

Division 2—Disciplinary action

19 Grounds for taking disciplinary action

The Association may take disciplinary action against a member in accordance with this Division if it is determined that the member has --

- (1) refused or neglected to comply with the rules, or [policies of the Association](#), or
- (2) been guilty of conduct prejudicial to the Association or the interests of the Association.

20 Disciplinary action

(1) Minor misconduct.

- (a) Where the misconduct is deemed [by the Committee](#) not to be serious misconduct, [or is unacceptable behaviour of a minor nature, the Secretary and Vice-President or their nominees may deal with the matter.](#)
- (b) When determining the matter, the Secretary [and Vice-President or their nominees](#) may only decide --
 - (i) not to take any further action, or
 - (ii) [to](#) issue a warning letter, or
 - (iii) [to](#) admonish the member.
- (c) [Prior to determining the matter, the Secretary and Vice-President or their nominees must discuss the allegations with the member. The discussion and any agreement reached must be documented.](#)
- (d) Prior to issuing a letter of warning or admonishing a member the member must be given the opportunity to [be heard and to](#) respond in writing.
- (e) The determination of a matter dealt with in accordance with these provisions is final and may not be appealed.
- (f) The Secretary must inform the [Committee](#) of the circumstances and the action taken to [determine](#) the matter.

(2) Serious misconduct

- (a) [Where the misconduct is deemed by the Committee to be serious misconduct, the Secretary and Vice-President must convene a disciplinary subcommittee consisting of three people, to hear the matter and determine what action, if any, to take against the member.](#)
- (b) The members of the disciplinary [subcommittee](#) can be
 - (i) members of the Association or anyone else; but
 - [\(ii\)](#) must not be biased for or against the member concerned.

21 Notice to member

- (1) Before disciplinary action is taken against a member under rule 20(2) the Secretary must give written notice to the member --
 - (a) stating that the Association proposes to take disciplinary action against the member, and
 - (b) stating the grounds for the proposed disciplinary action, and
 - (c) specifying the date, place and time of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the *disciplinary meeting*), and
 - (d) advising the member that he or she may do one or both of the following --
 - (i) attend the disciplinary meeting and address the disciplinary subcommittee.
 - (ii) give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting,
 - (e) setting out the member's appeal rights under rule 23.
- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

22 Decision of the disciplinary subcommittee

- (1) At the disciplinary meeting, the disciplinary subcommittee must--
 - (a) give the member an opportunity to be heard, and
 - (b) consider any written statement submitted by the member.
- (2) After complying with sub-rule (1), and provided that the accused member is not a member of the Committee, the disciplinary subcommittee may--
 - (a) take no further action against the member, or
 - (b) subject to sub-rule (3) --
 - (i) reprimand the member, or
 - (ii) suspend the membership rights of the member for a specified period,
or
 - (iii) remove the member from class or classes, or
 - (iv) remove the member from any non-elected office or function, or
 - (v) expel the member from the Association.
- (3) If the accused person is a member of the Committee, the disciplinary subcommittee may --
 - (a) take no further action, or
 - (b) recommend that the Committee call a Special General Meeting of the membership no later than 21 days after the disciplinary committee makes the decision, and in accordance with Section 24 of these rules, to vote on a special

resolution either to remove the member from office, or to expel the member from the Association.

(4) The report of the disciplinary subcommittee must be forwarded to the Secretary for ratification by the Committee. The Secretary must then notify the accused member of the decision of the disciplinary subcommittee. The decision must be received in writing by the accused member within 10 business days of the disciplinary meeting.

23 Appeal rights

- (1) A person who is not a member of the Committee and has been removed from a class or from office, or whose membership rights have been suspended, or who has been expelled from the Association under rule 22 may give notice to the effect that he or she wishes to appeal against the suspension, removal or expulsion.
- (2) The notice must be in writing and given to the Secretary no later than 48 hours after receiving the Secretary's written notification of the penalty.
- (3) If the person has given notice under sub-rule (2), the Committee must call a Special General Meeting of the membership as soon as practicable, but no later than 21 days after the request for the appeal is received.

24 Special General Meeting of the membership

- (1) Notice of the Special General Meeting of membership convened following rule 22(3) or rule 23(3) must be posted on the noticeboard and forwarded by electronic means or mailed to each member who is entitled to vote as soon as practicable and must:
 - (a) specify the date, time and place of the meeting, and
 - (b) state—
 - (i) the name of the person against whom the disciplinary action has been taken or recommended, and
 - (ii) the grounds for taking or recommending that action, and
 - (iii) that at the special General Meeting the members present must vote on whether the decision of recommendation to suspend or expel the person should be upheld or revoked.
- (2) Quorum:
 - (a) A quorum shall be formed when no less than 32 members are present at the Special General Meeting.
 - (b) If, after 30 minutes have expired from the stated start time of the Special General Meeting, a quorum is still not present, then the original decision or recommendation of the disciplinary subcommittee will stand and no further appeals can be made.
- (3) At the Special General Meeting of membership--

(a) the Committee must state the grounds [for the penalty](#) and the reasons for taking that action [or making that recommendation](#), and

(b) the person accused of the misconduct must be given the opportunity to be heard, and

(c) [an opportunity must be provided for questions from the floor and the right of reply](#).

(4) After complying with sub-rule (3), the members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision [or recommendation made by the disciplinary subcommittee](#) should be upheld or revoked.

(5) A member may not vote by proxy at the meeting.

(6) The decision is upheld [or recommendation adopted](#) if not less than three quarters of the members voting at the meeting vote in favour of the decision.

(7) There are no further rights of appeal within the Association. Any further appeal must be pursued through the law of courts.

Division 3—Grievance procedure

25 Application

(1) The grievance procedure [applies when there is a dispute or disagreement between two parties](#). As set out in this Division [it applies to disputes or disagreements](#) between--

- (a) a member and another member,
- (b) a member and a member of the Committee,
- (c) a member and the Committee, and
- [\(d\) a member and the Association.](#)

(2) In accordance with section 54(4) of the Associations Incorporation Reform Act 2012 (the Act) a member must not lodge a complaint in relation to a matter that is the subject of a disciplinary action brought against the member until the disciplinary action has been completed.

26 Procedure for the settlement of grievances

(1) When a dispute arises the parties to the dispute must first attempt to resolve the dispute between themselves.

(2) If the parties fail to resolve the matter between themselves within 14 days and the aggrieved party wishes to report the alleged injustice--

(a) the aggrieved party (the complainant) must lodge a written complaint with the Secretary, and

(b) the procedure set out in sections 27, 28, and 29 must be followed.

- (3) When a complaint is against a member of the Committee, this member-
- (a) must, as soon as possible, be given notice of the allegation/s, provided that doing so does not prejudice the investigation by police or the Association.
 - (b) must not be present at meeting/s where the complaint is discussed or considered by the Committee.
- (4) If the President, Vice-President and Secretary believe that the complaint alleges conduct of a criminal nature, the Secretary must write to the complainant that the allegation/s should be reported to the police and further,--
- (a) that the allegations will not be considered by the Association while the police are considering or investigating the circumstances.
 - (b) if the complainant decides not to report the matter to the police, the Association may do so.
 - (c) If the police decide not to take any action, the complainant may continue with a complaint in accordance with this procedure.

27 **Appointment of mediator**

- (1) If a complaint has been lodged in writing and the Secretary and the Vice-President together, after making initial enquiries, conclude that the dispute may be suitable for mediation and the parties agree to attempt in good faith to settle the dispute by mediation, the mediation must be organised.
- (2) The mediator appointed must be—
- (a) a person chosen by agreement between the parties, or
 - (b) in the absence of agreement --
 - (i) if the dispute is between a member and another member or a member and a member of the Committee—an impartial person appointed by the Committee or
 - (ii) if the dispute is between a member and the Committee or the Association, a person appointed or employed by the Dispute Settlement Centre of Victoria.
- (3) A mediator appointed by the Committee may be a member or former member of the Association or another person, must not be a person who—
- (a) has a personal interest in the dispute, or
 - (b) is biased in favour of or against any party.

28 Mediation process

- (1) The mediator agreed to by the parties or appointed by the Committee when conducting the mediation, must—
- (a) not provide legal advice,
 - (b) if agreed by the parties to the dispute, allow support persons to attend,

- (c) ensure the mediation process is conducted in a respectful manner,
- (d) ensure each party has an opportunity to contribute and to listen to the other party,
- (e) invite the parties to consider all available options to reach a resolution,
- (f) allow adjournments if requested by either party during the process,
- (g) ensure each party has an accurate record of the details of any resolution reached,
- (h) allow due consideration by all parties of any written statement submitted by any party, and
- (i) ensure that natural justice is accorded to the parties throughout the mediation process.

(2) The mediator must not determine the dispute.

29 Appointment of an independent decision-maker

- (1) If either party to the dispute does not wish to pursue mediation, or mediation does not result in an agreement, or the Vice-President and the Secretary together decide that mediation is unsuitable or that the dispute is intractable, the Committee may appoint an unbiased decision-maker to hear the complaint. The decision-maker may be one or two persons and may be members of the Association or anyone else.
- (2) The Secretary must then advise both parties involved in the complaint that the complaint will be dealt with by an unbiased decision-maker.
- (3) The appointed decision-maker must arrange to speak with each party either separately or together to discuss the complaint.
- (4) If during discussion an agreement is reached, it should be recorded in writing, signed by the parties, and a copy given to each of the members.
- (5) In the event that no agreement is reached, the appointed decision-maker should then make a ruling on the actual complaint. The appointed decision-maker cannot impose any penalties or admonish any of the parties.
- (6) The appointed decision-maker must inform the Committee of the circumstances and action taken to settle the matter.
- (7) The Secretary must confirm in writing, the decision-maker's ruling on the complaint, to the parties concerned.
- (8) There is no right of appeal. The determination of a matter dealt with in accordance with these rules is final.