



BY-LAW 1

# COMPLAINTS & DISCIPLINARY PROCEDURES

UPDATED JULY 2023

FOR CONSIDERATION BY MEMBERS AT AN EXTRAORDINARY GENERAL MEETING ON 29 AUGUST 2023

CONSULT AUSTRALIA  
ACN 064 052 615

Made pursuant to clauses 2.7 and 9.1 of the **Consult Australia** Constitution

## 1. PURPOSE OF BY-LAW

- 1.1. The Board of Consult Australia (**Company**) has adopted this By-law as a fair and transparent process using the principles of natural justice in order to resolve a complaint made against members of the Company or persons employed or engaged by members (**Complaint**).
- 1.2. In this By-law:
  - 1.2.1. a person making a Complaint is referred to as the Complainant (**Complainant**); and
  - 1.2.2. a person or entity who is the subject of the Complaint is referred to as the Subject (**Subject**).
- 1.3. This By-law is to be read together with the Consult Australia Code of Ethics.

## 2. SCOPE OF BY-LAW

- 2.1. This By-law applies to complaints made in accordance with Rule 4.1.
- 2.2. The Complaint and all correspondence and communications related to the Complaint are at all times to be respectful and use non-offensive language. Offensive content will not be tolerated.
- 2.3. If the Complaint causes the Complaints Secretary and Chair of the Ethics Committee to reasonably conclude that the Complaint includes allegations that the Subject has acted in breach of the criminal law:
  - 2.3.1. the Complaints Secretary is to notify the Complainant in writing within ten business days of receipt of the Complaint of that fact;
  - 2.3.2. the Complaints Secretary may refer the Complainant (and may refer the Complaint) to one or more relevant authorities; and
    - (a) the Ethics Committee will consider the allegations and materials provided as soon as practicable and may direct the Complaints Secretary to:
    - (b) suspend the Complaint process under this By-law until the criminal aspect of the Complaint has been addressed;
    - (c) request that the Complainant advise the Complaints Secretary when any related criminal proceedings have concluded; and/or
    - (d) recommend to the Board suspension of the Subject's membership of the Company until:
      - (i) the resolution of any criminal proceedings against the Subject; or
      - (ii) such other time as the Ethics Committee may reasonably recommend.

## **COMPLAINTS AND DISCIPLINARY PROCEDURES**

---

2.4. If a Complaint involves:

- 2.4.1. a civil law dispute regarding the terms of a contract; or
- 2.4.2. a dispute relating to matters internal to the conduct of the Complainant's or Subject's business;

the Ethics Committee will not deal with the Complaint under this By-law until the issues between the parties are concluded.

- 2.5. Once the civil law dispute is resolved, if the Complainant wishes to further pursue the Complaint through Consult Australia, then the Complainant bears the obligation of informing Consult Australia of the conclusion of the civil proceedings.

### **3. ESTABLISHMENT OF ETHICS COMMITTEE, COMPLAINTS ASSESSMENT PANEL AND COMPLAINTS SECRETARY**

3.1. **Ethics Committee**

- 3.1.1. The Company is to establish an Ethics Committee.
- 3.1.2. The Ethics Committee is to comprise a Chairperson and three other persons, at least one of whom must not be from a member or an employee of the Company.

3.2. **The Ethics Committee:**

- 3.2.1. possesses overall responsibility to ensure that all Complaints and all disciplinary procedures are conducted in accordance with this By-law;
- 3.2.2. is vested with the authority of the Board to carry out the procedures in accordance with this By-law and able to act independently of the Board unless otherwise set out in this By-law;
- 3.2.3. must review the Code of Ethics at least every three years and advise the Board on any recommended changes; and
- 3.2.4. is to make recommendations for any amendment to this By-law if and when necessary.

3.3. **Complaints Secretary**

- 3.3.1. The Company is to appoint a senior employee of the Company to manage the Complaints process (Complaints Secretary).
- 3.3.2. The Complaints Secretary is to be the primary point for communication for the Subject and the Complainant with the Ethics Committee and any Panel during the processes set out in this By-law.

3.4. **Complaints Assessment Panel**

- 3.4.1. The **Complaints Assessment Panel** is to comprise three individuals appointed by the Ethics Committee:
  - (a) at least one of whom must not be from a member or an employee of the Company;

## **COMPLAINTS AND DISCIPLINARY PROCEDURES**

---

- (b) one is from a member of the Company;
  - (c) one is a member of the Ethics Committee who will chair the Complaints Assessment Panel.
- 3.4.2. The Complaints Assessment Panel is to:
  - (a) consider all material related to the Complaint put before it by the Complaints Secretary; and
  - (b) convene an opportunity for the Subject to present their response to the allegations contained in the Complaint in the manner permitted under this By-law.
- 3.5. **Complaint against member of the Ethics Committee, the Complaints Assessment Panel or the Complaints Secretary**
  - 3.5.1. Should a Complainant make a Complaint against a Subject who is:
    - (a) a member of the Ethics Committee;
    - (b) a member of the Complaints Assessment Panel; or
    - (c) the Complaints Secretary;the Subject shall immediately recuse themselves from any involvement in the Complaint management process.
- 3.6. In addition, if during the Complaint management process, a conflict of interest arises as regards a member of the Ethics Committee, a member of the Complaints Assessment Panel or, the Complaints Secretary, that person must immediately recuse themselves from any involvement in the Complaint management process.
- 3.7. A conflict of interest does not arise for reason only that the person referred to in Rule 3.6, is or was involved in a business in the same general market.

## **4. COMPLAINTS PROCEDURE**

### **4.1. Making a Complaint**

- 4.1.1. A Complaint against a member of Consult Australia may be made by any person including:
  - (a) a member of the public;
  - (b) a member of Consult Australia; or
  - (c) an employee of Consult Australia;who has become aware of facts indicating that the Subject has been involved in a prima facie breach of the Code of Ethics.
- 4.1.2. To be dealt with under this By-law, a Complaint must:
  - (a) be made by a person referred to in Rule 4.1.1;
  - (b) be made to the Ethics Committee in writing signed by:
    - (i) the Complainant; or

## **COMPLAINTS AND DISCIPLINARY PROCEDURES**

---

- (ii) a legal representative acting for the Complainant;
  - (c) set out the circumstances giving rise to the Complaint;
  - (d) identify the Subject against whom the Complaint is made; and
  - (e) be accompanied by any available statements or other material relating to the allegations or circumstances relied on by the Complainant.
- 4.1.3. A Complaint will only be considered if it falls within the scope of this By-law as set out in Rules 2, 4.1.1 and 4.1.2.
- 4.1.4. The Chair of the Ethics Committee, supported by the Complaints Secretary, has the power and discretion to determine whether or not a Complaint falls within the scope of this By-law .
- 4.1.5. In making a determination under Rule 4.1.4, the Chair of the Ethics Committee may request further information from any party.
- 4.2. **Acknowledging the Complaint**
  - 4.2.1. The Complaints Secretary is to send a written acknowledgement of receipt of the Complaint to the Complainant within five business days of receiving the Complaint.
- 4.3. **Preliminary Investigation**
  - 4.3.1. Within 15 business days of sending the written acknowledgement of the Complaint to the Complainant under Rule 4.2.1, the Complaints Secretary must begin the preliminary investigation into the Complaint (**Preliminary Investigation**).
  - 4.3.2. The Preliminary Investigation may include obtaining any other information that may be, in the Complaints Secretary's unfettered opinion, appropriate, prudent, relevant or necessary to the proper investigation of the Complaint.
  - 4.3.3. If, after completing the Preliminary Investigation, the Complaints Secretary determines to accept the Complaint, the Complaints Secretary is to:
    - (a) forward a written acknowledgement of acceptance of the Complaint to the Complainant within five business days of the date of acceptance; and
    - (b) forward a written notice of the acceptance of the Complaint (**Complaint Notice**) to the Subject within five business days of the date of acceptance.
  - 4.3.4. The **Complaint Notice** referred to in Rule 4.3.3(b) is to include:
    - (a) an express request for the Subject to provide a written response to the Complaint, including any supporting documentation upon which they wish to rely, and such response to be provided to the Complaints Secretary within 15 business days of receipt of the Complaint Notice (**Subject's Response**);
    - (b) a copy of the original Complaint and any additional materials forming part of the Complaint; and
    - (c) a copy of the Code of Ethics and this By-law (including by way of a link to an on-line version of these documents).
  - 4.3.5. A Complaint may be rejected by the Complaints Secretary if it does not fall within the scope of this By-law.
  - 4.3.6. If, after completing the Preliminary Investigation, the Complaints Secretary determines to reject the Complaint, the Complaints Secretary is to forward a written advice of rejection of the Complaint to the Complainant within five business

## COMPLAINTS AND DISCIPLINARY PROCEDURES

---

days of the date of rejection. The Complainant is to be advised that the Complaint will not proceed.

- 4.3.7. All material received by the Complaints Secretary under Rule 4.3.2 which the Ethics Committee reasonably considers relevant to the Complaint, whether favourable to the Subject or not, shall form part of the Complaint.
- 4.3.8. Unless the Subject makes a reasonable request to the Complaints Secretary for an extension of the period for receipt of the Subject's Response under Rule 4.3.4(a), if the Subject fails to provide a Subject's Response then the Complaints Secretary may provide the Subject with a written notice of their failure to engage with the Complaint pursuant to Rule 10.7 (**Failure To Engage Notice**).

### 4.4. Consideration of Complaint by Complaints Assessment Panel

- 4.4.1. Within five business days of the Complaints Secretary's determination to accept a Complaint, the Complaints Secretary is to inform the Ethics Committee of the need to form a Complaints Assessment Panel.
- 4.4.2. As soon as practicable after informing the Ethics Committee of the Complaint under Rule 4.4.1:
  - (a) the Ethics Committee is to form a Complaints Assessment Panel to consider the Complaint; and
  - (b) the Complaints Secretary is to organise a conference with the Complaints Assessment Panel where all the materials comprising the Complaint (**Complaint Materials**) are to be discussed.
- 4.4.3. Having given due consideration to the Complaint Materials and the Code of Ethics, the Complaints Assessment Panel must then, at their discretion, determine whether the matters giving rise to the Complaint:
  - (a) would or may, if substantiated, equate to a breach of the Code of Ethics and so whether the Complaint should:
    - (i) be referred for Mediation in accordance with Rule 5; or
    - (ii) proceed to a Hearing in accordance with Rule 6; or
  - (b) would not, if substantiated, equate to a breach of the Code of Ethics and so whether the Complaint should;
    - (i) be dismissed with or without the provision of recommendations; or
    - (ii) be referred for Mediation in accordance with Rule 5.
- 4.4.4. The Complaints Assessment Panel shall communicate its determination under Rule 4.4.3 to the Ethics Committee.
- 4.4.5. As soon as practicable after receiving the communication from the Complaints Assessment Panel under Rule 4.4.4, the Ethics Committee, whose decision is final in holding the vested power of the Board, is to determine whether:
  - (a) the Complaint is to be accepted and is to proceed to a Mediation or Hearing; or
  - (b) the Complaint is to be dismissed, in which case the Ethics Committee is to instruct the Complaints Secretary to write to the Complainant and Subject to notify them that the Complaint has been dismissed.

## COMPLAINTS AND DISCIPLINARY PROCEDURES

---

- 4.4.6. The Ethics Committee may provide recommendations to the Complainant as they see fit.

### 5. MEDIATION

#### 5.1. Steps prior to Mediation

- 5.1.1. If the Complaints Assessment Panel determines that a Complaint is to be referred to Mediation, the Complaints Secretary is to speak separately with the Complainant and the Subject to arrange a suitable Mediation.
- 5.1.2. For Mediation to proceed, both the Complainant and the Subject must be willing to engage in such a process.
- 5.1.3. If either party refuses to engage in the Mediation, then the Complaints Assessment Panel is to determine whether the Complaint is to be:
- (a) dismissed if the Complaint was referred to Mediation under Rule 4.4.34.4.3(b)4.4.3(b)(ii); or
  - (b) proceed to a Hearing if referred under Rule 4.4.3(a).
- 5.1.4. If a suitable process is agreed upon by the Complainant and the Subject, then the Ethics Committee will appoint the mediator and a copy of all of the Complaint Materials shall be provided to each of the mediator, the Subject and the Complainant.

#### 5.2. Resolution at Mediation

- 5.2.1. If the Complaint is resolved by Mediation, then:
- (a) the terms of the agreed resolution are to be reduced to writing and signed by the Complainant, the Subject and the Mediator;
  - (b) a copy of the agreed resolution is to be sent to the Ethics Committee with a summary of the Complaint for the purpose of record keeping; and
  - (c) the Ethics Committee is not required to make a determination on the Complaint.
- 5.2.2. If the Complaint is not resolved by Mediation, then the mediator will notify the Complaints Secretary that the Complaint could not be resolved.
- 5.2.3. All matters discussed during Mediation, including any offers made by either the Complainant or the Subject are not to be referred to by either party or used by either party in the event of a subsequent Hearing under Rule **Error! Reference source not found.**

### 6. HEARING PREPARATION

- 6.1. A formal Hearing process is to commence, if:
- 6.1.1. the Complaints Assessment Panel determines that a Complaint should proceed to a Hearing under Rule 4.4.3(a)(ii); or
  - 6.1.2. the parties do not agree on Mediation under Rule 5.1.3(b); or

## **COMPLAINTS AND DISCIPLINARY PROCEDURES**

---

- 6.1.3. after being referred to Mediation, the mediator advises the Ethics Committee that the Mediation failed to resolve the Complaint.
- 6.2. If a formal Hearing process is to commence under Rule 6.1, the Complaints Secretary is to notify the Complainant and the Subject in writing that the Complaint will proceed to a Hearing.
- 6.3. As soon as practicable, the Complaints Secretary is to arrange a suitable Hearing date with the Complaints Assessment Panel.
- 6.4. The Hearing date is to be listed on a business day between normal business hours.
- 6.5. The Complaints Secretary is to serve a written notice of the hearing (**Notice of Hearing**) on the Subject no less than 21 days before the date set for the Hearing.
- 6.6. The Notice of Hearing is to:
  - 6.6.1. include the details of the time, date and location of the Hearing;
  - 6.6.2. unless the Subject advises the Complaints Secretary of their desire to attend the Hearing in person, advice that the Hearing is to be conducted by electronic means;
  - 6.6.3. include the names of the members of the Complaints Assessment Panel (but noting that the Ethics Committee is at liberty to substitute any one or more of the members of the Complaints Assessment Panel at any time prior to the Hearing);
  - 6.6.4. set forth the allegations that form the subject of the Complaint which are alleged to be a breach of the Code of Ethics and which are to be considered at the Hearing;
  - 6.6.5. a copy of the Complaint Materials provided to the Complaints Assessment Panel;
  - 6.6.6. indicate that if the Complaints Assessment Panel determines that the Subject has breached the Code of Ethics, such a determination may result in the Ethics Committee advising the Board on an appropriate penalty to be imposed upon the Subject, including the termination or suspension of the Subject's membership of the Company.
  - 6.6.7. Should the Subject object to the involvement in the Hearing of any member(s) of the Complaints Assessment Panel, such an objection must:
    - (a) be put in writing and state the grounds of the objection; and
    - (b) be submitted to the Complaints Secretary not less than five business days from the date the Subject was advised of the names of the members of the Complaints Assessment Panel.

## **7. ADJOURNMENT OF HEARING**

- 7.1. If the Hearing date is not suitable to the Subject, the Subject must, within five business days of service of the Notice of Hearing:
  - 7.1.1. request an adjournment of the Hearing in writing addressed to the Complaints Secretary; and
  - 7.1.2. in their request:
    - (a) state their reasons for requesting the adjournment; and



## **COMPLAINTS AND DISCIPLINARY PROCEDURES**

---

- (b) if their objecting to the Hearing is because of the inconvenience of the proposed Hearing date and time, propose a suitable alternative Hearing date and time.
- 7.2. The Complaints Secretary and Chair of the Complaints Assessment Panel are then to consider the request for adjournment put by the Subject and, within two business days of the request, either accept or reject that request.
- 7.3. If at any other time the Subject discovers that they are unable to attend the Hearing date due to illness, misfortune or for compassionate reasons then the Subject must:
  - 7.3.1. request an adjournment of the Hearing in writing addressed to the Complaints Secretary as soon possible; and
  - 7.3.2. provide the Complaints Secretary with evidence supporting their request, if any, (e.g. doctor's certificate).
- 7.4. The Subject's request under Rule 7.2 is to be considered and determined as soon as possible by the Complaints Secretary and Chair of the Complaints Assessment Panel.
- 7.5. The decision by the Complaints Secretary and Chair of the Complaints Assessment Panel in relation to an adjournment request under Rule 7.2 is final and is entirely at the discretion of the Complaints Secretary and Chair of the Complaints Assessment Panel.
- 7.6. As soon as practicable, the Complaints Secretary is to advise the Subject and Complainant of any determination by the Complaints Secretary and Chair of the Complaints Assessment Panel in relation to an adjournment request under Rule 7.2. This advice may be provided by telephone in addition to written notice.

## **8. HEARING**

### **8.1. General matters**

- 8.1.1. The Hearing may take place by telephone, video conference or in person.
- 8.1.2. The Subject may elect to attend the Hearing in person.
- 8.1.3. The Complaints Assessment Panel may request that a Company legal adviser be present at the Hearing.
- 8.1.4. The Subject may be accompanied by one adviser or support person at the Hearing who may be, but is not required to be, a solicitor or barrister. However this does not equate to the Subject's right to legal representation at the Hearing and the Hearing will not be adjourned on the basis of the unavailability of the Subject's adviser.
- 8.1.5. In normal circumstances, the Complainant will not attend the Hearing.
- 8.1.6. The Hearing will continue to proceed even if:
  - (a) the Subject fails to attend the Hearing; or
  - (b) if the Subject attends the Hearing but refuses to co-operate during the Hearing.

### **8.2. Hearing procedure**

## COMPLAINTS AND DISCIPLINARY PROCEDURES

---

- 8.2.1. At the commencement of the Hearing, the Complaints Secretary is to verbally present a summary of the Complaint and Complaint Materials for the purposes only of identifying the general nature of the Complaint.
- 8.2.2. The members of the Complaints Assessment Panel will then be given the opportunity to ask the Subject questions in relation to the substance of the Complaint.
- 8.2.3. The Subject will be invited to present their response to the questions posed by the Complaints Assessment Panel.
- 8.2.4. The Subject must respond to all questions personally, not through their adviser or support person.
- 8.2.5. The Subject will then be given the opportunity to put their case orally to the Complaints Assessment Panel.
- 8.2.6. The Complaints Assessment Panel will then be given a further opportunity to ask additional questions of the Subject.
- 8.2.7. The Subject will be invited to present their response to the additional questions posed by the Complaints Assessment Panel.

### 8.3. Findings and Recommendations

- 8.3.1. At the conclusion of the Hearing, the Complaints Assessment Panel will retire to consider the Complaint and determine their findings and recommendations.
- 8.3.2. The Complaints Secretary may assist the Complaints Assessment Panel by clarifying any procedural or factual issue but may not otherwise participate in the deliberations of the Complaints Assessment Panel.
- 8.3.3. The Complaints Assessment Panel will then prepare a written hearing report for consideration by the Ethics Committee. The Hearing Report is to outline:
  - (a) the findings of the Complaints Assessment Panel in relation to the Complaint;
  - (b) brief reasons for the findings of the Complaints Assessment Panel; and
  - (c) the recommendations of the findings of the Complaints Assessment Panel (**Findings and Recommendations**).
- 8.3.4. In preparing their **Findings and Recommendations**, the Complaints Assessment Panel may be assisted by the Complaints Secretary.
- 8.3.5. A copy of the Findings and Recommendations are to be served on the Subject by the Complaints Secretary as soon as practicable.

### 8.4. Review Process

- 8.4.1. If the Findings and Recommendations contain an adverse finding or recommendation against the Subject, the Subject may serve on the Complaints Secretary a request for a Review of the Findings and Recommendations (**Review**) in the manner set out in Rule 8.4.2.
- 8.4.2. A request for a Review:
  - (a) must be made in writing addressed to the Complaints Secretary and received by the Complaints Secretary within 10 business days from the date the Findings and Recommendations were served on the Subject;
  - (b) must address one or more of the following grounds:

## COMPLAINTS AND DISCIPLINARY PROCEDURES

---

- (i) that the procedures set out by this By-law were not substantively followed; and/or
- (ii) that one or more members of the Complaints Assessment Panel had an actual and material conflict of interest arising from the facts and circumstances surrounding the Complaint, which was known to that member at or prior to the Hearing; and
- (c) must contain a statement of all the grounds on which the Subject relies to allege that the procedures under this By-law were not followed.

8.4.3. If a request for a Review has not been received in accordance with Rule 8.4.2 above, the Complaints Secretary is to send a copy of the Findings and Recommendations to the Ethics Committee for determination.

### 8.5. Review

- 8.5.1. If a request for a Review is received in accordance with Rule 8.4.2 the Complaints Secretary is to advise the Ethics Committee as soon as practicable.
- 8.5.2. The Complaints Assessment Panel may also prepare a short statement for the assistance of the Ethics Committee regarding the Hearing process and responding to any issues raised by the request for Review.
- 8.5.3. The Ethics Committee will then hold a Review of the Findings and Recommendations.
- 8.5.4. In the Review, the Ethics Committee is to consider:
  - (a) the grounds of the Review as required by Rule 8.4.2;
  - (b) any statement outlining mitigating circumstances; and
  - (c) any statement provided by the Complaints Assessment Panel in accordance with Rule 8.5.2 above.
- 8.5.5. As soon as practicable after the Review determination is made by the Ethics Committee, the Complaints Secretary will send a copy of the Review Findings and Recommendations:
  - (a) to the Subject; and
  - (b) to the Board for (if applicable) further determination of disciplinary action regarding the Subject.

### 8.6. Board Determination

- 8.6.1. The Ethics Committee shall refer to the Board the Panel Findings and Recommendations, or Review Findings and Recommendations (if applicable) for further determination of disciplinary action regarding the Subject.
- 8.6.2. Upon receipt and consideration of all Findings and Recommendations, the Board will determine whether to accept that the Complaint against the Subject be dismissed or upheld (**Board Determination**).
- 8.6.3. If the Board upholds the Complaint, it may:
  - (a) accept or modify any recommended sanction to be imposed on the Subject;
  - (b) impose either the recommended sanction or apply its own sanctions, so long as the Board Determination is consistent with the Constitution.

## **COMPLAINTS AND DISCIPLINARY PROCEDURES**

---

- 8.6.4. The sanctions that may be imposed by the Board in its Board Determination include, but are not limited to:
- (a) the suspension of the Subject from membership of the Company for a period not exceeding 12 months;
  - (b) the expulsion of the Subject from membership of the Company;
  - (c) a formal reprimand of the Subject;
  - (d) a formal warning to the Subject; or
  - (e) any combination of the above as the Board sees fit (**Proposed Sanctions**).
- 8.6.5. As soon as practicable after the making of the Proposed Sanctions, the Complaints Secretary will send a written notice of the Proposed Sanctions to the Subject.
- 8.6.6. After the Subject is advised of the Proposed Sanctions (if any), the Subject is entitled to an opportunity to make their final representations to the Board as permitted by the Constitution.
- 8.6.7. As soon as practicable after the receipt of the final representations by the Subject (if any), the Board will proceed to make its final determination as to sanctions (**Final Sanctions**).
- 8.6.8. As soon as practicable after the making of the Final Sanctions, the Complaints Secretary will send a written notice of the Final Sanctions to the Subject and the Complainant.

## **9. REQUEST FOR REINSTATEMENT AFTER EXPULSION**

- 9.1. Subject to Rule 9.2, a member or former member of the Company who has been expelled from membership under this By-law, after a period of not less than two years, may make written representations to the Complaints Secretary seeking reinstatement as a member if they believe they can demonstrate a genuine change in the circumstances which resulted in the initial sanction (**Reinstatement Request**).
- 9.2. A member or former member of the Company who has been suspended or expelled from membership of the Company as the result of a serious indictable criminal offence will not be eligible to make a Reinstatement Request.
- 9.3. If a member or former member of the Company makes a Reinstatement Request, the Complaints Secretary is to review the eligibility of the member or former member to make such representations.
- 9.4. The Ethics Committee will then undertake whatever investigations are deemed necessary to ensure there is genuine change in the circumstances which resulted in the initial sanction of the member or former member.

## COMPLAINTS AND DISCIPLINARY PROCEDURES

---

### 10. GENERAL MATTERS

#### 10.1. Confidentiality

- 10.1.1. All procedures involving the processing of a Complaint or a Reinstatement Request, including proceedings of the Ethics Committee, the Board and the Complaints Assessment Panel, are to be held in confidence, except insofar as this By-law permits.
- 10.1.2. The Subject is not permitted to contact the Complainant(s) directly regarding the Complaint, unless specifically required or permitted to do so under this By-law.
- 10.1.3. The Subject and the Complainant must not approach any member of the Ethics Committee or Director of the Board in relation to the Complaint until the Complaint process set out in this By-law is finalised.

#### 10.2. Anonymous Complaints

- 10.2.1. When submitting a Complaint, the Complainant is normally expected to provide their name and contact details to the Complaint Secretary .
- 10.2.2. However, if a Complainant so elects and to the extent possible for the Company in complying with its obligations under the law, they may remain anonymous to the Subject throughout the Complaint process.

#### 10.3. Legal Representation

- 10.3.1. The Complaints Secretary may request the Ethics Committee to seek legal advice in relation to the content of this By-law, its application and any Complaint or any Reinstatement Request made under this By-law.
- 10.3.2. The Subject may seek legal advice in relation to any Complaint or any Reinstatement Request made under this By-law.

#### 10.4. Costs

- 10.4.1. The Complainant and Subject shall pay their own legal and other related costs incurred as a result of the Complaint process.
- 10.4.2. The Board will budget for the costs to support the Complaints Assessment Panel and the Ethics Committee in the execution of their duties under this By-law.

#### 10.5. Service of Documents

- 10.5.1. Any document or notice which is to be served on the Subject or the Complainant under this By-law is to be:
  - (a) sent by Australia Post Registered Post to the most recent address provided to the Company by the Complainant or the Subject;
  - (b) delivered personally to the Complainant or the Subject; or
  - (c) sent to the Complainant or the Subject by any other means which the Complainant or the Subject has indicated is suitable, such as an email address or to another person (e.g. a legal representative).
- 10.5.2. Written correspondence from a legal representative asserting the authority to receive correspondence on behalf of the Complainant or the Subject may be relied on by the Company as authority to correspond directly with that legal

## COMPLAINTS AND DISCIPLINARY PROCEDURES

---

representative unless subsequent correspondence to the contrary is received from the Complainant or the Subject.

10.5.3. If a document is served in accordance with Rule 10.5.1(a), it will be deemed to have been served on and received by the Subject or the Complainant three business days after the day it is posted.

10.5.4. If a document is served in accordance with Rules 10.5.1(b) or 10.5.1(c), it will be deemed to have been served on and received by the Subject or the Complainant on the day it was delivered or sent.

### 10.6. **Correspondence with the Complaints Secretary**

10.6.1. The Complainant and Subject may send any documentation or correspondence required to be sent under this By-law by Registered Post or delivered in person to:

The Ethics Committee Complaints Secretariat  
(c/- the business address of Consult Australia)

10.6.2. The Complaints Secretary may from time to time consent to an alternative means of delivery.

### 10.7. **Failure to engage**

10.7.1. If the Subject fails to comply with any requests made by the Complaints Secretary, the Complaints Assessment Panel, the Ethics Committee or the Board under this By-Law, then the Complaints Secretary may serve the Subject with a written notice which:

- (a) specifies the request which has not been complied with by the Subject;
- (b) advises the Subject that their failure to comply is a breach of their undertakings as a member of the Company;
- (c) advises the Subject that they have 14 days from the date the notice was served to rectify the breach; and
- (d) advises the Subject that failure to rectify the breach within the time allowed will result in immediate suspension of their membership of the Company until they rectify the breach.

10.7.2. If the Subject does not rectify the breach within the time provided under Rule 10.7.1(c) then their membership of the Company may be immediately suspended.

10.7.3. If membership of the Company is suspended pursuant to clause 10.7.1(d), any Complaint will become inactive until the breach is rectified.

10.7.4. Once the breach is rectified, any Complaint process will continue to be assessed in accordance with this By-law.

10.7.5. If the Subject resigns or allows their membership of the Company to lapse whilst being the subject of a Complaint under this By-law:

- (a) the Complaint made while they were a member of the Company will become inactive;
- (b) should the Subject wish to renew their membership of the Company, the Complaint may be reactivated on the advice of the Ethics Committee; and
- (c) the Subject's name will be held on file at the Company and noted on their individual member record on the database.