



# CODE OF PROFESSIONAL CONDUCT & DISCIPLINARY PROCEDURES<sup>©</sup>

SMSF Association

# Overview

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The SMSF Association is a self-regulating professional association whose members voluntarily agree to be bound by various professional, technical and ethical standards.

The standards embodied in this code aim to ensure that the self-managed superannuation fund (SMSF) advisory profession exercises the highest level of professionalism; providing a quality of service which achieves credibility among, and the confidence of Australian SMSF consumers, government, regulators and other stakeholders. The SMSF Association SMSF Specialist Advisor and SMSF Specialist Auditor are the consumers' professional of choice for SMSF advice and services.

Membership of the SMSF Association requires a professional to conduct himself/herself in a professional, business-like manner at all times. This Code of Professional Conduct and Disciplinary Procedures (**'the Code'**) are the expected minimum requirement for all SMSF Association members. The Code is not meant to replace and/or amend any alternate professional standards, duties or obligations already held by SMSF Association members. Any additional standards, duties or obligations that may be held by SMSF Association members will instead complement those contained in the Code. Rather, the Code is to be read as a minimum acceptable professional standard as applicable to all SMSF Association members.

The Code is designed to ensure that any complaints and disciplinary processes are handled effectively, expeditiously, and in a manner that observes the principles of natural justice and procedural fairness.

The Code is to be read in conjunction with the Constitution of the SMSF Association, the Specialist Accreditation Program SMSF Specialist Auditor Rules and Conditions, the Specialist Accreditation Program SMSF Specialist Advisor Rules and Conditions and the SMSF Association SMSF Specialist Auditor Standards of Professional Conduct for SMSF Specialist Auditors and any other rules, conditions or obligations imposed by the SMSF Association from time to time.

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## 1. Definitions and Interpretation

### 1.1. Definitions

In this Code, unless a contrary intention appears:

- 1.1.1. **Code** means this Code as modified, varied or replaced from time to time;
- 1.1.2. **Constitution** means the Constitution of the SMSF Association in force at a particular time; and
- 1.1.3. **SMSF Association CPD Policy** means the policy so named as amended by the SMSF Association from time to time in its sole discretion.

### 1.2. Interpretation

In this Code, unless the context requires otherwise:

- 1.2.1. the singular includes the plural and vice versa;
- 1.2.2. a gender includes the other genders;
- 1.2.3. headings are used for convenience only and do not affect the interpretation of the Code;
- 1.2.4. a reference to “a document” includes that document as modified from time to time and any document replacing it;
- 1.2.5. if something is to be done on a day which is not a Business Day, then that thing must be done on the next or following Business Day;
- 1.2.6. a reference to a “person” includes a natural person and anybody or entity, whether incorporated or not;
- 1.2.7. a reference to “in writing” or “written” includes any communication sent by letter, fax or e-mail;
- 1.2.8. a reference to a specific clause is a reference to a specific clause of this Code;
- 1.2.9. a reference to any statute, proclamation, rule, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, regulation or ordinance replacing it;
- 1.2.10. a reference to a specified section, clause, paragraph, schedule or item of any statute, proclamation, rule, regulation or ordinance is a reference to the equivalent section of the statute, proclamation, rule, regulation or ordinance which is for the time being in force;
- 1.2.11. including and similar expressions are not words of limitation;
- 1.2.12. monetary amounts are taken to be in Australian currency;
- 1.2.13. a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (“**defunct body**”), means the agency or body which performs most closely the functions of the defunct body; and
- 1.2.14. a reference to a word or phrase used in this document which is defined in the Constitution will have the same meaning given to that term in the Constitution.

### 1.3. Order of Precedence

The documents which a Member must comply with are set out below. To the extent of any inconsistency between a provision of any of the below documents, the following order of precedence shall apply:

- 1.3.1. the Constitution;
- 1.3.2. the Code;
- 1.3.3. the SMSF Association CPD Policy and
- 1.3.4. any Other Rules.

so that the provision in the higher ranked document shall prevail to the extent of the inconsistency.

## **2. SMSF Association Constitution**

Upon joining the SMSF Association as a Member, an individual agrees to abide by the Constitution, the Code and any Other Rules.

- 2.1.** The Code and Other Rules applying to particular categories of Membership include guidance as to the repercussions a Member may face if a Member infringes the Constitution, the Code, the SMSF Association CPD Policy or Other Rules, and any acts or omissions that may lead to action against the Member.

## **3. Code of Professional Conduct & Disciplinary Procedures**

The purpose of the Code is to set the ethical standards for business practice and individual conduct in the self- managed superannuation industry. It seeks to assist, guide and direct all stakeholders with ethical deliberations, choices, decisions and conduct. It is designed to provide Members with authoritative guidance on minimum acceptable standards of professional conduct.

The Code shall be binding on all Members in any category of Membership.

The Code focuses on essential matters of principle and is not to be taken as a definitive statement on all matters.

The Code recognises the Objects of the SMSF Association as set out in the Constitution. SMSF Association Members must be characterised by their high levels of knowledge, objectivity and impartiality. Members should be guided not merely by the terms but also by the spirit of the Code.

## **4. Rules and Conditions**

- 4.1.** Rules & Conditions for Members

Upon joining the SMSF Association, Members sign a declaration agreeing to abide by the Constitution, the Code, the SMSF Association CPD Policy and the Other Rules.

- 4.2.** Program Rules and Conditions for SMSF Specialist Advisor and SMSF Specialist Auditor

In addition to the requirements of Membership of the SMSF Association, the Specialist Member must satisfy the conditions of their designation. Upon joining the SMSF Association Specialist Advisor and Auditor program, a Member signs a declaration agreeing to abide by the rules and conditions applying to that category of Membership of that Specialist Member.

## **5. Major Principles**

The SMSF Association is committed to and requires Members to adhere to the following Membership eligibility criteria comprising these major principles:

### **Principle 1: Safeguard the Public Interest**

Members must acknowledge and accept the responsibility to safeguard the interests of their clients provided that this does not conflict with the duties and loyalties owed to the community, its laws and regulatory and government institutions. If a Member is unable to comply with this principle due to law or regulation, the Member shall comply with all other sections of the Code.

Members must place the client's interests first which is the hallmark of professionalism; requiring Members to act honestly and not place the best interests of the client behind personal and/or employer gain or advantage, economic or otherwise.

### **Principle 2: Integrity**

Members must at all times act with integrity and ensure that they are acting within the ambit of all relevant professional standards and conduct that is required by their respective professions and professional bodies to which they belong and must not breach public trust in the SMSF profession, the specific trust of their clients, Members and other relevant stakeholders.

The principle of integrity imposes an obligation on all Members to act in a manner that is honest, sincere and straightforward in all their professional and business interactions.

A Member shall not knowingly be associated with returns, reports, communications, information, advice and or actions where the Member is aware that such association is marred by materially false, misleading, reckless, obscure or omitted representations.

### **Principle 3: Objectivity and Independence**

Members must be objective, impartial and free of conflicts of interest in the performance of their professional duties.

Regardless of the services rendered or the capacity in which the Member operates, objectivity requires that the Member ensures the impartiality and integrity of their work, manages conflict and exercises sound professional judgement.

In each professional assignment undertaken for a client, Members should be seen to be free of any interest which might be regarded, whatever its actual effect, as being incompatible with objectivity. Threats to objectivity may occur in various situations and forms, including, but not limited to, the following:

- A personal or economic interest of the Member, a family member, or a person of close relationship or acquaintance with the Member;
- The promotion of a specific opinion, service, product or supplier by a Member, due to personal or economic interest;
- Actual or perceived undue influence of a Member to promote a certain opinion, service, product or supplier.

### **Principle 4: Confidentiality**

Members must respect the confidentiality of information acquired in the scope of their professional relationships and not disclose such information to third parties without authorised consent, unless there is a legal, statutory or professional duty to disclose such information.

The requirement of the principle of confidentiality continues after the relationship has terminated between the Member and the client.

### **Principle 5: Competence**

Members must maintain the abilities, skills and knowledge necessary to provide competent professional services. Competence extends further to include the wisdom to recognise one's own limitations and whether consultation with other professionals or referral to other professionals would be appropriate or in fact necessary. Members must only accept such work as they believe they are competent to perform. Members are encouraged to obtain expert advice from appropriately qualified parties where the Member does not have the necessary competency or skill to adequately discharge their professional duties.

Where possible and or appropriate, a Member shall make clients, or any other relevant parties, aware of limitations inherent in the services that are provided.

### **Principle 6: Knowledge**

Competence requires that Members make a continuing commitment to learning and professional improvement and that they keep abreast of current developments in legislation, practices and standards and exercise due diligence in the discharge of their duties in accordance with applicable technical and professional standards. In this regard, Members must adhere to the SMSF Association CPD Policy applicable to his or her Membership category.

### **Principle 7: Ethical Behaviour**

Members must refrain from conduct or actions that may tarnish the image of the SMSF sector, or unjustifiably detract from the good name of the SMSF Association, or its Membership in the community.

Members are required to behave with dignity, showing respect and courtesy to clients, fellow Members and other stakeholders in all business-related activities, and complying with appropriate rules, regulations and professional standards.

It is imperative that Members endeavour to at all times maintain professional standards that improve and enhance the image of the SMSF Association and the SMSF sector. The Code also includes professional standards which are mandatory for Members.

### **Principle 8: Fit and Proper Person**

Whilst the above seven Principles incorporate aspects required to be a fit and proper person, in addition Members must at all times be a fit and proper person in the context of the Association and the promotion of its objects as set out in the Constitution.

## **6. SMSF Association Quality Review Program (QRP)**

- 6.1.** The SMSF Association conducts independent random quality reviews of its Membership base on an annual basis. A random selection of up to ten percent (10%) of each category of Membership will be selected to undergo a quality review.
- 6.2.** The SMSF Association Quality Review Program (QRP) is a review of a Members' professional behaviour, including compliance, practice management, professional standards, due diligence and competence. It extends further to investigate a Member's commitment to compliance with the SMSF Association CPD requirements as set out in clause 7.
- 6.3.** Specialist Members (SSA and SSAud) may also be required to participate in an online self-assessment or face-to-face interview to ensure they are maintaining the standards of their designation and complying with the Code and Other Rules.
- 6.4.** Should a Member fail to be deemed competent by the SMSF Association after completion of a Quality Review process, the Member will either be suspended or have their Membership cancelled in accordance with clause 10 of the Constitution where the matter falls within the ambit of the Constitution, or the Member shall be given a 6 month period to rectify the breaches and show cause as to their commitment to comply with the professional standards as set out in the Code and the QRP. The Member will be required to agree in writing to commit to this process.
- 6.5.** Failure to comply with this request will result in the referral of the Member to the Professional Standards Committee for investigation and enquiry. The Professional Standards Committee may recommend in its absolute discretion, suspension or withdrawal of Membership should it determine that after reasonable investigation, the Member has neglected or failed to comply with the professional standards as set out in the Constitution, the Code, the SMSF Association CPD Policy and any Other Rules that may be applicable at such time of the enquiry, despite sufficient written request to address and rectify such breaches.
- 6.6.** Ongoing quality reviews may also be requested at the discretion of the Professional Standards Committee or as part of a disciplinary process.

## **7. Continuing Professional Development (CPD)**

- 7.1.** Members are obligated to comply with the requirements regarding CPD, set out in the SMSF Association CPD Policy.
- 7.2.** Members are obligated to comply with the requirements regarding CPD set out in any applicable laws or made by applicable regulations.
- 7.3.** Members who do not comply with the SMSF Association CPD Policy may have their Membership suspended or terminated at the discretion of the Professional Standards Committee, and re-instatement will be governed by the Membership eligibility criteria and any other governance documentation as determined by the Board from time to time.

## **8. Responsibilities to the SMSF Association:**

- 8.1.** Members shall comply with all applicable renewal requirements specified by the SMSF Association, including but not limited to the payment of fees.
- 8.2.** Members shall abide by the terms of all agreements with the SMSF Association, including but not limited to, the proper use of all certification marks and trademarks, and professional review operations and requirements.
- 8.3.** Members shall not engage in conduct that adversely reflects on their integrity or fitness as a Member or their designate profession.
- 8.4.** Members must not engage in any conduct that compromises the reputation, integrity, validity or security of the SMSF Association or the SMSF Association specialist accreditation examinations.
- 8.5.** Members shall not give the impression that they are representing the views of the SMSF Association or any other group, unless they have been authorised to do so by the SMSF Association or that group. Personal opinions shall be clearly defined as representing the views of the Member and not those of the SMSF Association or any other group.
- 8.6.** In all professional activities, Members shall perform services in accordance with the applicable laws, rules and regulations of government and other applicable authorities, including the Constitution, the Code and Other Rules established by the SMSF Association, as amended from time to time.

## 9. Misconduct

- 9.1.** The Code deals with the following types of misconduct:
- professional misconduct;
  - unsatisfactory professional performance; and
  - conduct likely to bring the SMSF Association into disrepute or reflect adversely on the SMSF Association.
- 9.2.** Misconduct may be constituted by, but is not limited to, the following:
- misrepresenting any material facts in relation to an application for any category of Membership.
  - misrepresenting any material fact in respect of any ongoing accreditation requirements.
  - misleading or deceptive conduct by a Member in relation to their dealings with clients or the public or with the SMSF Association.
  - conduct that falls short of the standard of competence and diligence that a member of the public is entitled to reasonably expect of a Member.
  - breaching the Constitution, the Code or the relevant Rules.
  - fraud or other dishonest conduct.
  - any act or omission injurious to the SMSF Association.
  - the suffering of an Insolvency Event as defined in the Constitution.
  - conviction of an indictable offence or offence involving dishonesty.
  - misuse of SMSF Association data or confidential information provided to a Member.
- 9.3.** Members acknowledge that some forms of misconduct are dealt with under the Constitution and Membership may be cancelled in accordance with clause 10 of the Constitution where that is applicable.

## 10. Complaints

- 10.1.** Complaints against a Member of the SMSF Association may be made by any person and are to be made directly to the Managing Director/CEO of the SMSF Association to either of the following addresses:
- PO BOX 3296, Rundle Mall, Adelaide, South Australia, 5000; or,  
Level 3, 70 Pirie Street, Adelaide, South Australia, 5000.**
- 10.2.** The Complaint must:
- be in writing (including by electronic means such as email);
  - clearly identify the Member against whom the complaint is made;
  - clearly outline the exact nature and detail of the complaint;
  - be accompanied with documentary evidence supporting it;
  - show the name and address of the complainant; and
  - be signed by the complainant.
- 10.3.** Investigation of Complaints
- 10.3.1. Unless the SMSF Association suspends or cancels a Member's Membership under clause 10 of the Constitution where a complaint is made against that Member, the process outlined below in this clause 10.3 will apply.
- 10.3.2. The SMSF Association must appoint one or more persons to the office of Complaints Officer. The appointee may be appointed from any of the Directors, Board Members and /or staff of the SMSF Association.
- 10.3.3. The role of Complaints Officer is to investigate complaints and suspected breaches of the Constitution, the Code and relevant Rules and any other SMSF Association procedures and to prepare a report to the Association Managing Director/CEO, or such other person as may be delegated by the Managing Director/CEO from time to time. The report is to be prepared as expeditiously as possible, and ordinarily within 10 working days of the complaint being made.
- 10.3.4. The purpose of the investigation and report is to:
- ascertain whether a complaint is one of substance or whether it is frivolous, vexatious, trivial, misconceived or lacking in substance.
  - ascertain whether there is a reason to believe that the allegations made against the Member are factual and accurate.

- 10.3.5. The Complaints Officer may commence an investigation and prepare a report for the Professional Standards Committee where:
  - a complaint is made; or
  - they become aware that an offence has been committed or that a Member has engaged in misconduct.
- 10.3.6. The Complaints Officer may:
  - if the allegation falls short of misconduct as defined in the Code attempt to deal with the matter informally;
  - inspect the Membership and other records of the SMSF Association;
  - interview the complainant and other parties mentioned in the complaint.
- 10.3.7. Upon receiving a report, the Chair of the Professional Standards Committee shall determine whether or not to refer the complaint to the Professional Standards Committee for deliberation.
- 10.3.8. The SMSF Association Managing Director/CEO need not refer the report to the Professional Standards Committee if he/she considers it is frivolous, vexatious, trivial, misconceived or lacking in substance.

## **11. Professional Standards Committee & Appeals Committee**

### **11.1. Professional Standards Committee**

- 11.1.1. Subject to clause 10.3, all matters relating to Member conduct and disciplinary procedures will be dealt with by the Professional Standards Committee whose purpose is to carry out the delegated authority of the SMSF Association Board under the Constitution (unless the SMSF Association suspends or cancels a Member's Membership under clause 10 of the Constitution in which case the terms of the Constitution will apply).

### **11.2. Appeals Committee**

- 11.2.1. The Appeals Committee shall be appointed and dissolved as required by the Board pursuant to the Constitution. The purpose of the Appeals Committee shall be to carry out appeals that may be lodged by any person against a finding of the Professional Standards Committee.
- 11.2.2. The Committee shall consist of three persons, inclusive of the Chair of the Board. Should any elected member have a conflict of interest in a particular matter, the member shall be replaced by another member appointed by the Board for that particular matter.
- 11.2.3. The Appeals Committee will elect one of its members as the Chair.
- 11.2.4. The Committee may consist of any number of Board Members and/or employees of the SMSF Association and/or Members, but shall not include any members of the Professional Standards Committee.

## **12. Conflict of Interest**

- 12.1. Members of the Appeals Committee and the Professional Standards Committee must not participate in any matter of which they are or would be reasonably perceived to be in a position of conflict with that matter. In the event of conflict of interest the Chair may replace that member (including if need be his or herself) with another member.

## **13. Professional Standards Committee Procedure**

### **13.1. Member Response**

- 13.1.1. If a report has been referred to the Professional Standards Committee, the SMSF Association Managing Director/CEO should forward a copy of the complaint with a letter to the Member asking the Member for a written response to the complaint within twenty one (21) days.
- 13.1.2. On receipt of the written response from the Member or the passage of 21 days and no response, the Secretary or SMSF Association Managing Director/CEO shall forward the matter to the Professional Standards Committee who shall review the complaint, the report and the Member's response (if any) to determine if any disciplinary action should be taken. The Professional Standards Committee may:

- 13.1.2.1. if the response and supporting information conclusively demonstrates that the Member has not committed any misconduct, dismiss the complaint and inform the complainant of that fact and the reasons for that decision;
- 13.1.2.2. if the response and supporting information indicates that misconduct did occur, but the misconduct was trivial, that they deal with the complaint informally and inform the complainant of that fact and the reasons for that decision; or
- 13.1.2.3. make a Charge in accordance with the provisions of the Code.
- 13.1.3. A Charge must be made if the Professional Standards Committee concludes that a Member engaged in misconduct and the misconduct was not trivial.
- 13.2. Form of Charge**
  - 13.2.1. A Charge must:
    - be in writing and contain particulars of the alleged misconduct;
    - specify when and where a hearing into the Charge is to be conducted; and
    - request the Member to provide written confirmation as to whether or not he or she admits or denies the Charge, specifying the timeframe within which the Member must respond. If the Member admits to the Charge, the Member may submit in writing an explanation of the Charge. The explanation must be provided to the Professional Standards Committee in accordance with the specified timeframe for any hearing.
  - 13.2.2. If the Member does not respond within the time specified, the Professional Standards Committee can proceed to determine the matter in the absence of the Member, provided that the Professional Standards Committee reasonably believes that the Member has been served with the Charge in accordance with these rules.
- 13.3. Service of a Charge**
  - 13.3.1. A Notice of a Charge shall be served in the same manner as permitted by clause 30 of the Constitution and the time of service as set out in that clause will apply equally to this clause.
- 13.4. Procedure on a Hearing**
  - 13.4.1. A hearing may, at its discretion, be conducted in a form and manner acceptable to the Professional Standards Committee and the following shall apply:
    - the procedure of the hearing is at the discretion of the Professional Standards Committee, and the proceedings shall be conducted with whatsoever level of formality they believe allows for the proper consideration of the matter;
    - the Professional Standards Committee may give such procedural directions prior to the hearing as they believe appropriate including directions for the provision of written submissions, disclosure of documents or taking of transcript at the hearing;
    - the Professional Standards Committee is not bound by the legal rules of evidence but may inform itself in any way it sees fit. The Professional Standards Committee must act objectively, without bias and conduct the hearing in accordance with the rules and principles of natural justice;
    - the Professional Standards Committee must act expeditiously in hearing and determining any proceedings brought before it;
    - the Professional Standards Committee must provide reasons for its determination and provide a copy of those reasons to both the complainant and the Member. Any determination is to be made by simple majority of the members of the Professional Standards Committee;
    - in the event that the Professional Standards Committee is satisfied that the Member has had adequate notice of the hearing but has not attended or made submissions, then the Professional Standards Committee may proceed in the absence of the Member and/or in the absence of submissions from the Member;
    - the Professional Standards Committee may obtain legal advice and may have legal advisors present at the hearing; and
    - a Member may if they so desire be represented at the hearing by a legal practitioner.

- 13.5. Costs**
- 13.5.1. The parties will each pay their own costs, including the cost of legal advice and/or representation, associated with and for attending any hearing.
- 13.6. Sanctions and Penalties**
- 13.6.1. The Professional Standards Committee will consider all the available facts relevant to the complaint/report and determine whether the allegation has merit and is sufficiently proven.
- 13.6.2. If an allegation is sufficiently proven against a Member, the Professional Standards Committee shall permit the Member to put forward any relevant evidence and make submissions as to mitigation before imposing an appropriate sanction.
- 13.6.3. The Professional Standards Committee may in its absolute discretion:
- dismiss the matter in its entirety absolutely;
  - make a finding of guilt
  - offer to counsel the Member;
  - reprimand the Member;
  - impose correctional steps or conditional undertakings;
  - suspend the person's Membership of the SMSF Association for a period of no more than two (2) years;
  - impose a fine on the Member; or
  - expel the Member from the SMSF Association.
- 13.6.4. Any sanction imposed upon a Member should be communicated in writing within ten (10) working days.
- 13.6.5. Any sanction or penalty imposed on a Member may, at the discretion of the Professional Standards Committee, be publicised in a Member newsletter and on the Association website detailing:
- The nature of the complaint against the Member, the determination of the Professional Standards Committee and the sanction or penalty imposed; and
  - The Member's name, where in the determination of the Professional Standards Committee the cancellation of SMSF Association membership is the result of fraud, corruption, deception or dishonesty, or the result of a banning order imposed by ASIC.

## **14. The Appeals Process**

- 14.1.** A Member (including a person whose Membership was suspended or who has been expelled as a result of any decision of the Professional Standards Committee) may lodge an appeal against the finding and/or sentence of the Professional Standards Committee (but not a Member who has had their Membership suspended or cancelled by the Board under the Constitution) within twenty one days of notice to the Member of the decision of the Professional Standards Committee, setting out the appeal grounds of:
- error or omission of process;
  - error of law; or
  - severity of sanction or penalty.
- 14.2.** Any appeal must be lodged in writing with the SMSF Association Complaints Officer and must clearly set out the grounds for the appeal.
- 14.3.** If the appeal is against the imposition of a suspension or expulsion, the Member remains suspended or expelled as the case may be until the appeal is finalised.
- 14.4.** The Appeals Committee may:
- conduct the appeal hearing in any manner it deems fit, subject to the rules of natural justice, and may require written submissions to be made prior to the appeal hearing;
  - ordinarily conduct the appeal by way of a review of the matter on the basis of material before the Professional Standards Committee. It may, in its absolute discretion, allow the rehearing of evidence or the taking of further evidence if it is in the interests of justice to do so;
  - allow the appellant representation by a legal practitioner at any appeal hearing; or obtain legal advice.
- 14.5.** The Appeals Committee may affirm, amend, vary or overturn any determination of the Professional Standards Committee and exercise any of the powers of the Professional Standards Committee.

- 14.6.** Any decision of the Appeals Committee:
- must be made by simple majority; and
  - must be communicated in writing to the complainant, the Member, and the Professional Standards Committee. The Appeals Committee is to act expeditiously in making its decision and must give reasons for its decision. Any decision of the Appeals Committee is final.
- 14.7.** The appellant shall be afforded the right to withdraw the appeal at any stage of the appeal process.
- 14.8.** In the event that the appeal is unsuccessful the appellant shall pay the costs associated with the appeal.

## **15. Grievances**

### **15.1. Grievances Procedure**

- 15.1.1.** In addition to the complaints procedure set out in clause 10, issues may arise where conduct is alleged to have taken place that is of concern either to the public, an existing Member or to the SMSF Association, but which either falls outside the definition of misconduct, or if it falls within that definition, is of such a nature to be of a trivial or of a minor nature. Such matters may be handled as a 'grievance' and may be dealt with on a less formal basis, at the sole discretion of the Complaints Officer appointed for purposes of the grievance or the Chair of the Professional Standards Committee.
- 15.1.2.** The Complaints Officer or the Chair of the Professional Standards Committee may:
- advise the Member in writing or orally that an issue about their conduct has arisen;
  - speak with the Member and seek an explanation for conduct;
  - write to and request a written explanation or show cause for conduct; or
  - request that the Member not engage in certain conduct, or take certain steps to ensure that certain conduct is not engaged in.
- 15.1.3.** If the response by the Member to any raised grievance is unsatisfactory, the grievance may be elevated to complaint status by the Chair of the Professional Standards Committee in which case the provisions relating to complaints set out in clause 10 will apply.

## **16. Public Access to the Code of Professional Conduct and Disciplinary Procedures**

### **16.1. Public Access**

- 16.1.1.** The SMSF Association's process for the handling of complaints against Members and associated disciplinary procedures as contained in the Code is available to all Members and to the general public. This ensures that information as to the making and resolution of complaints is readily available and asserts confidence in the SMSF Association as a professional association of high repute.

### **16.2. Timely Resolution of Complaints**

- 16.2.1.** Complaints received by the SMSF Association will be dealt with in a timely manner and every endeavour will be made by the SMSF Association to resolve the complaint within a reasonable timeframe.

### **16.3. Publication of Outcomes**

- 16.3.1.** Complaints and the outcomes of disciplinary procedures determined in accordance with the Code will be recorded in the SMSF Association Complaints Register located at the SMSF Association Office referred to in clause 10.1. Statistics pertaining to the complaints, findings and outcomes of the application of the Code will be published on the SMSF Association website. These statistics will remain anonymous, however the SMSF Association retains the right to provide any Member's details to the appropriate regulatory, professional or governmental body when required to do so by law.

## **17. Amendments to the Code of Professional Conduct and Disciplinary Procedures**

- 17.1.** The SMSF Association may amend the Code, the Other Rules, any internal process and procedures and relevant Governance documentation at any time. Any amendment will not apply retrospectively in respect of a complaint, charge or report that is already the subject of an investigation already received.