

AIFLAM Rules Governing Complaints

1. Introduction

1.1 These Rules are made by the Board of the Australian Institute of Family Law Arbitrators and Mediators (AIFLAM) pursuant to clause 31 of the Constitution 2020 as amended from time to time and shall be known as the **"AIFLAM Rules Governing Complaints"**.

1.2 The purpose of these Rules is to provide a system for the efficient handling of complaints made against a Member of AIFLAM whether an NMAS accredited mediator, AIFLAM accredited mediator, Family Dispute Resolution Practitioner (FDRP) or registered arbitrator.

1.3 AIFLAM mediators and arbitrators are guided by the practice standards established by AIFLAM and found on the AIFLAM website and these shall form the context for dealing with complaints against AIFLAM members.

1.4 Complaints against AIFLAM members who are also an FDRP must in addition be informed by and be handled in accordance with the Attorney-General's Department (CWLTH) Fact sheets and Family Law (Family Dispute Resolution Practitioners) Regulations 2008 (FDRP Regulations) as amended.

2. System for handling Complaints

2.1 The Board shall establish a standing Complaints Committee consisting of three Board members (the Committee). The three Board members shall comprise the Chair of the Board Arbitration Committee from time to time, the Chair of the Board Mediation Committee from time to time and one other who shall not be the Chair of the AIFLAM Board. The Committee may also co-opt up to two external members to assist the Committee whom the Chair of the Committee considers appropriate given the nature of the complaint and the expertise required. In the event the complaint is about a member of the Committee then that member shall stand down and an alternative Board member be appointed by the chair of the AIFLAM Board.

2.2 The complaint must be made in writing using the form attached to these Rules.

2.3 Whenever a complaint is made it shall immediately be referred to the Chair of the Committee.

2.4 The Chair shall be responsible for acknowledging the complaint and may delegate the initial contact with the Complainant to the Executive Director.. A record shall be kept of this initial contact in AIFLAM confidential records

2.5 The Chair will initially assess the complaint to determine what further action, if any, is required. The result of that assessment shall be notified in writing to the Complainant.

2.6 If further action or investigation is required, the Executive Director must forward a copy of the complaint to the member with a request that the member respond in writing within twenty-one days of receipt of the request.

2.7 The Chair shall convene the Committee to consider the complaint within thirty days of receipt of the response from the Member or within fifty days of receipt of the Complaint form, if the Member fails to respond in writing

2.8 The Committee is not bound by the rules of evidence nor by the practices and procedures applicable to courts of record but may inform itself on any matter and in such manner as it decides.

2.9 If the Committee considers there is no breach of the relevant standards, then the Chair of the Committee shall advise the Complainant and the Member against whom the complaint has been made, that the Committee had made a determination that the complaint has not been made out and provide written reasons for that decision. The complaint, the response and the committee's determination shall be forwarded to the Executive Director to be retained in confidential records.

2.10 If there is a finding by the Committee that the member has breached the relevant practice standards or in the case of an FDRP, the regulations and obligations, the Committee shall refer the matter to the chair of the Board for consideration by the Board as to the action to be taken against the member.

2.11 When referring the matter to the Chair of the Board, the Committee shall provide written reasons for their findings and shall make a recommendation to the Board as to the action the Board might take against the member which may include:

- a) censure;
- b) suspension of membership;
- c) expulsion;
- d) counselling, further education, term of probation, appointment of mentor; and/or
- e) notification of findings or action taken (ie suspension or expulsion) to a relevant authority;
- f) in the case of a registered arbitrator, removal from the regulation 67B List of Arbitrators.

2.12 The Board shall then consider the matter for the purposes of passing a resolution as to the action to be taken against the Member and if considered necessary the Chair of the Board may convene a special meeting for that purpose.

2.13 At least twenty-one days before the meeting of the Board, at which a resolution is proposed to be passed, the Member shall be given the following notices:

- a) the date of the meeting of the Board,
- b) the intended resolution to be put to a vote of the Board;
- c) that the member is able to attend at such Board meeting to make any oral or written submission as to the proposed resolution.

2.14 The Board at its meeting under Rule 2.12 may:

- a) Dismiss the complaint; or
- b) Pass such resolution as to the action to be taken against the Member as it considers appropriate in the circumstances.

2.15 As soon as possible after the Board has made its determination the Chair of the Board shall advise the Member of the action taken, and advise the Complainant that the complaint has been dealt with and thanked for making the complaint.

2.16 In the event that the Member does not comply with the resolution of the Board then the Board may pass such further resolution as to the further action to be taken against the Member as it considers appropriate in the circumstances.

3. Referral to regulatory bodies

3.1 At any stage during the complaints process, the Committee or the Board may recommend to the Complainant, that the matter complained about should be referred by the Complainant to the police or a relevant statutory authority dealing with professional standards applying to the member.

3.2 In the case of an FDRP member where their conduct is in breach of their obligations as specified in the FDRP Regulations, the Board shall notify the findings to the Attorney-General's Department within fourteen days of resolution of the Board.

4 . General

4.1 AIFLAM indemnifies the Chair and the members of the Committee against any claim or liability that may arise out of the performance by them of their functions under these Rules.

4.2 Any notice to be given under these Rules is deemed to have been properly given if sent by email or certified post to the last known address of the Member or Complainant.

4.3 Pending the final determination of any complaint, confidentiality shall be maintained in

regard to all aspects of the complaint process.

4.4 Costs incurred by the Board, a Member, the Committee, or the Complainant in respect of a complaints process shall not be ordered or required to be paid by any of those parties to any other party.

4.5 Confidential records of all complaints, Member responses and outcomes of Committee and resolutions of the Board shall be retained by AIFLAM for a minimum of seven years and to be held by the Executive Director or Chair of the Board.

These Rules Governing Complaints were approved by resolution of the AIFLAM Board dated 10 March 2021