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1. Introduction

The Psychotherapy and Counselling Federation of Australia (PACFA) is a federation of professional associations for the counselling and psychotherapy profession. It unites under its umbrella a diverse group of Member Associations (MAs) which have in common their contribution to the art and science of Counselling and Psychotherapy, both through their members delivering these services directly, and by their contribution to the development and furtherance of professional practice via supervision, training, research and other related activities.

This document ‘PACFA Professional Conduct Procedures’ sets out PACFA’s framework for the management of complaints and appeals regarding professional conduct breaches by PACFA Registrants and by PACFA Member Associations.

This document replaces the previous section 5 and 6 of the PACFA Code of Ethics 2012.

The PACFA Complaints process is not a legal procedure and does not address legal matters. Practitioners and Complainants are required to view these guidelines in light of relevant state and federal legislation, and to seek competent, qualified advice as to which provisions may prevail in any given instance. PACFA Member Associations are also required to have a sound professional conduct procedure of their own.

It is the responsibility of all Registrants, Member Associations, Complainants and Appellants to familiarise themselves with the PACFA Professional Conduct Procedures. Complainants and Appellants should contact PACFA if clarification of the procedures is required. These procedures form an essential part of PACFA’s commitment to the protection of the public. Registrants and Member Associations are required to inform clients or members, who indicate they have a complaint or grievance about a service they have received, of the existence of these procedures and any other complaints procedure applicable to the service provided.

Notes:

* This document should be read in conjunction with the PACFA Code of Ethics 2015 and the PACFA Code of Good Governance for Member Associations, as appropriate.

2. Definitions

For the purpose of this statement:

a) ‘Registrant’ is a counsellor or psychotherapist who is currently listed on the PACFA register of counsellors and psychotherapists.

b) Member Association (MA) refers to any counselling and psychotherapy association that is a member of PACFA.

c) The ‘Complainant’ is any person who initiates a complaint against a Registrant or a Member Association.

d) The ‘Respondent’ is the person against whom a complaint is made. This may be a Clinical, Provisional or Intern Registrant of PACFA. The Respondent may also be a Member Association of PACFA.
e) The ‘Chief Executive Officer (CEO)’ is the person appointed by the PACFA Board to monitor compliance with decisions where a complaint has been upheld against a PACFA Member Association.

f) The PACFA Ethics Committee comprises suitable volunteer counsellors or psychotherapists appointed by the PACFA Board to provide ethical perspectives on complaints, advice and documentation as required by the PACFA Board or PACFA office.

g) The Professional Conduct Panel (PCP) is a volunteer panel appointed solely for the purpose of addressing a specific Complaint or Appeal. It generally consists of a Chair, two PACFA Registrants, and an Independent person.

h) The ‘Independent Person’ on a Professional Conduct Panel is someone who is not a member of the Counselling and Psychotherapeutic professional community.

i) The ‘Health Care Complaints Entity’ (HCC Entity) is the government appointed body in each State or Territory responsible for hearing complaints against counsellors or psychotherapists.

j) The ‘PACFA Professional Conduct Procedures’ are the formal processes used to address a Complaint or an Appeal where the complaint has been deemed valid according to the Ethics Code by the PACFA Ethics Committee.

k) The ‘Formal PACFA Complaint Procedures’ are the procedures undertaken to generate a resolution and report to a formally submitted complaint using the ‘PACFA Complaint’ form.

l) The ‘Formal PACFA Appeal Procedures’ are the procedures undertaken to generate a resolution and report to an Appeal against the outcome of a complaint heard via the ‘PACFA Complaint Procedures’.

m) The ‘PACFA Complaint Form’ is the document to be completed and formally submitted to the PACFA Office by a Complainant in order to make a complaint against a PACFA Registrant or a PACFA Member Association.

n) The ‘PACFA Appeal Form’ is the document to be completed and formally submitted to the PACFA office by a previous Complainant or Respondent in order to appeal the outcome of a complaint heard via the ‘PACFA Complaint Procedure’.

o) ‘Appellant’ refers to the individual who initiates ‘PACFA Appeal Procedure’ using the ‘PACFA Appeal Form as outlined above.

p) The ‘Professional Conduct Appeals Panel’ (PCAP) is a committee appointed solely for the purpose of addressing a specific appeal.

q) ‘Findings Report’ is the short report prepared by the PCP or the PCAP setting out their key findings and recommendations. The Findings Report is sent to the parties to a Complaint or Appeal.

r) ‘PCP Report’ is the long report prepared by the PCP or the PCAP setting out their findings and recommendations in detail. The PCP Report is not sent to the parties to
a Complaint or Appeal. The PCP Report is a reference for the Ethics Committee and would be used referred to if the matter goes to Appeal.

s) The ‘PACFA Code of Good Governance for Member Associations’ sets out the ethical framework for the clinical and management governance of Member Associations of PACFA.

3. Aim of the PACFA Professional Conduct Procedures

The aim of the PACFA Professional Conduct Procedures is to provide Complainants with a transparent process for making complaints against Registrants or Member Associations of PACFA or for parties to a complaint to appeal decisions. In processing such Complaints and Appeals, PACFA aims to protect members of the public, members of PACFA Member Associations, the name and reputation of PACFA and the profession of Counselling and Psychotherapy.

The Procedures also provide a mechanism for the PACFA Ethics Committee to investigate alleged ethical misconduct in the absence of a formal complaint where a Reportable Breach (as defined in the PACFA Code of Ethics) is reported to PACFA or where a Registrant is subject to criminal investigation.

4. Principles relating to Complaints and Appeals

4.1 Who can bring a complaint?

Where an individual wishes to make a complaint about a PACFA Registrant, the complaint is to be submitted and heard by the PACFA Member Association to which the practitioner belongs. Only in circumstances where the Member Association of the PACFA Registrant is unable to hear the complaint will PACFA consider a complaint regarding a PACFA Registrant. A PACFA Member Association may be unable to hear a complaint due to:

a) A conflict of interest within the Member Association’s Executive Committee or sub-committees.

b) A complaint of a serious or complex nature deemed to be outside the expertise of the Member Association.

c) The Member Association does not have jurisdiction under its Code of Ethics to hear the complaint.

Where an individual wishes to make a complaint to PACFA about either the handling of an ethical complaint by a PACFA Member Association or a breach of conduct outlined in the PACFA Code of Good Governance, this complaint is to be submitted to PACFA using the PACFA Complaint Form.

In circumstances where the Member Association to which the Registrant belongs is unable to hear a complaint, PACFA will consider hearing complaints from an individual who has a valid reason to ask PACFA to hear a complaint instead of lodging it with a Member Association, in which case the reasons for this application must be justified and clear. PACFA will hear these complaints where:

a) the individual has sought or received a service provided by a current Registrant or a Member Association of PACFA;
b) the individual has previously had a complaint heard by a Member Association and is not satisfied that due process was followed;

c) a legal guardian or other appropriately authorised adult initiates a complaint on behalf of a minor and/or a vulnerable adult:
  o who has sought or received a service provided by a current Registrant or a Member Association of PACFA; and
  o lacks the legal capacity to make a complaint regarding the services sought or received;

d) a third party, who speaks on behalf of another vulnerable person or people directly affected by the actions of a practitioner, and has documented evidence of unethical conduct as described under the PACFA Code of Ethics;

4.2 Complaints against non-Registrants or non-Member Associations

PACFA will consider complaints:

a) against practitioners who were not PACFA Registrants at the time of the alleged professional misconduct but who are current PACFA Registrants;

PACFA will not consider complaints:

a) against practitioners who are not current PACFA Registrants unless the Registrant resigned their PACFA registration in response to the complaint being submitted to PACFA.

b) against organisations that were not Member Associations of PACFA at the time of the alleged misconduct.

c) against organisations that are not current Member Associations of PACFA.

4.3 Informal Resolution

Before submitting a complaint to PACFA, the Complainant is encouraged to attempt to resolve the issue informally with the Registrant or Member Association complained against. Details of any attempt at resolution should be included with the Complaint submitted to PACFA.

If informal resolution is not possible or feasible or is considered inappropriate in the particular circumstances of the case, the Complainant will be required to provide a written explanation as to why the Complaint should be heard by PACFA.

4.4 Mediation

Parties to a complaint may be invited to seek mediation by the Professional Conduct Panel to resolve the complaint rather than proceeding to a formal investigation.

Where a request is received from a party to a complaint to seek mediation, the Professional Conduct Panel will determine whether mediation is appropriate given the nature of the complaint. If either party opposes the mediation option, the complaint will be formally investigated via PACFA’s Professional Conduct Procedure.

If both parties agree to proceed to mediation:

- a mediator and one other person is appointed from the Professional Conduct Panel;
- a mediation meeting is set up either in person or by simultaneous electronic communication;
• The agreed outcomes of the mediation meeting, if any, are documented by the mediator; and
• Implementation of the agreed outcomes is monitored by the PACFA Office.

If there are no agreed outcomes from the mediation meeting, the complaint will proceed to a formal investigation in accordance with clause 5.3

4.5 Complaints before Health Care Complaints Entities, other professional associations or the Courts

PACFA will not investigate matters that are substantially the same as a complaint before a Health Care Complaints Entity in any State or Territory. This is considered a duplication of the complaints process.

In some cases, PACFA will refer matters to the relevant Health Care Complaints Entity. This may occur under the following circumstances:

a) the Registrant is no longer on the PACFA Register;
b) the complaint is of a serious nature and the Registrant has had a previous complaint upheld by a HCC Entity;
c) the complaint is of a serious nature and is of such significant complexity that PACFA would not have the resources or expertise to hear the complaint; or
d) criminal proceedings are underway in relation to the complaint.

PACFA will generally not investigate matters that are substantially the same as a complaint before another professional association for counselling, psychotherapy or a related professional field in order to avoid duplication of process. However, where the matter is a Reportable Breach, PACFA may investigate in accordance with the procedure in clause 5.4 but will not do so until after until after the complaint to the other body has been concluded.

PACFA may investigate a matter that is a Reportable Breach which is also is subject to criminal investigation using the procedure in clause 5.4. The Ethics Committee may suspend the Registrant pending the outcome of a criminal investigation. Where formal legal proceedings are brought, the PACFA investigation will take into consideration any directions or orders of the courts or relevant authority.

4.5 Records of Complaints and Appeals

Records of Complaints and Appeals will be kept indefinitely.

When considering a Complaint, PACFA reserves the right to take into account previously submitted Complaints when a subsequent Complaint is submitted, about the same Registrant or Member Association.

Where the outcome of a complaint has resulted in the termination of PACFA registration or termination of membership of a PACFA Member Association, this outcome will be considered in any re-application for PACFA registration or PACFA membership by the former Registrant or Member Association.

4.6 Administration of Complaints and Appeals

The administration of the PACFA Professional Conduct Procedures will follow the protocols laid down by the PACFA Board, as amended from time to time. In the case of complaints against PACFA Registrants, these will be administered by the PACFA Office in conjunction with the PACFA Ethics Committee.
In the case of complaints against a PACFA Member Association, where a complaint is upheld against a Member Association, the PACFA CEO is responsible for monitoring compliance by the Member Association with the decision. The CEO will report to the PACFA Board on the MAs’ compliance with the decision and its implementation of any sanctions.

Data on complaints will be kept for the purposes of research and statistical analysis with the aim to further the research and governance of PACFA by carrying out audits and/or research into complaints. Any published research and/or analysis will not contain any personally identifiable information.

4.7 Costs incurred by parties to Complaints or Appeals

PACFA is not responsible for travel or any other expenses incurred either by the Complainant/Appellant, or the Registrant or Member Association complained against, or any support person/representative in connection with any stage of the Complaint or Appeal.

PACFA cannot order one party in a complaint to pay another party’s costs.

4.8 Notification of findings of Complaints and Appeals

PACFA reserves the right to notify other professional bodies and/or agencies about complaints and to distribute any findings upheld against a PACFA Registrant or PACFA Member Association, where it considers it right and just to do so.

When a Registrant is suspended or deregistered by PACFA as a result of an upheld complaint, PACFA will display the former Registrant as suspended or deregistered on the PACFA Register for the duration of the sanction.

When a PACFA Member Association is suspended by the PACFA Board or expelled from PACFA by the PACFA Council, a notification of this decision will be placed on the PACFA website for the duration of the sanction.

5. Process to make a Complaint

5.1 Conditions to make a Complaint

The complaint must satisfy the following conditions:

a) The complaint must be in writing and be made on the official PACFA Complaint Form. The Complainant must provide a detailed account of the practice giving rise to the complaint, together with details of dates when the event(s) occurred and all other supporting evidence. The Complainant must state which sections of the standards of practice, applicable at the time, have allegedly been breached. The standards of practice are outlined in either the PACFA Code of Ethics or the PACFA Code of Good Governance for Member Associations and/or the relevant Member Association Code of Ethics and Practice. Please use the Code that is relevant to the complaint.

b) The PACFA Registrant is listed on the PACFA Register at the time the complaint is lodged.

c) The Association is a current Member Association of PACFA at the time the complaint is lodged.

d) The complaint is dated, signed and received by the PACFA Office.
A complaint not satisfying the above conditions will not be accepted or processed under these procedures.

5.2 Receipt of a Complaint

The Complaint will be submitted to the PACFA office whereupon the PACFA Ethics Committee will determine within 14 days whether:

a) the Complaint should be dealt with through the PACFA Professional Conduct Procedure because there is sufficient information for a the Committee to reasonably conclude that the matter requires investigation by a Professional Conduct Panel.

b) to refer the Complaint back to the Complainant for further information/clarification; or

c) it is not appropriate for the Complaint to be heard by PACFA because:
   - the complaint contains insufficient information to determine whether it should be heard by a Professional Conduct Panel; or
   - the complaint is trivial or vexatious; or
   - there is a question as to whether the Complainant has been unduly influenced by a third party.

If further information/clarification is requested, upon receipt of same, the Complaint will be re-submitted to the Ethics Committee which will determine whether or not it is appropriate for the Complaint to be heard by PACFA.

Once it is determined that the Complaint should proceed, the Complainant and the Registrant or Member Association against whom the Complaint is made will be formally notified in writing that the Complaint is proceeding. The PACFA Office will then commence Formal Professional Conduct Procedure.

If the Ethics Committee determines that the Complaint should not be heard by PACFA, the Complainant will be formally notified of this outcome in writing, including the reasons for the Ethics Committee’s determination. This decision may be appealed.

5.3 The investigation

The investigation will follow the Formal PACFA Complaint Procedures (see Section 9.1 of this document).

The first part of this procedure is the formation of the Professional Conduct Panel (PCP). The Professional Conduct Panel is a volunteer committee appointed solely for the purpose of hearing a specific complaint. It generally consists of a Chair, two PACFA Registrants, and an Independent Person.

PCP members are required to declare any conflicts of interest they may recognise once they have been issued with the names of the Complainant and Respondent. Panel members are required to consider any factors that may influence their ability, or be seen to influence their ability, to be impartial. All panel members will receive a conflict of interest declaration and will be asked to sign and return these forms to the PACFA Office.

An important part of the role of the PCP is to document its findings and recommendations in relation to the complaint. The PCP will convene, via teleconference, web conference or in person, and consider all of the information provided in order to finalise the complaint. The PCP Chair is responsible for preparing a Findings Report and a PCP Report for the PACFA Ethics Committee within 20 working days of receiving all relevant information about the complaint from the PACFA Office. The PCP Chair is to ensure that all PCP members agree with the contents of both reports before forwarding the reports to the Ethics Committee.
The PCP may request clarification from the Complainant and the Respondent during the course of the investigation. This request may include interviews with the parties involved or requesting written documentation in response to a specific request for clarification.

5.4 Investigations and other actions initiated by the PACFA Ethics Committee

An investigation may be initiated by the PACFA Ethics Committee in the absence of a complaint in the following circumstances:

- A report is received by PACFA of a Reportable Breach by a Registrant; and
- The Ethics Committee forms a reasonable belief that the PACFA Registrant has behaved in a way that constitutes a Reportable Breach.

The Investigation will be conducted in the same way as if a complaint had been made about the alleged misconduct with a Professional Conduct Panel being formed to consider the allegations. Sanctions may be applied in the same way that sanctions can be applied in response to complaints.

If full investigation by a Professional Conduct Panel is not appropriate or possible, a simple form of investigation may be undertaken:

- A simple investigation is undertaken by two members of the Ethics Committee.
- The investigating Committee Members gather and consider all available evidence and make a determination.
- Sanctions may be applied in the same way that sanctions can be applied in response to complaints.

5.5 The decision

The decision of the PCP is set out in a report to the Ethics Committee. The PCP Report is a detailed report including all supporting information and background on the PCP decision making process.

The PCP’s Findings Report is a summary of the decisions and findings which is sent to both the Complainant and the Respondent.

6. Process to Appeal

6.1 The grounds under which an Appeal will be considered

- There is evidence to suggest that a procedural impropriety may have had a material effect on the findings and decision of the Professional Conduct Panel;
- There is new evidence which was not available at the time of the Professional Conduct Hearing, subject to the conditions described in Section 6.2; or
- The evidence warrants consideration of an appeal.

6.2 The conditions an Appeal must satisfy

- The Appeal must be in writing and be made on the official PACFA Appeal Form. The Appellant must provide a detailed account of the events giving rise to the Appeal which must include relevant, new and detailed information, including dates. Reference should be made to the standards of practice in force at the time, as outlined by either the PACFA Code of Ethics, or the PACFA Code of Good
Governance for Member Associations, and/or the relevant Member Association’s Code of Ethics and Practice, as appropriate to the Appeal.

b) The Appeal must be submitted within 20 working days of receipt of the report from the original Complaint.

c) The Appeal must be dated, signed and received by the PACFA Office.

An Appeal not satisfying the above conditions will not be accepted or addressed under these procedures.

6.3 The receipt of an Appeal

The Appeal will be submitted to the Ethics Committee, whereupon it will determine whether:

a) it is appropriate that the Appeal proceeds through the PACFA Appeal Procedure;

b) to refer it back to the PCP for further information/clarification; or

c) it is not appropriate for the Appeal to proceed.

If further information/clarification is requested, upon receipt of same, the Ethics Committee will determine whether or not it is appropriate for the Appeal to proceed. If the Ethics Committee determines that it is not appropriate for the Appeal to proceed, the Appellant will be formally notified of this outcome in writing.

Once it is determined that the Appeal may proceed, the Appellant and Respondent to the Appeal will be formally notified in writing that the Appeal is proceeding. The PACFA Office, in consultation with the Chair of the Ethics Committee, will then commence the Formal Appeal Procedure.

6.4 The investigation

The investigation will follow the Formal Appeals Procedures (see Section 9.2 of this document).

The first part of this procedure is the formation of the Professional Conduct Appeal Panel (PCAP). The PCAP is a volunteer committee appointed solely for the purpose of hearing a specific complaint. It generally consists of a Chair, two PACFA Registrants, and an Independent Person.

PCAP members are required to declare any conflicts of interest they may recognise once they have been issued with the names of the Appellant and Respondent. Panel members are required to consider any factors that may influence their ability, or be seen to influence their ability, to be impartial. All panel members will receive a conflict of interest declaration and will be asked to sign and return these forms to the PACFA Office.

An important part of the role of the PCAP is to document its findings and recommendations in relation to the complaint. The PCAP will convene, via teleconference, web conference or in person, and consider all of the information provided in order to finalise the complaint. The PCAP Chair is responsible for preparing a Findings Report and a PCAP Report for the PACFA Ethics Committee within 20 working days of receiving all relevant information about the complaint from the PACFA Office. The PCAP Chair is to ensure that all PCAP members agree with the contents of both reports before forwarding the reports to the Ethics Committee.

The PCAP may request clarification from the Appellant and the Respondent during the course of the investigation. This request may include interviews with the parties involved or requesting written documentation in response to a specific request for clarification.
6.5 The decision

The decision of the PCAP is set out in a PCAP Report to the Ethics Committee. This is a detailed report including all supporting information and background on the PCAP decision making process.

The PCAP Findings Report is a summary of the decisions and findings which is sent to both the Appellant and the Respondent.

7. The PACFA Professional Conduct Procedures

7.1 Compliance with the Professional Conduct Procedures

It is the duty of the parties taking part in Complaint or Appeal to comply with the requirements of the Professional Conduct Procedures as prescribed by PACFA in this document. Failure of the Complainant or Appellant to comply may result in the discontinuation of the Complaint or Appeal. Failure of the Respondent (i.e. the Registrant or PACFA Member Association) to comply may result in withdrawal of registration for the Registrant or withdrawal of PACFA membership for Member Associations (in accordance with Clause 10 of the PACFA Constitution).

7.2 Lapsed registration or membership

Failure by a Registrant to renew his/her PACFA registration or by a Member Association to renew its PACFA membership during the course of a Complaint or Appeal will not terminate the Professional Conduct Procedure.

A Registrant’s resignation from membership of his/her Member Association will not terminate nor invalidate the processing and/or hearing of a complaint by PACFA.

When a Registrant or Member Association resigns and the complaint is unable to be pursued due to the Respondent’s withdrawal from the process, the PACFA assigned Professional Complaints Panel will determine the result and present the findings to both the Complainant and the Respondent. The records will note the lack of engagement by the Respondent and the findings will need to be satisfactorily complied with for successful re-application for PACFA registration or PACFA membership in the future.

7.3 Sanctions

7.3.1 Imposition of sanctions

The Professional Conduct Panel, after determining the findings, may impose or recommend one or more sanctions. These sanctions may include:

- undertaking specified supervision;
- directed communication by the respondent to the complainant;
- temporary suspension from practice; or
- any other action deemed suitable by the Professional Conduct Panel. This may occur in consultation with the PACFA Ethics Committee.

Additionally, the PACFA Office will implement sanctions against a Registrant as outlined in the Report to the Complainant/Appellant and Respondent, and the PACFA CEO will implement sanctions against a Member Associations as outlined in the report to the Complainant/Appellant and Respondent.

7.3.2 Lifting of sanctions
The PACFA Office will monitor implementation of sanctions against Registrants and inform the Ethics Committee of the outcome of monitoring findings. The PACFA CEO will monitor implementation of sanctions against Member Associations and inform the Ethics Committee and the PACFA Board of the outcome of monitoring findings.

The Registrant or Member Association subject to the sanctions will be notified in writing of when the sanctions have been fulfilled, either because specific actions required have been completed, or because the specified timeline of the sanctions has expired.

**7.3.3 Failure or refusal to comply with sanction**

Failure or refusal to comply with a finding or sanction may result in the Registrant’s immediate removal from the PACFA Register. When the Respondent is a Member Association of PACFA, the Association’s membership of PACFA may be terminated by a decision of the PACFA Council in accordance with Clause 10 of the PACFA Constitution.

The Registrant or Member Association subject to the sanctions will be notified of any such decision in writing.

**7.4 Publication**

7.4.1 The withdrawal of a Registrant’s registration or a Member Association’s membership of PACFA following an adverse finding in a Professional Conduct Procedure will be published on the PACFA website, in eNews and elsewhere as the PACFA Ethics Committee and PACFA Board considers appropriate and just to do so, and in the interests of public protection.

7.4.2 Under these Procedures, any notification that PACFA is entitled to publish on its website and in eNews may be published elsewhere by PACFA at its discretion and in the interests of public protection.

**7.5 Effective Date**

These Professional Conduct Procedures will apply to all complaints received by PACFA after the date of publication of these Procedures.

**8. Forms of Misconduct**

The Professional Conduct Panel is responsible for determining the type of misconduct that has occurred. The types of complaint available to the Panel are:

- Professional Misconduct
- Professional Malpractice
- Bringing the Profession into Disrepute

**8.1 Professional Misconduct**

A finding of Professional Misconduct signifies that the Registrant or Member Association has contravened the ethical and behavioural standards that should reasonably be expected of members of the counselling and psychotherapy profession. Misconduct is defined as acting in contravention of the written and unwritten guidance of the profession. A finding of misconduct may occur in the circumstances where the Professional Conduct Panel findings include a breach of the PACFA Code of Ethics that did not cause serious harm.
A finding of serious Professional Misconduct is appropriate if the misconduct is of sufficient seriousness or caused such serious harm as to merit:

- suspension of a Registrant for a period of time and/or the withdrawal of a Registrant’s registration;
- suspension of a Member Association and/or a recommendation to the PACFA Council that a Member Association be expelled from membership of PACFA.

8.2 Professional Malpractice

A finding of Professional Malpractice signifies that the service(s) for which the Registrant or Member Association is responsible has/have fallen below the standards that would reasonably be expected of a Registrant or Member Association exercising reasonable care and skill. Examples of malpractice include, but are not restricted to:

- incompetence
- negligence
- recklessness
- the provision of inadequate professional services.

A finding of serious Professional Malpractice is appropriate if the malpractice is of sufficient seriousness to merit:

- suspension of a Registrant for a period of time and/or the withdrawal of a Registrant’s registration;
- suspension of a Member Association and/or a recommendation to the PACFA Council that a Member Association be expelled from membership of PACFA.

8.3 Bringing the Profession into Disrepute

A finding of Bringing the Profession into Disrepute signifies that the Registrant or Member Association has acted in such an infamous or disgraceful way that the public's trust in the profession might reasonably be undermined, or might reasonably be undermined if they were accurately informed about all the circumstances of the case.

A finding under this heading must amount to ‘disgraceful conduct in a professional respect’. This involves consideration of three elements:

a) Conduct that is regarded as ‘disgraceful’ need not amount to moral turpitude or be restricted to acts of serious immorality.

b) The conduct must have had some connection with a professional role in order to be considered as failing ‘in a professional respect’. It ought not to be concerned with matters that can reasonably be viewed as solely personal and private.

c) Conduct ‘in a professional respect’ is not confined to the pursuit of the profession in question. What is not considered to be disgraceful to an ordinary person may be considered to be disgraceful to a professional person.

A finding of Bringing the Profession into Disrepute will result in withdrawal of the Registrant’s registration or a recommendation to PACFA Council that the Member Association is expelled from membership of PACFA.

9. PACFA COMPLAINT AND APPEAL PROCEDURES
Each Complaint or Appeal about a PACFA Registrant or a PACFA Member Association must be made using the Complaint Form or the Appeal Form, as appropriate. Complainants and Appellants should ensure they use the form that is appropriate to their complaint or appeal.

9.1 PACFA Complaint Procedure

1. Initial contact of the Complainant with the PACFA Office will include the responsible staff member asking the following questions:

   a. Is the practitioner who is the subject of the complaint a PACFA Registrant? [or]
   b. Is the Association that is the subject of the complaint a Member Association of PACFA?
   c. Has there been any attempt to resolve the matter with the Registrant or Member Association?
   d. If the complaint is against a Registrant, has the complaint been submitted to the Member Association of which the Registrant is a member?
   e. Has the complaint been lodged anywhere else?
   f. If so,
      o what was the outcome?
      o why is the complainant also approaching PACFA?
   g. Is there any legal proceeding underway regarding this matter?
      o If so, what is the intention in lodging an ethical complaint with PACFA?
      o In the case of there being a legal proceeding underway, this will need to be completed before any investigation by PACFA takes place.

2. The PACFA Complaint Form and accompanying documentation (e.g. PACFA Code of Ethics or PACFA Code of Good Governance) is then sent to the Complainant. Alternatively, the Complainant can obtain these documents from the PACFA website.

3. The PACFA Office receives the completed Complaint Form.

4. The PACFA Office acknowledges receipt of the complaint within five working days and informs the Complainant that the complaint and any accompanying documentation will be forwarded to the PACFA Ethics Committee for a decision on whether or not PACFA will proceed with hearing the complaint.

5. The PACFA Ethics Committee determines the validity of the complaint within ten working days of receiving the complaint and informs the PACFA Office of the decision. In determining whether a complaint should be heard by PACFA, the Ethics Committee will consider the matters detailed in clause 5.1 of these Procedures.

6. If the PACFA Ethics Committee determines that the complaint should NOT be investigated by PACFA, this decision and accompanying rationale is communicated by the PACFA Office to the Complainant.

7. If the PACFA Ethics Committee determines that the complaint should be investigated by PACFA, then:

   a. The PACFA Office informs the Complainant of the decision of the PACFA Ethics Committee;
b. The Respondent is advised of the Complaint and is sent Section 5 of the PACFA Complaints Form (Details of the Complaint) and is advised that a response to the complaint is to be provided within twenty working days.

8. Once the Respondent’s response has been received, the PACFA Office informs both the Complainant and Respondent that a Professional Conduct Panel (PCP) will be formed by the PACFA Ethics Committee within fifteen working days. Where an extension of time is required to form the PCP, the Ethics Committee must identify valid reasons for the extension of time and communicate these reasons to the Complainant and the Respondent, via the PACFA Office.

9. The PCP Chair and two other PCP members will be determined by the PACFA Ethics Committee, from the pool of trained PCP volunteers. An Independent member of the PCP is determined by the PCP Chair and the PACFA Ethics Committee Chair.

10. Conflict of Interest Forms are sent via email to all PCP members by the PACFA Office.

11. Details of the final PCP members are communicated to the Complainant and Respondent with a request for email confirmation within fourteen working days that they have read and understood the contents of the email.

12. If no reply is forthcoming from one or both parties, the PACFA Office will contact the non-replying party or parties by phone to establish confirmation of the email as described in paragraph 11 above.

13. All documentation from the Complainant and the Respondent supplied to the PACFA Office regarding the complaint will be supplied to the PCP with instructions to produce a report using the standard template within twenty working days.

14. The PCP Chair informs the PACFA Office of the progress of the complaint process. The PACFA Office ensures that the PACFA Ethics Committee Chair is informed of the progress of the complaint.

15. The PCP Report, including recommendations, and the Findings Report are submitted by email to the PACFA Ethics Committee via the PACFA Office. The PACFA Ethics Committee will review and approve/not approve the Reports within ten working days.

16. If the PACFA Ethics Committee does not approve the Reports and recommendations, the reasons may be:

   a. The language used may cause harm or distress to either the Respondent or the Complainant.
   b. The report does not clearly outline the findings.
   c. The report does not supply a timeline for recommendations.
   d. The report is either deemed to be too brief, e.g. there is not enough detail in order for the recommendations to be followed, or too lengthy.

17. If the reports are not approved, the PCP may be required to re-draft the reports with input from the PACFA Ethics Committee within a further ten working days.
18. Once the report is approved by the PACFA Ethics Committee, the findings are sent by email and posted to the Complainant and Respondent by the PACFA Office.

19. The Complainant and Respondent have twenty working days to lodge an Appeal.

20. The PACFA Office sends the PCP a letter on behalf of the Ethics Committee Chair, thanking members for their work.

21. In the case of a complaint against a Registrant, the PACFA Office will monitor the compliance of recommendations within the report and report all outcomes and processes to the PACFA Ethics Committee, which will in turn report any concerns about implementation of PCP’s recommendations to the PACFA Board. In the case of a complaint against a Member Association, the PACFA CEO will monitor the compliance of recommendations within the report and report all outcomes and processes to the PACFA Ethics Committee and the PACFA Board, in particular any concerns about implementation of the PCP’s recommendations.

9.2 PACFA Appeal Procedure

1. Initial queries regarding the submission of an Appeal by a Complainant or Respondent is via the PACFA Office.
   a. The PACFA Office will assist the person to determine if an Appeal an appropriate option for them in terms of the requirements set out in clause 6.1 of these Procedures.
   b. The PACFA Office will enquire whether a further complaint has been lodged elsewhere as it may not be appropriate for PACFA to consider an Appeal if the has already been taken to another body such as Health Care Complaints Entity or another professional association.
   c. The PACFA Office will provide the person with the latest date by which this Appeal must be submitted and supply the PACFA Appeal Form if the Appellant has not already obtained this form from the PACFA website.

2. The PACFA Appeal Form and accompanying documentation (e.g. PACFA Code of Ethics or PACFA Code of Good Governance) is then sent to the Appellant. Alternatively, the Appellant can obtain these documents form the PACFA website.

3. The PACFA Office receives the completed Complaint Form. Any Appeal must be submitted within twenty working days of receipt of the report from the original complaint.

4. The PACFA Office will acknowledge receipt of an Appeal from an individual Complainant or Respondent within five working days, and will inform the Appellant that the Appeal and any accompanying documentation will be forwarded to the PACFA Ethics Committee for endorsement to proceed.

5. The PACFA Ethics Committee will determine, within ten working days, whether it is appropriate for the Appeal to proceed, and inform the PACFA Office of its decision. This decision is made in accordance with Clause 6.1 and 6.2 of these Procedures.
6. If the PACFA Ethics Committee determines that it is not appropriate for PACFA to hear the Appeal, this decision and accompanying rationale will be communicated to the Appellant via the PACFA Office.

7. If the PACFA Ethics Committee determines that the Appeal through the PACFA Appeal should be heard by PACFA, then:

   a. The PACFA Office will inform the Appellant of the decision of the PACFA Ethics Committee.

   b. The Respondent to the Appeal is sent Section 5 of the PACFA Appeal Application form (concerning the details of the Appeal) by the PACFA Office and has 20 working days to provide a response.

8. Once the Respondent’s response has been received, the PACFA Office will inform both Appellant and the Respondent that a Professional Conduct Appeal Panel (PCAP) will be formed by the PACFA Ethics Committee within the following 15 working days. Where an extension of time is required to form the PCP, the Ethics Committee must identify valid reasons for the extension of time and communicate these reasons to the Complainant and the Respondent, via the PACFA Office.

9. The PCAP Chair and two other members of the PCAP are determined by the PACFA Ethics Committee, from the pool of trained PCAP volunteers. An Independent member of the PCAP is determined by the PCAP chair and the PACFA Ethics Committee Chair.

10. Conflict of interest forms will be sent to all PCAP members by the PACFA Office and must be returned within five working days.

11. Details of the final PCAP members are communicated to the Appellant and Respondent by the PACFA Office with a request for email confirmation within five working days that they have read and understood the contents of the email.

12. If no reply is forthcoming from either party, the PACFA Office will contact the non-replying party or parties by phone to establish confirmation of the email described in paragraph 10 above.

13. All Appeal documentation is supplied to the PCAP via email with instructions to produce a Report using the standard template within 20 working days.

14. The PCAP Chair will keep the PACFA Office informed of progress with the Appeal process as it proceeds. The PACFA Office will ensure that the PACFA Ethics Committee Chair is informed of any communications received relating to the Appeal the Appeal.

15. The completed PCAP Report with recommendations and the Findings Report are submitted via email to the PACFA Ethics Committee Chair via the PACFA Office.

16. The PACFA Ethics Committee is responsible for determining whether to accept the PCAP’s Report and recommendations and the Findings Report. Within ten working days, the Committee will either:
a. approve the reports and recommendations; or

b. not approve the reports and recommendations and provide reasons. The Committee may request the PCAP to re-draft the reports with input from the PACFA Ethics Committee Chair, within ten working days.

17. Once the Reports are approved by the PACFA Ethics Committee, the Appeal is finalised.

18. The findings as detailed in the Findings Report are sent via email and post to the Appellant and Respondent by the PACFA Office.

19. The PACFA Offices sends the PCAP a letter on behalf of the PACFA Ethics Committee Chair, thanking them for their work.

20. If the appeal is upheld, the PACFA Office will monitor the compliance of recommendations within the report and report all outcomes and processes to the Ethics Committee Chair.

21. Where the Appeal relates to a complaint previously brought against a PACFA Member Association, the CEO is responsible for monitoring implementation of the PCAP’s decision if the Appeal upholds a finding against the Member Association. The CEO will report all outcomes of the monitoring process to the PACFA Board, in particular any concerns about implementation of the PCAP’s recommendations.

10. Review of Professional Conduct Procedures

These procedures will be reviewed every two years by the PACFA Ethics Committee to ensure they reflect current complaints handling processes within PACFA and that they accord with current best practice.

Where changes to the procedures are required, these are to be approved by the PACFA Board. The PACFA Council will be consulted where substantial changes to these Professional Conduct Procedures are proposed.