



Psychotherapy and Counselling  
Federation of Australia

# PACFA Professional Conduct Procedures (2024)



© Psychotherapy and Counselling Federation of Australia, February 2024

This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968.

Correspondence concerning this document must be addressed to:  
PACFA CEO, email: [admin@pacfa.org.au](mailto:admin@pacfa.org.au)

# Contents

<b>1. Preamble</b>	<b>5</b>
<b>2. Definitions</b>	<b>6</b>
<b>3. Introduction</b>	<b>8</b>
<b>4. Implementation of Concern, Grievance and Appeal Procedures</b>	<b>10</b>
4.1 Effective Date	10
4.2 Responsibility	10
4.3 Pathways for Resolution of Concerns, Grievances and Appeals	10
4.4 Informal Resolution	10
4.5 Grievance	10
<b>5. Applying these Professional Conduct Procedures</b>	<b>11</b>
5.1 Compliance with Professional Conduct Procedures	11
5.2 Considering a Concern	11
5.3 Concerns against Registrants belonging to Member Associations	12
5.4 Concerns against Student Members	12
5.5 Concerns against lapsed Practitioners	12
5.6 Investigations initiated by the PACFA Ethics Committee	13
5.7 Forms of Ethical Misconduct	13
5.8 Unsatisfactory Professional Conduct	14
5.9 Serious Professional Misconduct	14
5.10 Bringing the Profession into Disrepute	14
<b>6. Exclusions to these Concern, Grievance and Appeal Procedures</b>	<b>15</b>
6.1 Concerns or Grievances before other Complaints bodies	15
6.2 Matters of a legal nature	15
6.3 Claims for compensation	15
6.4 Concerns or Grievances heard under the jurisdiction of the Family Law Act	15
6.5 Vexatious Concerns	15
6.6 Referral of Concerns or Grievances to other bodies	16
6.7 Concerns relating to PACFA, Committees or Member Associations	16
<b>7. Concerns and Grievances Procedures</b>	<b>17</b>
7.1 Raising a Concern	17
7.2 Filing a Concern	17
7.3 Receipt and assessment of a Concern Notification Form	17
7.4 Letter of Advice	18
7.5 Grievance Procedures	18
7.6 Grievance Panel	18
7.7 Outcomes	19
7.8 Sanctions	20
7.9 Lifting of Sanctions	20
7.10 Failure or refusal to comply with Sanctions	20
7.11 Publication of adverse findings	20

## Contents (cont.)

<b>8. Appeals</b>	<b>21</b>
8.1 Lodging an Appeal	21
8.2 Assessing the Appeal	21
8.3 Hearing of the Appeal	22
8.4 Appeal outcomes and actions	23
8.5 Communicating the decision	23
8.6 Administration of Concerns, Grievances and Appeals	23
8.7 Costs incurred by parties to Concerns, Grievances or Appeals	24
8.8 Records of Concerns, Grievances and Appeals	24
8.9 Notification of findings to other professional bodies	24
<b>9. Acknowledgements</b>	<b>25</b>
<b>10. Appendices</b>	<b>26</b>
10.1 Trauma-and-Violence-informed Practice Principles	26
10.2 Restorative Justice Principles	27
10.3 Cultural Humility	27
10.4 Raising a Concern	28
10.5 Processing the Concern	29

# 1. Preamble

Counsellors, Indigenous Healing Practitioners and Psychotherapists engage with people in many contexts to explore, understand, resolve, and heal intrapersonal and interpersonal issues. This work is fundamentally based on the premise that for people to grow and learn, there must be development and change. Whilst these practitioners work with clients, they too develop and change, and are open to reflecting and learning.

The professional practice of counselling, Indigenous healing practices and psychotherapy, underpinned by sound theoretical and clinical knowledge and expertise, is a dynamic process. As such, it needs to be reflected upon, reviewed, evaluated, and critiqued. There are processes within the professional context for this, such as supervision and case reviews. In addition, there are more formalised procedures. The procedure outlined in this document comprises part of a formal professional practice review and is initiated when an issue related to ethical practice is identified.

It is acknowledged that professional Counsellors, Indigenous Healing Practitioners and Psychotherapists provide services to the public. The procedures outlined here form the basis for the review of a member's ethical practice and observe the provisions of procedural fairness and natural justice. These procedures aim to support the delivery of high-quality ethical services by practitioners.

PACFA promotes a professional culture that values feedback as a means of strengthening and improving practice. The principles of fairness, confidentiality, responsiveness, and accessibility underpin these procedures which are in place to enable reviewing, and if need be, addressing ethical issues.

It is particularly important to recognise that long-term systemic biases against marginalised groups that exist within the broader community, have been and may continue to be, reflected within PACFA. Along with other standards and processes in PACFA, these Professional Conduct Procedures are constructed to assist in minimising the impact, break replication of these biases and embrace a perspective of cultural humility. We actively seek to understand the impacts experienced, and to develop culturally responsive and enabling processes. We welcome the ongoing involvement and counsel of marginalised groups in rendering the procedures truly inclusive, acknowledging that it is true for all groups that *"there must be nothing about us without us"*.

## 2. Definitions

The following definitions are capitalised where used throughout this document:

<b>Alternative Dispute Resolution (ADR)</b>	A non-legal process that is like mediation for seeking resolution of a Concern in which Ethics Staff converse separately with those involved in a concern, helps to articulate what is to be conveyed to the other person, and ensures all opinions are heard, with the aim to reach a resolution.
<b>Appeal</b>	A process that is lodged against the decision of the Grievance Panel for the Concern to be reviewed.
<b>Appellant</b>	Person appealing a decision resulting from a formal Grievance.
<b>Concern</b>	A matter of Concern that a client(s) or other Notifiers have raised in relation to a practitioner's action or inaction.
<b>Concern Notification Form (CNF)</b>	This Form includes details of the Notifier and the Practitioner and the conduct of the Concern, according to the PACFA Code of Ethics that was in place at the time of the event. It includes what the Notifier is seeking as redress.
<b>Ethical Misconduct</b>	Behaviour that contravenes the principles and conduct outlined in the PACFA Code of Ethics.
<b>Ethics Staff</b>	PACFA staff designated to hold the role, who are responsible for engaging with the public and PACFA members to facilitate restorative resolutions to Concerns.
<b>Facilitated conversation</b>	A non-legal process that is similar to mediation for seeking resolution of a Concern.
<b>Findings Report</b>	A report of the findings of the Grievance investigation, including sanctions if applicable.
<b>Grievance</b>	A Concern of a more serious or on-going nature.
<b>Grievance Panel</b>	A panel convened to investigate the substance of the Grievance lodged, to determine if there is evidence of a Practitioner's ethical misconduct.
<b>Grievance Panel Report</b>	A report from the Grievance Panel to the PACFA Ethics Committee consisting of the findings and recommendations resulting from a Grievance investigation.
<b>Grievance Procedure</b>	The process followed in response to more serious or ongoing Concerns that cannot be appropriately resolved through more informal processes.
<b>Grievance Process Person</b>	A Practitioner familiar with these Procedures who will, as a person independent of the process, provide professional support for the Practitioner throughout the Grievance process.
<b>Health Complaints Body</b>	An organisation established to hear complaints about regulated and/or unregulated healthcare providers in the relevant jurisdiction in which the Concern arose, or that the Notifier or Practitioner resides.
<b>Letter of Advice</b>	A process for seeking resolution of a Concern if there has been an isolated, minor or technical breach of professional standards.
<b>Marginalised groups</b>	Any group of people disenfranchised from dominant culture due to inherent structural or systemic biases, including and not limited to: Indigenous groups, members of Gender Body Kinship Sexuality (GBKS) communities, people with disabilities and any who are challenged in rightfully accessing responsive services and participation.
<b>Member Association</b>	PACFA is made up of individual members (PACFA Members) and Member Associations whose members have chosen to join the PACFA Register, known collectively as PACFA Registrants.

<b>Natural Justice</b>	While the term natural justice is often retained as a general concept, it has largely been replaced and extended by the general "duty to act fairly".
<b>Notification</b>	The mechanism of alerting PACFA to a potential breach of ethical standards by a member.
<b>Notifier</b>	A person or persons who raises an issue in relation to a practitioner's action or inaction.
<b>Peer Reporting Obligation</b>	The obligation of Counsellors, Indigenous Healing Practitioners and Psychotherapists to report alleged transgressions of ethical behaviour by their peers.
<b>Practitioner</b>	Means a PACFA Member or PACFA Registrant, but not a Member Association Member who is neither an individual PACFA Member nor a PACFA Registrant.
<b>Procedural Fairness</b>	The use of fair and proper procedure when making a decision. Also incorporates natural justice, with fair hearing and unbiased decision.
<b>Procedural Impropriety</b>	Failure to follow PACFA's Professional Conduct Procedures or conducting the Concern or Grievance process in a way that does not meet Procedural Fairness.
<b>Professional Misconduct</b>	Also referred to as Ethical Misconduct – A failure of a Practitioner to conduct themselves in a manner that is considered by their peers, as articulated in the Code of Ethics, to be of an ethical and behavioural standard expected of the profession. Can range from Unsatisfactory to Serious.
<b>Professional Conduct Procedures</b>	A set of processes for raising Concerns and lodging Grievances against Practitioners, granting fair hearing and seeking understanding and resolution.
<b>Reportable Breach</b>	A breach of the principles, standards and/or professional conduct set out in the PACFA Code of Ethics by a Practitioner.
<b>Representative</b>	A duly appointed adult guardian, administrator or attorney appointed pursuant to an enduring attorney, or family member of an adult person who produces sufficient certification from a sufficiently certified medical professional that the adult person lacks capacity and who is charged with the responsibility of representing the Notifier including the Practitioner.
<b>Respondent</b>	Person responding to a Concern, Grievance or Appeal.
<b>Right or legitimate interest</b>	A person has a right or legitimate interest if they are given the ability to take an action or request that action be taken under this Procedure or, in the case of a Practitioner, if the person is or may be the subject of disciplinary action or sanctions in accordance with the Procedure. A person does not have a right or legitimate interest only because they are dissatisfied with any exercise by PACFA of its discretion to take disciplinary action against, or impose sanctions on, a Practitioner.
<b>Sanction</b>	Requirements for action or cessation of certain actions applied to the Practitioner who has been found to have committed an ethical breach of the Code of Ethics. These may range from education and additional Supervision to serious actions impacting on PACFA registration.
<b>The Committee</b>	The Ethics Committee as appointed by the PACFA Board and chaired by a PACFA Member appointed by the PACFA Board to the position of Ethics Chair on the PACFA Board.
<b>Therapeutic Service</b>	A service delivered by a Practitioner relating to the Practitioner's registration or membership with PACFA.
<b>Vexatious Concern</b>	A Concern that aims to harass, distress, or disrupt by such means as providing false or no new information, reporting burdensome and unrelated information, raising trivialities, failing to identify precise issues, or is otherwise frivolous or malicious. It is a Concern that is brought without sufficient grounds to be processed.

### 3. Introduction

PACFA practitioners are required to follow the PACFA Code of Ethics as a condition of membership. In the event of a perceived breach in ethical practice, clients and other Notifiers can raise a concern with PACFA or a Health Complaints Body. It is the responsibility of all PACFA Members, Registrants, Member Associations, and the parties to Concerns, Grievances and Appeals to familiarise themselves with the PACFA Professional Conduct Procedures (The Procedures). These procedures form an essential part of PACFA's commitment to the protection of the public.

PACFA Members and Registrants are required at the onset of the professional relationship to inform clients of the available complaints mechanisms, including clients who indicate a Concern about a service they have received.

The primary intention of PACFA's professional conduct review process is to promote understanding between the parties and the resolution of concerns.

PACFA's approach to the resolution of Concerns:

- ✓ provides a facilitated, respectful space for both Notifier and Practitioner to be heard without seeking to force an outcome.
- ✓ is informed by trauma-and-violence-informed practice principles. (See Appendix 10.1)
- ✓ engages PACFA members, and other specialists where required, with relevant skills and experience to provide support for the Concern process.
- ✓ prioritises appropriate restorative justice principles. (See Appendix 10.2)
- ✓ encourages cultural safety and cultural humility. (See Appendix 10.3)
- ✓ promotes healing and learning for all parties.

PACFA's approach is not an adversarial or punitive approach to the handling of Concerns. Notifiers seeking a different approach, including legal or financial redress, will be referred to the Health Complaints Body in the relevant state or territory. Notifiers can similarly access these bodies if a Practitioner declines to participate in the PACFA process or where the outcome of the PACFA process is not acceptable to the Notifier.

This document sets out PACFA's framework for the management of Concerns, Grievances and Appeals regarding alleged ethical breaches by PACFA Members or Registrants in relation to the entire PACFA Code of Ethics.

Parties to a Concern, Grievance or Appeal do not require legal advice to participate in this non-legal process. However, all parties have a right to obtain independent legal advice, or advice from another appropriate professional.

PACFA Practitioners also have a right, and are encouraged, to have the assistance of a Grievance Process Person (GPP) of their choice. It is particularly important that the person chosen as a GPP is able to support the Practitioner from a shared perspective, especially in the case of people from Marginalised Groups.



If either party decides to employ legal representation, PACFA reserves the right, should The Committee recommend doing so, to cease proceedings regarding the Concern, Grievance or Appeal, and refer the matter to the relevant Health Complaints Body.

The aim of the Professional Conduct Procedure is to provide a transparent process for raising Concerns and Grievances in relation to services provided by PACFA Practitioners or for parties to an Appeal. Through this process PACFA also aims to support members of the public and PACFA Members or Registrants and to enhance the practice of Counselling, Indigenous Healing Practices and Psychotherapy.

The Procedures also provide a mechanism for The Committee to investigate alleged ethical misconduct in the absence of a formal Concern where a Peer Reporting Obligation or a Reportable Breach leads to a report to PACFA, or where a Practitioner is subject to criminal investigation in relation to alleged professional misconduct or conduct impacting on their professional practice.

## 4. Implementation of Concern, Grievance and Appeal Procedures

### 4.1 Effective Date

These Professional Conduct Procedures will apply to all Concerns, Grievances, and Appeals received by PACFA after the date of publication of these procedures. This supersedes any previous Professional Conduct Procedures.

### 4.2 Responsibility

It is the responsibility of The Committee to oversee the implementation of these procedures.

### 4.3 Pathways for Resolution of Concerns, Grievances and Appeals

Any person who has received a service from a PACFA Practitioner and wishes to raise a concern about the ethical practice of a Practitioner has the right to contact PACFA and seek information about the different options available to them for resolution.

The first step in raising a concern about the ethical practice of a PACFA Practitioner is to contact the PACFA Ethics Staff by email, or phone. The Ethics Staff will work empathically with the Notifier to understand the essence of their Concern and their needs as they identify the key areas of Concern.

There are three pathways once a Concern is raised with PACFA: Informal Resolution, Formal Grievance Process or Rejection/Referral of the Concern. Before submitting a Concern to PACFA, the person is encouraged to attempt to resolve the issue with the Practitioner directly, if appropriate.

### 4.4 Informal Resolution

An informal process occurs when both the Notifier and the Registrant/Member are willing to engage in resolution seeking, prior to the instigation of a more formal process. On receipt of the Concern Notification Form (CNF) (7.2), PACFA will contact the Practitioner to confirm their participation. If this is not confirmed, the CNF will be presented directly to The Committee via the Chair. If both parties agree to an informal process, PACFA will share the CNF with the Practitioner and facilitate responses.

If the informal process does not provide resolution, the Concern will be addressed by The Committee via formal processes, which may be resolved by a Letter of Advice. In some cases, a Concern may lead to the formal submission of a Grievance.

### 4.5 Grievance

The Grievance procedure is a formal process that starts by the submission of a CNF, identifying the facts and reasons the Notifier believes are sufficient to support the lodging of a Grievance against the Practitioner.

## 5. Applying these Professional Conduct Procedures

### 5.1 Compliance with Professional Conduct Procedures

It is the duty of the parties taking part in a Concern, Grievance or Appeal to comply with the requirements of the Professional Conduct Procedures as prescribed by PACFA in this document. Failure to comply by either party may result in the discontinuation of the Concern, Grievance or Appeal. Failure of a Practitioner to comply may result in withdrawal of PACFA membership or registration.

PACFA will not tolerate abusive, bullying, inappropriate, disrespectful, or intimidating behaviour from parties to a Concern, Grievance or Appeal. Such behaviours may result in the discontinuation of the Concern, Grievance or Appeal process, or the imposition of Sanctions on the Practitioner.

### 5.2 Considering a Concern

PACFA will only consider a Concern if:

- 5.2.1 The Practitioner was, at the time the contents of the Concern were lodged, either:
  - a) A PACFA individual member in any membership category (with limitations on Concerns against Student members as detailed under 5.4); or
  - b) A member of a PACFA Member Association listed on the PACFA Register (only in limited circumstances as detailed under 5.3).
- 5.2.2 There is alleged evidence of unethical conduct that may be in breach of the PACFA Code of Ethics in existence at the time of the events, and the events occurred within the past 7 years. See section 6 for exclusions.
- 5.2.3 Concerns or Grievances may be made by:
  - a) Someone who received a therapeutic service from a Practitioner.
  - b) A parent or legal guardian representing a child where the child has received a therapeutic service from a Practitioner.
  - c) The Representative of an adult who has received a therapeutic service from a Practitioner.
- 5.2.4 Concerns or Grievances may be made about:
  - a) Unsatisfactory Professional Conduct.
  - b) Serious Professional Misconduct; or
  - c) Bringing the Profession into Disrepute.

### 5.3 Concerns against Registrants belonging to Member Associations

Concerns about a PACFA Registrant who belongs to a PACFA Member Association must be submitted to and heard by the PACFA Member Association to which the Practitioner belongs, following the Code of Ethics and the Complaint procedure put into place by that Member Association.

5.3.1 PACFA will only hear a Concern about a PACFA Registrant who is a member of a Member Association if:

5.3.1.1 The Member Association is unable to hear a Concern due to:

- a) A conflict of interest within the Member Association's Executive Committee or sub-committees in relation to one or both of the parties.
- b) The Concern being of a serious or complex nature that is deemed to be outside the expertise or jurisdiction of the Member Association.

or

5.3.1.2 The Notifier had a Concern heard by a Member Association against one of their members who is a current PACFA Registrant, and the Notifier is not satisfied that fair and due process was followed.

5.3.2 In circumstances where the Member Association to which the Registrant belongs is unable to hear a Concern, PACFA will consider hearing the Concern as per these Procedures.

### 5.4 Concerns against Student Members

PACFA does not hear Concerns against Student Members of PACFA. Concerns against PACFA Student Members would be limited to their client work in the context of their training, as PACFA does not endorse students to practice outside of their training.

Hearing such Concerns are the responsibility of the training provider where the person is a student.

However, if the PACFA member has completed their training and graduated but remains in the category of "Student Member," PACFA will hear the Concern in accordance with these procedures, provided that this Concern does not relate to their practice during the course of their training.

### 5.5 Concerns against lapsed Practitioners

Once a Concern, Grievance or Appeal process has commenced, the following acts will not terminate or invalidate the processing and/or consideration of the matter by PACFA:

- a) resigning from PACFA membership or registration.
- b) failing to renew PACFA membership or registration; or
- c) taking leave of absence.

The obligation of a Practitioner remains, to respond to a Concern, or to abide by any Sanctions imposed as a result of a Concern.

If a Practitioner fails to participate or withdraws from the process, the Grievance Panel will determine the result and send the findings to the Notifier and the Practitioner. The records will note the lack of engagement by the Practitioner, and the findings (including Sanctions, if relevant) will need to be satisfactorily complied with for successful re-application for PACFA membership or PACFA registration in the future.

When a Practitioner cannot be contacted despite reasonable efforts by the Ethics Staff to locate them using email, internet searches, phone and ordinary mail, the Concern cannot proceed. The Practitioner may have a restriction placed on their membership renewal until the Concern is responded to.

## 5.6 Investigations initiated by the PACFA Ethics Committee

An investigation may be initiated by The Committee in the absence of a Concern in the following circumstances:

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

In such a case, The Committee would consider the seriousness of the breach and, accordingly, either:

- 5.6.3 undertake an initial short investigation conducted collectively by two members of The Committee considering all available evidence and deciding.

or

- 5.6.4 conduct a full investigation in the same way as if a Grievance had been lodged about the alleged misconduct, with a Grievance Panel being formed to consider the allegations.

In either case, Sanctions may be applied in the same way that Sanctions can be applied in response to Grievances.

## 5.7 Forms of Ethical Misconduct

There are three types of ethical misconduct that can be identified in a decision made about a Concern that is under consideration by PACFA:

- 5.7.1 Unsatisfactory Professional Conduct.
- 5.7.2 Serious Professional Misconduct; and
- 5.7.3 Bringing the Profession into Disrepute.

## 5.8 Unsatisfactory Professional Conduct

Professional Conduct is defined as acting in accord with the guidance and principles of the profession and the expectations of peers as articulated in the *PACFA Code of Ethics*.

A finding of Unsatisfactory Professional Conduct signifies that the Practitioner has not acted in accord with the ethical and behavioural standards that can reasonably be expected of members of the counselling, Indigenous healing practices and psychotherapy professions.

A finding of Unsatisfactory Professional Conduct may be made in circumstances where there was a breach of the PACFA Code of Ethics that did not cause serious harm.

## 5.9 Serious Professional Misconduct

A finding of Serious Professional Misconduct signifies that the service/s for which the Practitioner is responsible has/have fallen below the standards as articulated in the *PACFA Code of Ethics*.

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 Practitioner for a period of time and/or the withdrawal of PACFA membership or registration.

## 5.10 Bringing the Profession into Disrepute

A finding of Bringing the Profession into Disrepute signifies that the Practitioner has acted in such a way that the public's trust in the profession might reasonably be taken to be undermined.

A finding under this heading must relate to professional conduct that had some connection to the provision of a Therapeutic Service. Matters related only to personal or private contact will not meet the criteria.

In addition to any other Sanctions considered appropriate to the circumstances, a finding of Bringing the Profession into Disrepute may result in permanent withdrawal of the membership or registration of the Practitioner.

## 6. Exclusions to these Concern, Grievance and Appeal Procedures

### 6.1 Concerns or Grievances before other Complaints bodies

PACFA will not investigate matters that are currently before or have already been determined by a Health Complaints Body or before another professional association in any jurisdiction. This is considered a duplication of the Concern process.

It is not possible for PACFA to apply the Professional Conduct Procedures to investigate Concerns or Grievances against anyone who was not a Practitioner at the time of the service being provided. PACFA may refer the Notifier or the person who has a Concern to the relevant Health Complaints Body in relevant jurisdictions.

### 6.2 Matters of a legal nature

PACFA will not hear Concerns or Grievances that are currently before or have already been determined by a legal body. In addition, where either party decides to employ legal representation, The Committee may immediately cease involvement with the Concern or Grievance, and hand all information to the relevant Health Complaints Body.

### 6.3 Claims for compensation

PACFA does not engage in any claims for compensation by either the Notifier or the person who has lodged a Grievance or Appellant. This includes refunds of monies paid for services rendered.

### 6.4 Concerns or Grievances heard under the jurisdiction of the Family Law Act

PACFA will not hear Concerns where the Practitioner is a Family Dispute Resolution Practitioner as defined by the *Family Law Act 1975* (Commonwealth) and where such Concern or Grievance relates to their work in this role.

### 6.5 Vexatious Concerns

If The Committee deems that a Concern is vexatious the Concern will not proceed. The Committee will inform the Notifier and Practitioner in writing of its decision.

## 6.6 Referral of Concerns or Grievances to other bodies

PACFA may refer matters to the relevant Health Complaints Body or other relevant professional body when:

- the person complained about is not, or is no longer, a Practitioner.
- the Concern is of a serious nature and the Member or Registrant has had a previous Concern upheld, including by an external Health Complaints Body.
- the Concern is of a serious nature and is of such significant complexity that PACFA would not have the resources or expertise to hear the Concern; or
- criminal proceedings are underway in relation to the Concern or Grievance.

## 6.7 Concerns relating to PACFA, Committees or Member Associations

Concerns relating to PACFA, its Committees, Leadership Groups or Member Associations are not considered under these Procedures. Refer to relevant PACFA policies and procedures.



## 7. Concerns and Grievances Procedures

### 7.1 Raising a Concern

The Notifier must contact the Ethics Staff to discuss the Concern. The Ethics Staff will support the most appropriate pathway for resolution with the Notifier, including progression to filing of a Concern, or an external referral.

PACFA recognizes that in most cases the least disruptive, and most resolution-focused pathway is the informal resolution process. This is facilitated by the Ethics Staff and engages the Practitioner and the Notifier on the premise that communication and shared understanding, will often result in resolution that is acceptable to both parties.

### 7.2 Filing a Concern

The Concern must be submitted on a Concern Notification Form (CNF). The CNF must be dated and signed by the Notifier and returned to the Ethics Staff.

The Ethics Staff will employ support where needed to ensure the completion of the CNF appropriately.

### 7.3 Receipt and assessment of a Concern Notification Form

On receipt of the CNF, PACFA Ethics Staff will acknowledge this in writing within 10 working days. The PACFA Ethics Staff will assess the Concern and the appropriate pathway for resolution. If the Concern does not meet the criteria to be heard, the Notifier will be advised.

If the informal resolution process is deemed appropriate, the Practitioner and Notifier will be asked if they are willing to participate in the process. Ethics Staff are trained in Professional Conduct Procedures to offer neutral and independent support to clarify and resolve the matter at this level.

If informal resolution is the chosen process, and if the matter is agreed to have been resolved, the agreed outcomes are reflected in writing by the Ethics Staff and signed by the Notifier, the Practitioner, and their Representatives. There will be no further action taken, and the Concern does not proceed to the formal lodging of a Grievance.

If the matter is not resolved by informal resolution and the Notifier wishes to proceed, the Concern will be referred by the Ethics Staff to the Committee for further direction.

The Committee will determine within 25 working days from the date of receipt the most appropriate process to resolve the Concern.

There are four possible outcomes:

- 7.3.1 The matter will not proceed, as it is determined that it is not appropriate for The Committee to consider.
- 7.3.2 The matter will not proceed, as it is determined that there is no alleged breach of the PACFA Code of Ethics.
- 7.3.3 The matter will proceed, with determination that the action of a Letter of Advice to the Practitioner is appropriate (see 7.4); or
- 7.3.4 The Committee will establish a Grievance Panel to investigate the Concerns (see 7.5).

The Ethics Staff will inform the Notifier of The Committee's decision, and of any action to be taken.

## 7.4 Letter of Advice

A Letter of Advice offers resolution to a Concern if there appears to have been a minor or technical breach of professional standards. The breach will generally have had no significant impact on any person, and there is a low likelihood of repetition.

The Letter of Advice will indicate the nature of the alleged breaches, and the actions recommended by The Committee to address the Concern. It is not a formal disciplinary action.

The Practitioner is requested within 10 working days to acknowledge receipt of the Letter of Advice and is given the opportunity to respond within this time. If the Practitioner agrees to and complies with the recommendations made in the Letter of Advice, and provides evidence of having done so, the matter is closed.

The Letter of Advice, as well as the Practitioner's response if applicable, will be kept on the Practitioner's file in accordance with clause 8.8 and will be taken into account if any similar Concerns are received by PACFA within that time.

If no agreement can be reached, The Committee will appoint a formal Grievance Panel.

## 7.5 Grievance Procedures

If The Committee is of the view that a Concern is not able to be addressed by the informal process or Letter of Advice, it may progress to a formal Grievance Panel process.

Where The Committee initiates a Grievance Process, the Practitioner will be strongly encouraged to enlist the support of a Grievance Process Person of their choice considering cultural safety, therapeutic modality, and other factors relevant to the individual Practitioner.

## 7.6 Grievance Panel

The Grievance Panel is a volunteer Panel appointed solely for the purpose of hearing a specific Grievance. It generally consists of three (3) people: a member of The Committee, and two people from the Grievance Panel pool.

The Panel in consultation with The Committee Chair may seek the input of an external specialist where they believe their experience or expertise does not cover the particular circumstances of the Grievance. They are particularly

encouraged to seek appropriate external input in cases involving people from Marginalised Groups where systemic bias or misinterpretation of cultural expression are significant risks.

The Panel's Chair is appointed by The Committee; however, the Chair may not be an Independent Member.

The Committee member who is participating in the Grievance Panel will not participate in Committee meetings or communications whenever the Grievance is discussed.

Grievance Panel members are required to declare any conflicts of interest they may become aware of once they have been issued with the names of the Notifier and Practitioner.

Panel members are required to consider any factors that may, or may be seen to, influence their ability to be impartial. All Panel members must sign and return to the Ethics Staff a Conflict-of-Interest Declaration before the Panel can convene.

To hear the Grievance, the Panel will convene and consider all the documentation received by PACFA regarding the Concern. The Panel may then request further information or documentation through communication or in-person interview with the Notifier and/or Practitioner.

## 7.7 Outcomes

If a Grievance is heard, the decision of the Panel is set out in a Grievance Panel Report to The Committee. The Panel Chair is responsible for preparing a Report for The Committee within 30 working days of receiving all relevant information about the Grievance. This time may be extended upon submission of a request to The Committee Chair with explanatory reasons.

The Grievance Panel Report prepared by the Panel includes a Findings Report and a Panel report of recommendations to The Committee.

- 7.7.1 The Findings Report is a succinct report which includes:
- a) the findings of the Panel in terms of the alleged Grievance
  - b) confirmation, or not, that there are grounds for a Grievance
  - c) any ethical misconduct identified by the Panel together with the relevant provisions of the Code of Ethics, not limited to those provisions identified by the Notifier
  - d) the recommendations to The Committee in terms of any sanctions that may be applied.

The Findings Report will later be sent to the Notifier and Practitioner after it is endorsed by The Committee.

- 7.7.2 The Grievance Panel Report is a confidential document intended to inform The Committee when examining the Grievance Panel findings and recommendations, including:
- a) the supporting documents examined by the Panel
  - b) a description of the process followed by the Panel
  - c) the findings of the Panel, and
  - d) the recommendations of sanctions or further action to The Committee.

The Grievance Panel Report will be kept securely with all relevant documentation in accordance with the record keeping requirements in clause 8.8.

## 7.8 Sanctions

Responsibility for determining Sanctions rests with The Committee. The Panel, after determining the findings, may recommend one or more Sanctions, including:

- a) undertaking specified supervision explicitly defined in the Panel's report, professional development, or additional training.
- b) directed communication by the Practitioner to the Notifier.
- c) temporary suspension of PACFA membership or registration.
- d) temporary disqualification from eligibility for PACFA membership or registration.
- e) permanent de-registration from PACFA; or
- f) any other reasonable action.

## 7.9 Lifting of Sanctions

The Ethics Staff will monitor implementation of Sanctions against Practitioners and keep The Committee informed.

Practitioners against whom Sanctions are imposed are required to provide The Committee with evidence that the Sanctions have been fulfilled within the required timeline.

The Committee will inform the Practitioner and Notifier that it is satisfied the Sanctions have been fulfilled, and that the file is closed.

## 7.10 Failure or refusal to comply with Sanctions

If the Sanctions are not fulfilled within the required timeline without a valid explanation, The Committee will decide on appropriate further action. This may include suspension of membership until a valid explanation is provided or the Sanctions are fulfilled, or de-registration.

Refusal to comply with the Sanctions may result in the Practitioner being immediately removed from the PACFA Register and/or in their permanent disqualification from PACFA membership or registration.

The Practitioner subject to the Sanctions will be notified of any such decision in writing.

## 7.11 Publication of adverse findings

In the interests of public protection, the withdrawal of PACFA membership or registration following an adverse finding by The Committee will be published on the PACFA website and elsewhere as The Committee and PACFA Board consider appropriate.

## 8. Appeals

### 8.1 Lodging an Appeal

A Practitioner or Notifier may lodge an Appeal in response to the Findings Report as follows:

- 8.1.1 In writing, signed and dated using the PACFA Appeal Form
- 8.1.2 Received by PACFA within 20 working days of sending of the Findings Report, and
- 8.1.3 The Appeal must be sent to the PACFA Ethics Staff who confirm receipt of the Appeal form within 10 working days
- 8.1.4 Must include the grounds under which the Appeal is being made (see 8.1.4 and 8.1.5).

The Ethics Staff will confirm receipt of the Appeal form within 10 working days of receipt.

The Appeal Form should provide a detailed account of the events giving rise to the Appeal that must include relevant information, including dates. Reference should be made to the PACFA Code of Ethics existing at the time of the original Concern.

An Appeal will only be considered by PACFA if one or both of the following apply:

- 8.1.5 There is new evidence that warrants consideration of an Appeal that was not available at the time the Grievance was considered.
- 8.1.6 There has been a Procedural Impropriety that caused the Panel to make findings and/or recommendations adversely to the rights and legitimate interest of the Appellant that it would not have made were it not for the Procedural Impropriety, in which case The Committee will be the Respondent to the Appeal.

Appeals that do not satisfy either condition will not be accepted or addressed under these procedures.

PACFA will not hear Appeals relating to a matter that is currently before:

- 8.1.7 a legal body such as a Court of law.
- 8.1.8 a statutory body such as a Healthcare Complaints Body.
- 8.1.9 another professional association.

If either party employs legal representation, PACFA reserves the right to cease to proceed with the Appeal and to refer the Concern to the relevant Healthcare Complaints Body.

### 8.2 Assessing the Appeal

Notice of the Appeal is submitted to The Committee Chair who appoints an Independent Person from the Grievance Panel Pool or other independent expert, within 10 working days of receiving the Appeal, to determine whether it is appropriate that the Appeal proceeds through this process.

The Independent Person must have had no previous involvement in the Grievance under appeal. In the case of an Appeal lodged pursuant to 8.1.5 the Independent Person must determine whether the Appeal:

- 8.2.1 discloses the existence of new evidence relevant to the original Concern that did not exist or was not reasonably available to the parties at or before the time the Panel made its findings or recommendations.
- 8.2.2 discloses that the Appellant can provide that evidence for the conduct of an Appeal; and
- 8.2.3 that the new evidence offers a reasonable basis for the decision of the Panel to be reviewed.

In the case of an Appeal lodged pursuant to clause 8.1.6 the Independent Person must determine whether the Appeal:

- 8.2.4 discloses that the Appellant has a right or legitimate interest that has been adversely affected by the Panel;
- 8.2.5 discloses that the decision of the Panel was affected by a Procedural Impropriety; and
- 8.2.6 explains why the Procedural Impropriety caused the Panel to make an error in its findings or recommendations.

If the Independent Person determines that any of these requirements have not been satisfied, the Appellant will be formally notified of this outcome in writing by the Ethics Staff. This decision is final and cannot be further Appealed.

If the Independent Person determines that these requirements have been satisfied, the Appeal will proceed. The Notifier and Practitioner will be formally notified in writing that the Appeal is proceeding, including details of the new evidence or Procedural Impropriety

For an Appeal lodged by the Practitioner, The Committee is the Respondent.

For an Appeal lodged by the Notifier, The Committee and the Practitioner are both Respondents.

The Respondent/s will be given 15 working days to respond in writing to the Appeal.

### 8.3 Hearing of the Appeal

The Independent Person and the Ethics Staff will appoint an Appeal Panel consisting of two Grievance Panel Pool members that had not participated in the original Grievance Panel.

Appeal Panel members are required to consider any factors that may, or may be seen to, influence their ability to be impartial. All Appeal Panel members must sign and return to the Ethics Staff a Conflict-of-Interest Declaration before the Panel can convene.

When the Appeal Panel is appointed the Ethics Staff will supply all Appeal documentation to the Appeal Panel within 20 working days of their appointment. This time may be extended upon submission of a request to The Committee Chair with explanatory reasons. The Appeal Panel will convene via teleconference, video link or in person, and consider all the information provided.

The Appeal Panel may then request further information or documentation from, or in-person interview, with the Notifier or Practitioner.

## 8.4 Appeal outcomes and actions

There are two possible outcomes to an Appeal:

- 8.4.1 The Appeal is dismissed because one or both grounds for appeal have not been met, or
- 8.4.2 The Appeal is upheld because one or both grounds for appeal have been met.

Where the Appeal is dismissed, the original decision is confirmed.

Where the Appeal is upheld, the Appeal Panel may make the following recommendations to The Committee:

- a) Amend the original decision to reflect the Appeal findings.
- b) Apply further Sanctions; or
- c) Order a new Grievance Panel.

If the Appeal Panel cannot reach agreement as to their decision, the Appeal Panel will confidentially notify the Chair of The Committee that there is a deadlock and provide the Chair with all material and submissions from the parties with a written draft reasons from each Appeal Panel member. The Chair will then determine the Appeal.

## 8.5 Communicating the decision

The decision of the Appeal Panel is set out in an Appeal Panel Report to the Independent Person. This is a detailed report including all supporting information and background relevant to the Appeal Panel's determination.

Within 10 working days, the Independent Person will either:

- a) approve the reports and recommendations; or
- b) request the Appeal Panel re-draft the reports, with input from the Independent Person, within 10 working days.

Once the reports are approved by the Independent Person, the Appeal Panel report will be sent to both the Notifier, Practitioner and Chair of The Committee by the Ethics Staff. This decision is final and cannot be further Appealed.

The Appeal Panel Report together with all documentation will be kept by PACFA in accordance with clause 8.8.

The Ethics Staff will monitor Practitioner's compliance with any relevant recommendations and report all outcomes and processes to The Committee.

## 8.6 Administration of Concerns, Grievances and Appeals

The administration of Concerns, Grievances and Appeals will be in accordance with these Professional Conduct Procedures as approved by the PACFA Board by the Ethics Staff in conjunction with The Committee Chair.

Data on Concerns, Grievances and Appeals may be used by PACFA in support of continuous process improvement. No such publications will contain personally identifiable information.

## 8.7 Costs incurred by parties to Concerns, Grievances or Appeals

PACFA has no authority to order costs and so cannot be responsible for any expenses incurred by a Notifier, Practitioner or their representative.

## 8.8 Records of Concerns, Grievances and Appeals

Records of Concerns, Grievances and Appeals will be kept confidentially and securely by PACFA and may be relied on by PACFA:

- a) in a case of Unsatisfactory Professional Conduct, for a period of three (3) years following the final resolution of the Concern, Grievance or Appeal.
- b) in a case of Serious Professional Misconduct, for a period of seven (7) years following the final resolution of the Concern, Grievance or Appeal; and/or
- c) in the case of records concerning Bringing the Profession into Disrepute, permanently.

Notwithstanding 8.8.a:

- d) any records concerning the commission of a criminal offence by a Practitioner may only be relied on for the maximum period of time permitted by any offender rehabilitation legislation applicable in the state or territory in which the offence occurred, unless otherwise authorised or required by law;
- e) any records concerning threatened or anticipated litigation against or involving PACFA may be securely and confidentially retained until the expiry of any applicable limitation period for that litigation (or for no more than 80 years if no limitation period applies); and
- f) PACFA may otherwise securely and confidentially hold any records in accordance with the requirements of its insurers.

When considering a Concern, PACFA reserves the right to consider previous Concerns lodged in relation to a Practitioner. Where the outcome of a Grievance has resulted in the termination of PACFA membership or registration, this will be considered in any future re-application for PACFA membership or registration.

## 8.9 Notification of findings to other professional bodies

PACFA reserves the right to notify other professional bodies and/or agencies about a Grievance, and to distribute any findings upheld against a Practitioner, where it considers it right and just to do so in the interests of public safety.

When a Practitioner is deregistered by PACFA as a result of an upheld Grievance, PACFA will display this information on the List of Deregistered Practitioners on the PACFA website for the duration of the Sanction.



## 9. Acknowledgements

PACFA wishes to acknowledge that this document has been informed by:

PACFA (2020) *Professional Conduct Procedures*. Retrieved from: <https://www.pacfa.org.au/common/Uploaded%20files/PCFA/Documents/Professional-Conduct-Procedures-2020-amended-June-2020.pdf>

British Association for Counselling and Psychotherapy (n.d.). *Making a Complaint – a guide to BACP's Professional Conduct Procedure*. Retrieved from: <https://www.bacp.co.uk/media/4731/bacp-guide-to-making-a-complaint.pdf>

Australian Counselling Association (2018) *Complaints Policy and Procedural Guidelines*. Retrieved from: <https://www.theaca.net.au/documents/ACA%20Complaints%20-%20Procedural%20Guidelines.pdf>

Australian Health Minister's Advisory Council (2017) *Discussion paper: Mandatory Reporting under the Health Practitioner Regulation National Law*. Retrieved from: <https://www.health.nsw.gov.au/legislation/Documents/dp-mandatory-reporting-hprnl.pdf>

Ombudsman Western Australia (2019) *Procedural fairness (natural justice)*. Retrieved from: <http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Procedural-fairness-guidelines.pdf>

## 10. Appendices

### 10.1 Trauma-and-Violence-informed Practice Principles

Putting trauma-and-violence-informed basic principles into practice, lowers stress levels and reduces the likelihood that people who have experienced trauma will be overwhelmed. It also assists interactions in general.

#### Core trauma- and violence- informed principles

**Safety:** Emotional as well as physical.

**Trust:** Service sensitive to the client needs at all levels of contact.

**Choice:** Provide choice to clients at all levels at which it is appropriate and possible to do.

**Collaboration:** Consistently communicate to clients a sense of 'doing with' rather than 'to'.

**Empowerment:** Empowering clients as an ongoing goal of your service.

**Respect for Diversity:** In all its forms.

#### Reference

Blue Knot (2021) *Becoming trauma informed – services* [Fact sheet] Retrieved from: [https://professionals.blueknot.org.au/wp-content/uploads/2021/09/45\\_BK\\_FS\\_PREF\\_BecomingTraumaInformed\\_Services\\_July21.pdf](https://professionals.blueknot.org.au/wp-content/uploads/2021/09/45_BK_FS_PREF_BecomingTraumaInformed_Services_July21.pdf)

PACFA also encourages all members to consider:

**Systemic factors:** Broader social conditions impacting people's health, discrimination and harmful approaches embedded in the ways systems & people know and do things.

**Violence-informed:** Addresses the impact of ongoing violence, including structural, systemic and institutional violence, including intergenerational trauma and impacts resulting from historical events.

**Addressing privilege and power dynamics:** Identifying and being sensitive to societal positioning and the societal privileges and power dynamics involved in each situation and addressing these with care and humility.

#### References

EQUIP Health Care (2021) *Trauma- & violence-informed care (TVIC): A tool for health and social service organizations & providers*. Retrieved from <https://equiphealthcare.ca/files/2021/05/GTV-EQUIP-Tool-TVIC-Spring2021.pdf>

Qlife (2023) *Privilege, power & oppression*. Retrieved from: <https://qlife.org.au/uploads/Privilege-Power-Oppression.pdf>

Qlife (2023) *Anti-oppressive practice*. Retrieved from: <https://qlife.org.au/uploads/Anti-Oppressive-Practice.pdf>

## 10.2 Restorative Justice Principles

- Cause no further harm.
- Work with those involved.
- Set relations right.

### Reference

Australian Association for Restorative Justice (n.d.) *Restorative justice*. Retrieved from: <https://www.aarj.org.au/restorative-justice/>

## 10.3 Cultural Humility

In our learning and practice we seek to nurture openness, ease of access and the reality of inclusion. We continue to develop awareness and are cognisant that we sometimes assume the roles and values of the 'other' in an honest effort to engage.

**"there is no substitute for finding out directly from people with lived experience"**

An approach with cultural humility at the core, sharpens our sensitivities and consciousness about power imbalances and how easily we may slip into expressing our own cultural perspectives at the cost of the client's experience of their cultural safety. Cultural humility involves both intrapersonal components (e.g., critical self-examination of cultural biases) and interpersonal components (e.g. being other-oriented and open to another person's cultural background and experience), while cultivating respect and a mutual partnership (Hook et al., 2013).

Across studies, cultural humility is described as (a) lifelong commitment to learn from others, (b) critical self-examination by critiquing one's cultural biases and promoting cultural exploration, (c) especially engaging with marginalised clients with respect, curiosity, and a desire to truly understand, (d) developing mutual partnerships that address power imbalances, including historical power imbalances that are integrated into current accepted norms and (e) an empathic stance open to new cultural information. Developing and practicing cultural humility will better equip therapists and mental health professionals for effective interactions with diverse and marginalised clients, including the means to repair any ruptures that arise. It encourages us to keep in mind that we are all human beings with multiple intersecting cultural identities who constantly influence each other. (Adapted from Hook et al, 2013; Mosher et al, 2017, De Bleare et al, 2023)

### References

- De Blaere, C., Zelaya, D. G., Dean, J. B., Chadwick, C. N., Davis, D. E., Hook, J. N., & Owen, J. (2023). Multiple microaggressions and therapy outcomes: The indirect effects of cultural humility and working alliance with black, indigenous, women of color clients. *Professional Psychology: Research and Practice*, 54(2), 115. <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fpro0000497>
- Hook, J. N., Davis, D. E., Owen, J., Worthington, Everett L., Jr, & Utsey, S. O. (2013). Cultural humility: Measuring openness to culturally diverse clients. *Journal of Counseling Psychology*, 60(3), 353. Retrieved from: <https://www.proquest.com/scholarly-journals/cultural-humility-measuring-openness-culturally/docview/1416405528/se-2>
- Mosher, D. K., Hook, J. N., Farrell, J. E., Watkins, C. E., & Davis, D. E. (2017). Cultural humility. In E. L. Worthington, D. E. Davis, & J. N. Hook (Eds.), *Handbook of humility: Theory, research, and applications* (pp. 91–104) New York, NY: Taylor & Francis.
- Qlife (2023) *Anti-oppressive practice*. Retrieved from: <https://qlife.org.au/uploads/Anti-Oppressive-Practice.pdf>

**Do you have a concern regarding a practitioner?**

**STEP 1**

Talk directly with PACFA Ethics Staff

**STEP 2**

Complete the Concern Notification Form

**STEP 3**

Ethics Staff to assess if Concern is about a current Practitioner

**STEP 4**

Are there grounds for adopting Concern and is it a PACFA Ethics matter?



**NO**

Referral  
or  
No action  
and file Concern

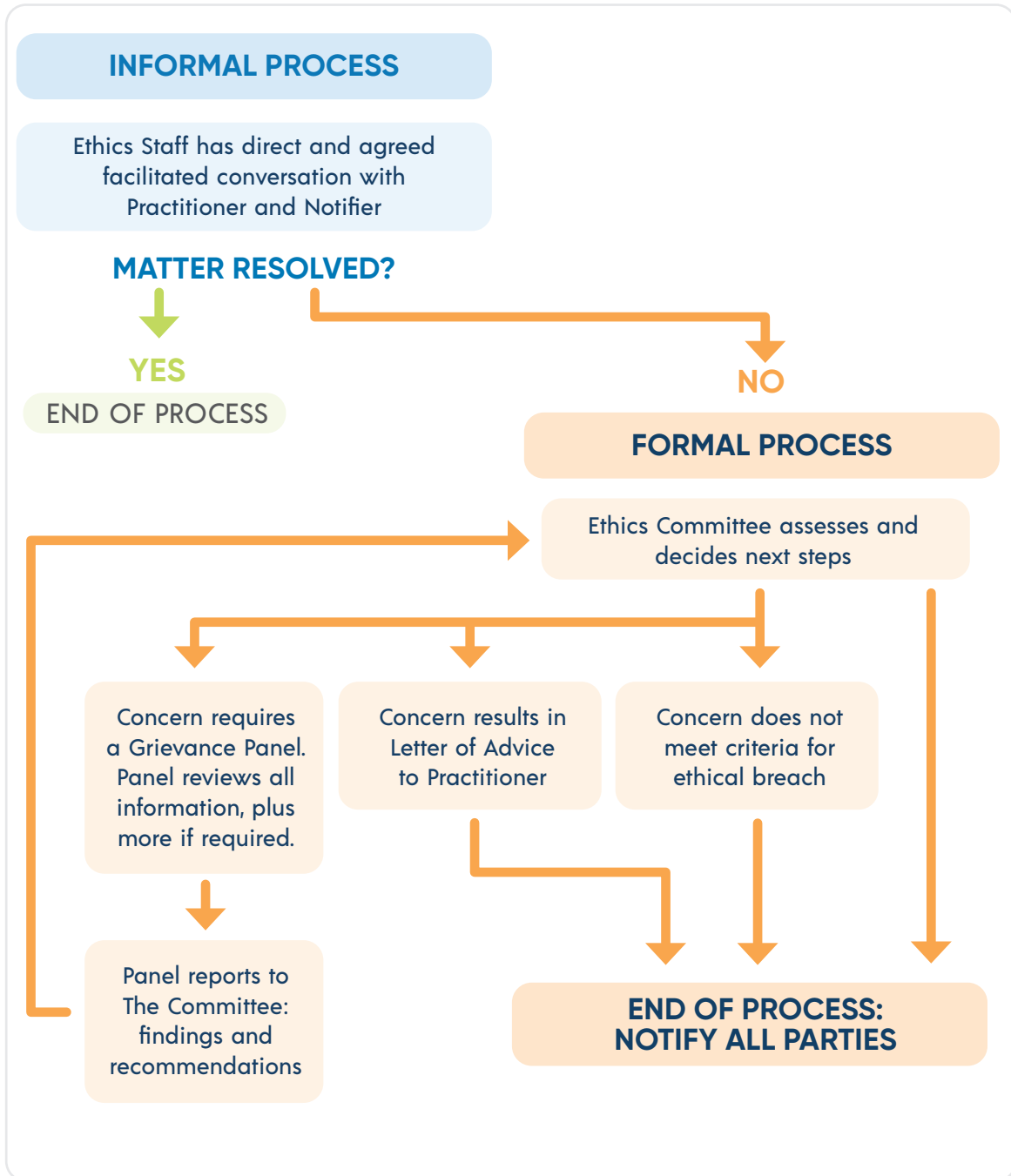


**YES**

PROCESS  
CONTINUES



## 10.5 Processing the Concern



### Document version control

Version	Description	Originator	Reviewed	Approved	Date	Next review
A	Effective 26 February 2024	Ethics Committee	PACFA Office	Board	February 2024	February 2026

For further information, please email [admin@pacfa.org.au](mailto:admin@pacfa.org.au)  
 Proposals for amendments or additions to this document should be sent to the Head of Practice.

