conduct concerned. Deferral to an employer is otherwise a matter for the Institute's discretion.

1.5.3 Deferral does not prevent the Institute imposing interim measures under clause 2.7, and the Institute will consider whether interim measures are required whenever it defers.

1.5.4 Nothing in this Procedure prevents a matter being referred to, or considered by, an appropriate external authority.

1.6 Definitions

Terms defined in the AIOH Code of Ethics have the same meaning in this Procedure, including *serious risk*, *reasonable occupational hygienist*, *material*, *worker* and *conflict of interest*. Terms defined in the AIOH Code of Conduct have the same meaning where a matter concerns that Code. In this Procedure:

1.6.1 **Concern** means information received or identified by the Institute indicating that conduct may be inconsistent with the Code of Ethics, the Code of Conduct or another applicable Institute policy or requirement. A concern may arise from a complaint or report, a self-report, information received from another person or body, or information identified by the Institute on its own motion. The raising of a concern does not imply that a breach has occurred.

1.6.2 **Complainant** means a person who raises a concern under this Procedure and includes a Reporter under the Code of Conduct whose report is referred for consideration under this Procedure. Where a matter is commenced on the Institute's own motion, references to the complainant are to be read as references to the Institute.

1.6.3 **Council** means the Council of the AIOH.

1.6.4 **GRSAC** means the Governance, Risk and Standards Advisory Committee.

1.6.5 **PCEC** means the Professional Conduct & Ethics Committee constituted under clause 6.5 to investigate and review matters under this Procedure.

1.6.6 **Respondent** means the person whose conduct is the subject of a concern.

1.6.7 **Secretary** means the AIOH Secretary or their delegate.

1.6.8 **Support person** means a person accompanying a complainant or respondent for support, who is not a witness and who does not act as an advocate unless the Institute agrees.

1.6.9 **Tribunal Panel** means a panel constituted under clause 3.4 to determine a matter.

Classifications

The classifications used in this Procedure are defined in the following table. Matters fall into one of two streams according to the nature of the conduct, with a shared top tier. The classification of a matter informs, but does not determine, the outcome. Appendix A, Table 3 provides guidance on the nature of each classification and the types of outcomes that may be appropriate.

TABLE 1 MISCONDUCT CLASSIFICATIONS

Tier	Professional practice matter(s)	Behavioural matter(s)
1	Performance or capability matter	None
2	Unsatisfactory professional conduct	Unsatisfactory behavioural conduct
3	Professional misconduct	Behavioural misconduct
4	Serious misconduct (both streams)	Serious misconduct (both streams)

1.6.10 **Performance or capability matter.** A limitation in knowledge, experience or skill that does not in itself constitute misconduct, where the conduct did not create or contribute to a serious risk, and which may be addressed through education, mentoring, supervision or professional development.

1.6.11 **Unsatisfactory professional conduct.** Conduct falling short of the standard of care, judgement or diligence expected of a reasonable occupational hygienist, where the departure is not sufficiently serious to constitute professional misconduct.

1.6.12 **Unsatisfactory behavioural conduct.** Conduct falling short of the standards in the Code of Conduct, where the departure is not sufficiently serious to constitute behavioural misconduct. Examples include discourtesy, a single instance of unreasonable behaviour, or a failure to disclose a conflict in an Institute role.

1.6.13 **Professional misconduct.** Conduct representing a substantial departure from the standards expected of a reasonable occupational hygienist, whether deliberate, reckless or negligent, which creates a risk of serious harm, leaves a serious risk unaddressed, or involves material misrepresentation.

1.6.14 **Behavioural misconduct.** A substantial breach of the Code of Conduct, including bullying, harassment, discrimination, vilification, or a substantial or repeated failure to treat others with respect and dignity.

1.6.15 **Serious misconduct.** Conduct in either stream involving dishonesty, fraud, falsification of data or qualifications, deliberate concealment, reckless endangerment, sexual harassment, sexual assault, violence, or victimisation; or conduct at tier 3 that is repeated, or that involves abuse of a position of influence as described in clause 10 of the Code of Conduct.

1.6.16 **The reasonable practitioner standard.** Conduct will be assessed by reference to what a reasonable occupational hygienist, holding comparable qualifications and experience, working in comparable circumstances, and acting on the information reasonably available at the time, would have done. Conduct will not be assessed with the benefit of hindsight, and the fact that a different judgement would have produced a better outcome does not itself establish a breach. Conduct under the Code of Conduct is assessed by reference to clause 20 of that Code.

1.6.17 **Historical conduct.** Where a concern relates to conduct occurring some years earlier, the conduct will be assessed against the standards, knowledge, exposure standards and guidance available at the time, not against those current when the matter is considered. The Institute may decline a matter where the passage of time makes a fair determination impossible but delay alone is not a reason to decline.

1.6.18 Words importing the singular include the plural and vice versa.

1.7 Guiding principles

All matters under this Procedure will be managed in accordance with the following principles, which guide the interpretation and application of this Procedure at every stage.

1.7.1 **Procedural fairness.** All parties will be treated fairly. A respondent will be informed of the allegations, given the substance of the material relied on, and given a reasonable opportunity to respond before any decision is made.

1.7.2 **Independence and impartiality.** Matters will be considered objectively and without bias. Any person involved in the assessment, investigation or determination of a matter must declare any actual, potential or reasonably perceived conflict of interest and, where appropriate, withdraw.

1.7.3 **Confidentiality.** Matters will be managed confidentially, recognising the rights, privacy and dignity of all parties. Information will be disclosed only where necessary to administer this Procedure, comply with legal obligations, or protect health, safety or the public interest.

1.7.4 **Evidence-based decision making.** Decisions will be based on the available evidence and determined on the balance of probabilities, having regard to the seriousness of the allegations and the consequences of any finding.

1.7.5 **Proportionality.** Responses will be proportionate to the nature, seriousness and circumstances of the conduct. Education, remediation and professional development will be considered alongside disciplinary action.

1.7.6 **Consistency.** Similar matters will be managed consistently, while recognising that each matter is decided on its own facts.

1.7.7 **Timeliness.** Matters will be progressed as promptly as reasonably practicable, recognising that complexity and the need for a fair process may require additional time.

1.7.8 **Safety of participants.** No person should be worse off for having raised a concern honestly. The Institute will take reasonable steps to protect complainants, respondents and witnesses from victimisation and from unnecessary distress.

Part 2 Raising and assessing concerns

2.1 Who may raise a concern

2.1.1 Members, workers, clients, employers, regulators, staff, participants in Institute activities and members of the public may raise a concern where they believe conduct may be inconsistent with the Code of Ethics, the Code of Conduct or another Institute policy.

2.1.2 A concern should be raised as soon as reasonably practicable and must be raised honestly and on reasonable grounds. Clause 6.4.3 applies: *a concern that is not substantiated is not, for that reason alone, a concern raised in bad faith.*

2.1.3 A person uncertain whether to raise a concern may seek confidential guidance from the Institute before doing so.

2.2 How to raise a concern

2.2.1 Concerns should be submitted using the process specified by the Institute, which may include an approved form or electronic lodgement system.

2.2.2 The Secretary is the initial point of contact and is responsible for coordinating administration of this Procedure. Where the Secretary is the respondent or is otherwise conflicted, concerns may be raised with the President or the Chair of GRSAC, who will appoint an alternative coordinator.

2.2.3 Concerns arising at an Institute event may also be raised with a Contact Officer appointed under clause 11.2 of the Code of Conduct, who will refer the matter to the Secretary.

2.2.4 To enable a preliminary assessment, a concern should include:

a) *a description of the conduct;*
b) *relevant dates, locations and circumstances;*
c) *supporting documentation or evidence, where available;*
d) *details of any other organisation, employer, regulator or authority that is considering or has considered the matter; and*
e) *any other relevant information.*

2.2.5 The Institute may request further information.

2.2.6 **Anonymous concerns.** The Institute will accept anonymous concerns. An anonymous concern will be used to inform preventive action and may be investigated where the information allows, but the Institute may be unable to act against an individual, where doing so would deny the respondent a fair opportunity to respond.

2.3 Own motion and self-reports

2.3.1 The Institute may commence a matter on its own motion, including where it becomes aware of relevant information from a coronial finding, court judgment, regulatory action, publication, or any other source.

2.3.2 The Institute will receive and assess notifications made by members under clause 16.2 of the Code of Ethics (self-reporting of convictions, prosecutions, adverse professional findings and adverse judicial findings). A self-report is assessed under this Procedure as though it were a concern commenced on the Institute's own motion.

2.3.3 **Voluntary disclosure is a mitigating factor.** Where a member has self-reported a matter that the Institute would not otherwise have known of, that will be considered under clause 4.1.2(f).

2.4 Protected disclosures - mandatory filter

2.4.1 This clause applies where the conduct complained of consists of, or arises from, a disclosure or escalation made under **clause 12 of the Code of Ethics**, or a report made under **clause 16 of the Code of Conduct**.

2.4.2 The Institute **will decline** such a concern at preliminary assessment unless there is evidence that the disclosure or report was made dishonestly, recklessly, or for a collateral purpose.

2.4.3 The Institute will not require the respondent to answer the substance of such a concern before making the assessment under clause 2.4.2. Requiring a member to defend a protected disclosure before it is filtered out would defeat the protection.

2.4.4 Where a concern is declined under this clause, the Institute will consider whether the raising of it constituted victimisation under clause 9 of the Code of Conduct, and whether the underlying risk warrants action by the Institute.

2.5 Preliminary assessment

2.5.1 On receipt of a concern, the Institute will undertake a preliminary assessment. Its purpose is not to determine whether a breach has occurred, but to establish whether the matter falls within scope and whether further consideration is warranted.

2.5.2 The Institute will first apply the filter in clause 2.4. In undertaking a preliminary assessment, the Institute may consider whether:

a) *the matter falls within the scope of this Procedure;*

b) *sufficient information has been provided;*

c) *the allegations, if substantiated, may constitute a breach of the Code of Ethics, Code of Conduct or another Institute policy;*

d) *the matter is more appropriately dealt with by another organisation or authority;*

e) *the matter is being, or has been, considered by an employer, regulator, court or other external body;*

f) *there is an identifiable risk to workers, the broader community, participants in Institute activities, the profession or the Institute;*

g) *interim measures are required under clause 2.7; and*

h) *resolution without formal investigation may be appropriate.*

2.5.3 Following preliminary assessment, the Institute may determine to:

a) *resolve the matter without formal investigation;*

b) *accept the matter for consideration under this Procedure;*

c) *return the matter to the complainant for further information;*

d) *refer the matter to another organisation or authority;*

e) *defer the matter pending the outcome of another process; or*

f) *decline the matter.*

2.5.4 A concern may be declined where it is frivolous, vexatious, raised in bad faith, or contains insufficient information to enable a preliminary assessment.

2.5.5 The complainant and, where the matter proceeds, the respondent will be advised of the outcome of the preliminary assessment and of the classification applied, subject to the confidentiality requirements of this Procedure.

2.5.6 Where the preliminary assessment identifies a serious risk to health or to the safety of any person, the matter will be expedited and the timeframes in clause 3.7 shortened so far as procedural fairness allows. Interim measures will be considered immediately.

2.6 Resolution without investigation

2.6.1 The Institute may resolve a matter without formal investigation where the concern is at the lower end, there is no ongoing risk, and the respondent acknowledges the issue and is willing to undertake remedial action.

2.6.2 Resolution without formal investigation may include guidance or advice, education or professional development, mentoring or supervision, corrective action by the respondent, facilitated discussion between the parties, or any other appropriate outcome.

2.6.3 Resolution under this clause requires the respondent's informed consent and does not constitute a finding that a breach has occurred.

2.6.4 Resolution under this clause is not available for matters classified as behavioural misconduct or serious misconduct, for allegations of sexual harassment, discrimination, vilification or victimisation, or where there is an ongoing risk to any person.

2.6.5 The views of the complainant will be sought and considered before a matter is resolved under this clause.

2.6.6 The Institute may determine that a matter cannot be resolved without investigation where there is significant public interest, a serious allegation, or a potential breach requiring formal determination.

2.7 Interim measures

2.7.1 At any stage, the Institute may impose interim measures where it reasonably considers this necessary to protect health or safety, to protect a participant in the process, or to maintain public confidence pending determination.

2.7.2 Interim measures may include conditions on membership, certification, accreditation, recognition, or other Institute credential, adjustment of committee or event arrangements, or suspension of membership, certification, accreditation, recognition, or another Institute credential.

2.7.3 Interim measures:

a) are protective, not punitive, and are not a finding that a breach has occurred;

b) must be the least restrictive measure adequate to the risk;

c) will ordinarily be imposed only after the respondent has been given an opportunity to be heard, unless the urgency of the risk makes that impracticable, in which case the respondent will be heard as soon as possible afterwards;

d) will be imposed by a person or body that will not sit on the Tribunal Panel determining the matter;

*e) will be reviewed at intervals of no more than **60 days**; and*

f) may be varied or revoked at any time.

2.7.4 A respondent may request review of interim measures under Part 5.

2.8 Classification

2.8.1 Where a matter proceeds beyond preliminary assessment, the Institute will classify the conduct according to Table 1 and clauses 1.6.10 - 1.6.15. Classification determines the level of investigation, governance oversight and the presumptive outcome range. ***It does not constitute a finding that a breach has occurred.***

2.8.2 In determining classification, the Institute may consider:

a) the nature and seriousness of the conduct;

b) whether the conduct was deliberate, reckless, negligent or inadvertent;

c) the actual or potential risk of harm;

d) whether the conduct is an isolated incident or part of a pattern;

e) whether there is evidence of dishonesty, fraud, deception or deliberate concealment;

f) whether the respondent held a position of influence over the person affected;

g) the respondent's experience, seniority and the resources available to them;

h) any previous findings under this Procedure; and

i) any other relevant circumstances.

2.8.3 A pattern of conduct at one tier may be classified at the tier above.

2.8.4 Conduct occurring while the respondent is subject to conditions imposed under this Procedure will ordinarily be classified at least one tier above the classification the conduct would otherwise attract.

2.8.5 Classification may be reviewed and amended if further information becomes available. The respondent will be advised of any change.

Part 3 Investigation and determination

3.1 Investigation

3.1.1 Where a matter proceeds to investigation, the PCEC will undertake or oversee an investigation that is fair, objective and proportionate.

3.1.2 The purpose of the investigation is to establish the relevant facts and determine whether there is evidence that a breach may have occurred.

3.1.3 An investigation may include requesting information or submissions, reviewing documents and other evidence, obtaining witness statements, seeking independent technical, legal or professional advice, considering findings of employers, regulators, courts or other authorities, and making any other reasonable enquiries.

3.1.4 The Institute may appoint an external investigator where the matter is complex, where the conduct alleged is serious misconduct, where a conflict prevents the PCEC from acting, or where the Institute's volunteer resources are insufficient to progress the matter within the timeframes in clause 3.7.

3.1.5 The respondent will be given sufficient detail of the allegations to enable a meaningful response, and a reasonable opportunity to provide information and evidence before the investigation concludes.

3.1.6 Where a respondent declines to participate, the investigation and any determination may proceed in their absence provided they have been given proper notice and a reasonable opportunity to respond. Failure to cooperate may itself be considered under clause 16.1 of the Code of Ethics.

3.1.7 Findings of fact will be determined on the balance of probabilities, having regard to the seriousness of the allegations and the consequences of any finding.

3.2 Professional Conduct & Ethics Committee review

3.2.1 On completion of the investigation, the PCEC Chair, or another PCEC member appointed where the Chair is conflicted, will review the available information and determine the appropriate pathway, having regard to the nature and seriousness of the conduct, the evidence, whether a breach may have occurred, any aggravating or mitigating circumstances, any previous findings, and any other relevant information.

3.2.2 The PCEC may determine that:

a) *no further action be taken;*

b) *with the respondent's informed consent, the matter be resolved through guidance, education, mentoring or other remedial action where formal determination is not warranted, provided the matter is not classified as behavioural misconduct or serious misconduct and there is no ongoing risk to any person. Any resolution under this clause does not constitute that a breach has occurred;*

c) *the matter proceeds to a Tribunal Panel for formal determination; or*

d) *another action available under this Procedure be taken.*

3.2.3 Where a matter is to proceed to formal determination, the PCEC Chair will notify the Secretary, who will coordinate the administrative arrangements for the Tribunal Panel.

3.2.4 All formal communications with complainants and respondents will ordinarily be coordinated through the Secretary. This does not prevent the PCEC Chair, investigator or Tribunal Panel from directing the content of communications relevant to their respective functions.

3.3 Governance oversight

3.3.1 The Chair of GRSAC provides governance oversight of the operation of this Procedure and will be kept informed of matters proceeding to formal determination and their outcomes.

3.3.2 The Chair of GRSAC does not participate in the investigation or determination of a matter and must not direct the PCEC, an investigator or a Tribunal Panel as to findings of fact, whether a breach has occurred, or the outcome that should be imposed.

3.3.3 The Chair of GRSAC may intervene where necessary to address a material procedural or governance issue, including where a conflict of interest, lack of independence or inability to constitute an appropriate decision-making body may compromise the fair administration of this Procedure.

3.3.4 Where intervention is required under clause 3.3.3, the Chair of GRSAC may take or direct reasonable administrative or governance action necessary to preserve the integrity of the process but may not determine the merits of the matter.

3.3.5 Council does not participate in the investigation or determination of individual matters except where expressly required by the Rules and Statement of Purpose or this Procedure. Determinations will be provided to Council for noting in accordance with clause 3.4.13.

3.4 Tribunal Panel

3.4.1 Where the PCEC determines that a matter requires formal determination, the Chair will constitute a Tribunal Panel in accordance with this clause and notify the Secretary and the Chair of GRSAC.

3.4.2 The Tribunal Panel will determine whether a breach has occurred and, where a breach is found, the appropriate outcome.

3.4.3 The Tribunal Panel will ordinarily comprise three (3) members:

a) *the Chair of the PCEC, where eligible to participate; and*

b) *two (2) other members of the PCEC, at least one of whom is a senior practitioner of appropriate professional standing, ordinarily a Certified Occupational Hygienist or a person of equivalent professional experience.*

3.4.4 All Tribunal Panel members must be free from any actual, potential or reasonably perceived conflict of interest in relation to the matter.

3.4.5 A person who conducted or materially participated in the investigation of the matter must not sit on the Tribunal Panel determining that matter. Administrative oversight, case management or consideration of whether a matter should proceed to formal determination does not, of itself, prevent a person from sitting on the Tribunal Panel.

3.4.6 Where a Tribunal Panel cannot be constituted from the PCEC with the required independence, expertise or availability, the Chair may, in consultation with the Chair of GRSAC, appoint one or more suitably qualified external persons to the Tribunal Panel.

3.4.7 For matters classified as behavioural misconduct or serious misconduct in the behavioural stream, at least one Tribunal Panel member must have relevant experience in handling bullying, harassment or discrimination matters, and the Panel must not be composed entirely of one gender.

3.4.8 Where the nature or complexity of a matter warrants specialist expertise, the Tribunal Panel may obtain independent legal, human resources or other professional advice. Any person providing such advice acts in an advisory capacity only and does not participate in the determination of the matter.

3.4.9 The Tribunal Panel may communicate directly with the complainant, respondent, witnesses and other relevant persons as reasonably required to determine the matter, including to conduct hearings, receive submissions, request further information or clarify evidence. The Secretary may provide administrative support but does not participate in the Tribunal Panel's deliberations or determination.

3.4.10 In determining the matter and any appropriate outcome, the Tribunal Panel will consider the findings of the investigation, submissions from the complainant and respondent, any additional information it requests, the nature and seriousness of the conduct, and the relevant factors set out in Appendix A, Table 4. The classification and indicative outcomes in Appendix A, Table 3 will guide, but do not determine, the outcome.

3.4.11 The Tribunal Panel will determine matters on the balance of probabilities, having regard to the seriousness of the allegations and the consequences of its findings.

3.4.12 The Tribunal Panel will prepare a written determination setting out its findings, reasons and any outcome imposed.

3.4.13 The determination will be provided to the Secretary and the Chair of GRSAC, and to Council for noting. Council may not vary or set aside the determination.

3.4.14 Following Council's noting of the determination, the Secretary will formally notify the complainant and respondent of the determination and coordinate implementation of any outcome, subject to any necessary redaction or restriction on disclosure required to protect third-party personal information or comply with a legal obligation.

3.5 Procedural fairness at determination

3.5.1 Before the Tribunal Panel determines a matter, the respondent will be provided with:

a) *the investigation report and the substance of all material relied on;*

b) *a statement of the allegations and the provisions of the Codes said to have been breached;*

c) *the classification applied; and*

d) *a reasonable opportunity of no less than 20 business days unless the respondent agrees otherwise, to make written submissions in response.*

3.5.2 The complainant will be provided with the substance of the allegations as framed and a reasonable opportunity to comment on any matter that bears on their account.

3.5.3 A complainant and a respondent may each be accompanied by a support person at any meeting or hearing and may be legally represented where the matter is classified as professional misconduct, behavioural misconduct or serious misconduct, or where the Tribunal Panel otherwise permits.

3.5.4 The Tribunal Panel will ordinarily determine a matter on the written evidence and submissions before it, without an oral hearing. An oral hearing will be convened where the credibility of a witness is materially in issue, where the matter is classified as serious misconduct, or where the Tribunal Panel considers that a hearing is necessary to ensure procedural fairness. A complainant or respondent may request an oral hearing. Where such a request is refused, the Tribunal Panel will provide reasons for its decision.

3.5.5 Proceedings will ordinarily be conducted by videoconference. Neither the complainant nor the respondent will be required to attend in person with the other party. The Tribunal Panel may hear the parties separately where it considers this appropriate having regard to the nature and circumstances of the matter.

3.5.6 The Tribunal Panel will control the conduct of the proceedings. The complainant and respondent must not directly question each other. Any question that one party wishes to put to the other must be directed to the Tribunal Panel, which will determine whether, and in what form, the question is put.

3.5.7 The Tribunal Panel will give written reasons sufficient to explain how it reached its findings and why it imposed the outcome.

3.6 Withdrawal of a concern

3.6.1 A complainant may withdraw a concern at any stage by notifying the Institute in writing.

3.6.2 Withdrawal does not automatically terminate the Institute's consideration. The Institute may continue where:

a) *the matter involves an alleged serious breach of either Code;*

b) *there is an identifiable risk to workers, the broader community, participants in Institute activities, the profession or the Institute;*

c) *the matter raises issues of significant public or professional interest; or*

d) *continuing is necessary to maintain confidence in the profession.*

3.6.3 Where the Institute continues after withdrawal, it will consider the reasons for withdrawal, including whether the complainant has been subjected to pressure or victimisation, and will consider what protective measures are needed.

3.6.4 Where a concern is withdrawn and no further action is required, the matter will be closed and the parties notified.

3.7 Indicative timeframes

3.7.1 The Institute will endeavour to meet the timeframes detailed in Table 2.

TABLE 2 INDICATIVE TIMELINES FOR COMPLAINTS MATTERS

Stage	Indicative timeframe
Acknowledge receipt	Within 5 business days
Interim measures considered	Immediately on receipt where a serious risk is identified
Preliminary assessment	Within 20 business days
Request further information	As soon as practicable
Investigation commenced	Within 20 business days of acceptance
Progress updates to both parties	Every 30 calendar days while the matter is active
Investigation complete	Within 90 calendar days of commencement
PCEC review following investigation	Within 10 business days of completing the investigation
Council endorsement	At the next scheduled Council meeting, or within 30 calendar days by out-of-session resolution, whichever is earlier
Tribunal Panel convened, where required	Within 20 business days of PCEC determining that formal determination is required
Respondent's submissions to Tribunal Panel	No less than 20 business days from provision of material
Tribunal Panel determination and written reasons	Within 40 business days of receiving submissions
Parties formally notified of outcome	Within 10 business days of Council noting the determination
Review requested (Part 5)	Within 28 calendar days of notification
Review determined	Within 40 business days of the request

Where a matter has exceeded an indicative timeframe by more than 30 days, the Institute will consider appointing an external investigator or external Tribunal Panel members under clauses 3.1.4 and 3.4.6.

3.7.2 Timeframes for a fast-tracked matter under clause 2.5.6 will be shortened so far as procedural fairness allows.

3.7.3 The Institute recognises that administration of this Procedure relies substantially on volunteers. Where the Institute cannot meet these timeframes, both parties will be advised of the reasons and given regular progress updates.

Part 4 Outcomes

4.1 Principles

4.1.1 Outcomes will be proportionate to the nature and seriousness of the conduct, the level of risk or harm arising from it, the respondent's level of responsibility, any aggravating or mitigating circumstances, previous relevant findings, and the extent to which remediation is required to protect the public, workers, the profession or the integrity of the Institute. *Not every departure from a Code constitutes misconduct.*

4.1.2 In determining an outcome, regard will be had to:

a) the risk to health created or left uncontrolled;

b) the harm or distress caused to any person affected;

c) whether the conduct was deliberate, reckless, negligent or inadvertent;

d) the respondent's experience, seniority, and the resources available to them;

e) whether the respondent was subject to pressure or duress;

f) whether the conduct was disclosed voluntarily, and any steps taken to correct it or mitigate its consequences;

g) whether the conduct was repeated or part of a pattern;

h) whether the respondent held a position of influence over the person affected;

i) any previous findings under this Procedure; and

j) the need to protect workers, the broader community, participants in Institute activities, and confidence in the profession.

4.1.3 Where appropriate, the Institute will promote education, remediation and professional development in preference to disciplinary action.

4.2 Available outcomes

4.2.1 Outcomes may include one or more of:

a) no further action;

b) guidance, education or mentoring;

c) corrective action or professional development;

d) a formal written warning;

e) conditions on membership, certification, accreditation, recognition, or other Institute credentials, professional practice or Institute activities;

f) suspension of membership, certification, accreditation, recognition, or another Institute credential;

g) expulsion from membership and/or withdrawal of certification, in accordance with the Rules and Statement of Purpose;

h) referral to an appropriate external authority; or

i) any other outcome considered appropriate under this Procedure.

4.2.2 Outcomes will be determined consistently with the Rules and Statement of Purpose, section 12 (Termination of membership and/or status) and section 23 (Disputes and Mediation). *Invoking mediation under section 23 does not stay a matter under this Procedure where the matter involves a serious risk to health or an allegation of serious misconduct.*

4.3 Indicative outcomes by classification

4.3.1 Each matter is decided on its own facts, and outcomes may vary where justified by the evidence or by aggravating or mitigating factors. Appendix A, Table 3 provides guidance.

4.4 Effect on certification

4.4.1 Compliance with the Code of Ethics and Code of Conduct is a condition of AIOH certification.

4.4.2 A finding of breach may be considered in decisions to grant, renew, impose conditions on, suspend or withdraw certification, in accordance with the Certification Scheme requirements.

4.4.3 Where certification is withdrawn, the person may not represent themselves as certified, and the Institute's register will be updated accordingly.

4.4.4 A person whose certification has been withdrawn may apply for reinstatement after any minimum period specified in the determination. In determining that period, the Tribunal Panel will have regard to the nature and seriousness of the conduct, the reasons for withdrawal, the remediation required, and the period reasonably necessary for the person to demonstrate that the matters giving rise to the withdrawal have been addressed. Reinstatement is not automatic and remains subject to the applicable certification requirements.

4.5 External referral

4.5.1 The Institute will refer a matter to a work health and safety regulator or other appropriate authority where a serious risk to health remains unmanaged, and referral is necessary to prevent harm. In this respect the Institute holds itself to the standard it requires of members under clause 12.4 of the Code of Ethics.

4.5.2 Where conduct may constitute a serious criminal offence, the Institute will refer the matter to police where the person affected consents, or where there is a serious risk to the safety of any person.

4.5.3 Referral does not require the Institute to have completed its own process.

4.6 Publication and notification

4.6.1 The Institute will not ordinarily comment publicly on individual matters.

4.6.2 Where certification is suspended or withdrawn, or conditions are imposed on certification, the Institute's public register will reflect the person's current certification status.

4.6.3 The Institute may publish de-identified summaries of determinations for the professional education of members.

4.6.4 The Institute will report annually to Council, in de-identified form, on the number and nature of matters, outcomes, timeframes achieved, and any systemic issues identified.

Part 5 Review of determinations

5.1 Who may seek review.

5.1.1 A respondent may request review of a determination, of an outcome, or of interim measures imposed under clause 2.7.

5.1.2 A complainant may request review of a decision to decline a concern at preliminary assessment, or a decision to discontinue a matter, but only on the grounds in clauses 5.2.1b) and 5.2.1c).

5.2 Grounds.

5.2.1 A review will be considered only where one or more of the following grounds exist:

a) *new information has become available that could not reasonably have been provided earlier;*

b) *a material procedural error occurred that may have affected the outcome;*

c) *there is evidence of actual, potential or reasonably perceived bias or conflict of interest that may have affected the decision;*

d) *the finding is manifestly unreasonable having regard to the available evidence; or*

e) *the outcome imposed is manifestly excessive or disproportionate to the conduct found.*

5.2.2 A request based solely on disagreement with the findings or outcome will not ordinarily be accepted.

5.3 Process

5.3.1 A request must be made in writing to the Secretary within 28 calendar days of notification.

5.3.2 The review will be undertaken by a person or panel independent of the original investigation and determination. The Institute may appoint an external reviewer and will do so where independence cannot otherwise be assured.

5.3.3 The other party will be notified of the request and given an opportunity to make submissions.

5.3.4 The reviewer may dismiss the request, affirm the determination, vary the outcome, refer the matter back to the PCEC for further investigation, or refer it to a newly constituted Tribunal Panel for redetermination.

5.3.5 The reviewer will give written reasons.

5.4 Finality

5.4.1 The outcome of a review is final within the Institute's internal processes.

5.4.2 Nothing in this Procedure affects any right a person may have to seek legal advice, or to pursue any remedy available at law or through an external body.

Part 6 Administration

6.1 Confidentiality

6.1.1 All matters will be managed confidentially, recognising the rights, privacy and dignity of all parties.

6.1.2 Information obtained under this Procedure will be disclosed only where required by law, necessary to administer this Procedure, authorised by the Institute's governance framework, or necessary to protect health, safety or the public interest.

6.1.3 All participants are expected to maintain confidentiality, except where disclosure is required by law, authorised by the Institute, or falls within clause 6.1.4.

6.1.4 Nothing in this clause prevents a person from:

a) *discussing their own experience with a support person, or a legal, medical or counselling adviser;*

b) *reporting conduct to police, a regulator, the Australian Human Rights Commission, a state or territory equal opportunity body, or another appropriate authority; or*

c) *making a disclosure permitted or required under clause 9 or clause 12 of the Code of Ethics.*

6.1.5 Information provided to the Institute in confidence under clause 12.8 of the Code of Ethics, when a member sought guidance before making a disclosure, **will not be used in any proceeding under this Procedure against that member**, and the person who provided that guidance will take no part in any such proceeding.

6.2 Record keeping

6.2.1 The Institute will maintain records of matters under this Procedure in accordance with its governance framework, its Privacy Policy, and applicable privacy legislation.

6.2.2 Access will be restricted to those with a legitimate role in administering this Procedure.

6.2.3 Records will be retained and disposed of in accordance with the Institute's records management and privacy obligations, having regard to the possibility that a matter may become relevant to a later proceeding.

6.3 Protection of participants

6.3.1 Victimising a complainant, respondent, witness, support person, investigator, Tribunal panel member or other person involved in the administration or determination of a matter under this Procedure is a breach of clause 9 of the Code of Conduct and may be dealt with under this Procedure as a separate matter.

6.3.2 A person must not contact a complainant, witness or support person for the purpose of discouraging them from proceeding, influencing their evidence, or seeking withdrawal of a concern.

6.3.3 The Institute will provide complainants and respondents with information about external support services.

6.4 Improper use of this Procedure

6.4.1 The Institute expects all concerns to be raised honestly, respectfully and in good faith. This Procedure must not be used to pursue personal grievances, commercial disputes, malicious or vexatious complaints, complaints made primarily to harass or disadvantage another person, or allegations the complainant knows to be false.

6.4.2 Knowingly making false or misleading allegations, or deliberately misusing this Procedure, may itself be dealt with under this Procedure.

6.4.3 **A concern that is not substantiated is not, for that reason alone, a concern raised in bad faith.** Clause 6.4.2 will not be applied to discourage honest reporting and will be applied only where there is clear evidence of dishonesty or improper purpose.

6.5 Professional Conduct & Ethics Committee Membership

6.5.1 The PCEC is constituted in accordance with its Terms of Reference and performs the functions assigned to it under this Procedure.

6.5.2 The PCEC must collectively have the experience, expertise and independence necessary to perform its functions under this Procedure, including appropriate expertise in ethical, professional conduct, disciplinary and governance matters.

6.5.3 PCEC members must comply with clause 1.7.2 and the AIOH Conflict of Interest Policy. A member must not participate in a matter where an actual, potential or reasonably perceived conflict of interest could reasonably call their impartiality into question.

6.5.4 The Institute may appoint external advisers or other suitably qualified persons where additional independence, expertise or experience is required for a particular matter, including specialist behavioural, legal, disciplinary or other expertise.

6.6 Review of this Procedure

6.6.1 This Procedure will be reviewed by Council at least every three years, or earlier where required by changes in legislation, governance arrangements, or the operational needs of the Institute.

6.6.2 The policy owner is responsible for diarising the review and reporting to Council when it falls due.

6.6.3 The annual report under clause 4.6.4 will inform each review.

Appendix A Classification and Outcome Guidance

TABLE 3 CLASSIFICATION AND INDICATIVE OUTCOMES

Tier	Classification	Nature of the matter	Illustrative examples	Indicative outcomes
1	**Performance or capability matter** *(practice stream only)*	A gap in professional knowledge, skill, judgement or capability that requires improvement but does not, in the circumstances, warrant a finding of professional misconduct.	Skills or knowledge gap; poorly structured or incomplete work of limited consequence; use of outdated methods where no serious risk was created; isolated deficiencies in professional practice capable of remediation.	Education; mentoring; supervision; targeted professional development; practice improvement requirements; guidance.
2	**Unsatisfactory professional conduct**	Professional conduct falling below the standard reasonably expected of a person undertaking comparable professional activities, but not sufficiently serious to constitute professional misconduct.	Failure to exercise appropriate care; incomplete reporting; failure to clearly state limitations; inadequate management of a disclosed conflict; failure to meet applicable professional development requirements.	Guidance; written warning; education or professional development; mentoring or supervision; conditions on membership or an Institute credential.
2	**Unsatisfactory behavioural conduct**	Behaviour falling below the standard required by the Code of Conduct, but not sufficiently serious or persistent to constitute behavioural misconduct.	Discourtesy; an isolated instance of unreasonable behaviour; inappropriate communication; failure to appropriately disclose or manage a conflict arising from an Institute role.	Guidance; written warning; education or training; conditions on participation in Institute activities or other appropriate corrective action.
3	**Professional misconduct**	A serious or substantial departure from expected professional standards, including conduct that creates significant risk, demonstrates serious disregard for professional obligations, or involves repeated unsatisfactory professional conduct.	Significant negligence; material misrepresentation; failure to disclose or appropriately manage a significant conflict of interest; prohibited contingent fee arrangement; taking professional responsibility for work not adequately reviewed; failure to appropriately escalate a serious risk; inappropriate withholding of exposure or health-related information required to be communicated under the Code of Ethics.	Formal warning or reprimand; mandatory remediation; conditions on an Institute credential; supervision or practice-related requirements attached to a credential; suspension of membership or an Institute credential.

3	**Behavioural misconduct**	A serious breach of the Code of Conduct, or repeated behaviour demonstrating a substantial departure from the behavioural standards expected by the Institute.	Bullying; harassment; discrimination; vilification; substantial or repeated disrespectful or unreasonable behaviour; misuse of an Institute position or process.	Formal warning or reprimand; mandatory training or other remediation; conditions on participation; suspension of membership, an Institute credential or participation in Institute activities, as applicable.
4	**Serious misconduct** *(practice or behavioural stream)*	Conduct of such seriousness that it fundamentally undermines professional integrity, worker or public protection, the safety or dignity of others, or confidence in the Institute or its credentials.	Dishonesty or fraud; falsification of data, records or qualifications; deliberate concealment of significant information; reckless endangerment; serious sexual harassment; sexual assault or violence; serious victimisation; serious abuse of a position of trust or influence; repeated misconduct demonstrating an unwillingness or inability to meet required standards.	Suspension; withdrawal or revocation of an Institute credential; expulsion from membership; exclusion from Institute activities; conditions on future application or reinstatement; referral to an external authority where appropriate or required.

The classifications, examples and outcomes in Table 3 are indicative only and are not exhaustive. Classification does not prescribe a particular outcome. The Tribunal Panel must determine the classification and any outcome having regard to the circumstances of the individual matter, the applicable provisions of the Codes and the factors in Table 4.

TABLE 4: FACTORS FOR DETERMINING AN APPROPRIATE OUTCOME

Factor	Considerations
Aggravating or mitigating circumstances	Any circumstances that reasonably increase or reduce the seriousness of the conduct or the level of response required.
Insight, cooperation and remediation	The respondent's acknowledgement or understanding of the conduct, cooperation with the process, corrective action already undertaken and evidence that identified deficiencies have been or can be addressed.
Nature and seriousness of the conduct	The nature of the breach, the degree of departure from the applicable professional or behavioural standard, and whether the conduct was deliberate, reckless, negligent or inadvertent.
Pattern and previous conduct	Whether the conduct was isolated, repeated or systemic, and whether there are previous relevant findings under this Procedure.
Proportionality	Whether the proposed outcome is proportionate to the seriousness and circumstances of the conduct and no more restrictive than reasonably necessary to achieve its protective and corrective purpose.
Protective purpose	The outcome reasonably necessary to protect workers, the public, Institute participants, the profession and the integrity of the Institute and its credentials, and to reduce the likelihood of recurrence.
Responsibility and circumstances	The respondent's role, level of responsibility, professional experience, relevant circumstances and degree of personal responsibility for the conduct.
Risk or harm	The actual or potential harm arising from the conduct, including harm or risk to workers, clients, other persons, the public, the profession or the Institute.