



AILA Complaints Handling and Dispute Resolution Policy

Australian Institute of Landscape Architects

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| Version Control | 1.0 |
| Policy First Adopted by AILA Board | August 2018 |
| Policy Reviewed | Due August 2020 |
| Policy Owners | CEO and Company Secretary |

1. Purpose of this policy

This Complaints Handling and Dispute Resolution Policy (“policy”) aims to assist AILA to uphold its core values and create a safe, fair and inclusive environment for everyone associated with our organisation.

The attachments to this policy describe the practical steps we will take to eliminate discrimination, harassment, abuse and other forms of inappropriate behaviour of our organisation. The policy also describes the way in which complaints will be handled. This policy has been endorsed by the AILA Board in alignment with the AILA Constitution, natural justice and procedural fairness. The policy starts on the date of adoption by the AILA Board and will operate until replaced.

The right for members to seek formal consideration and responses to grievances is included in the AILA Constitution and is a fundamental component of a transparent organisation. Section 25 of the Constitution outlines the formal dispute and grievance resolution process and includes clear obligations for AILA to acknowledge, investigate and respond with appropriate action.

This Policy and supporting Complaints Procedures is intended to support our Constitution by providing clearly documented steps and outcomes. The Policy and supporting procedure also provides an alternative informal process that some complainants might like to pursue as an initial or alternative approach.

This process is to be used in any instance where there is a complaint relating to AILA programs and activities.

2. Who is bound by this policy?

- 2.1 persons appointed or elected to AILA boards, committees and sub-committees;
- 2.2 employees of AILA;
- 2.3 members of AILA; and
- 2.4 business, partners and sponsors associated with AILA.



This policy will continue to apply to a person even after he or she has stopped their association or employment with AILA, if disciplinary action against that person has begun.

3. Complaints Handling procedures

3.1 Handling complaints

AILA aims to provide a simple, confidential and trustworthy procedure for resolving complaints based on the principles of procedural fairness and natural justice.

Any person (a complainant) may report a complaint about a person, people or organisation bound by this policy (respondent) if they feel they have been discriminated against, harassed, bullied or there has been any other breach of this policy.

In the first instance, complaints will be reported to the Chief Executive Officer (CEO) of AILA. Where the complaint relates to the CEO it should be made to the AILA Board.

If a complaint relates to behaviour or an incident that occurred at the state level (such as a state event, program or activity), then the complaint should be reported to and handled by the relevant state chapter manager in the first instance.

Only matters that relate to, or which occurred at, the national level, as well formal complaints or as serious cases referred from the state should be dealt with by AILA National body.

A complaint may be handled informally or formally. The complainant may indicate his or her preferred option and the CEO should consider whether that is an appropriate way to handle the particular complaint. For example, the law may require that the complaint/allegation be reported to an appropriate authority.

All complaints will be dealt with promptly, seriously, sensitively and confidentially. Our procedures for handling and resolving complaints are outlined in Attachment 1.

Individuals and organisations may also seek to have their complaint handled by an external agency under anti-discrimination, criminal or other relevant legislation.

3.2 Improper complaints and victimisation

AILA aims to ensure that our complaints procedure has integrity and is free of unfair repercussions or victimisation against any person making a complaint.

We will take all necessary steps to ensure that people involved in a complaint are not victimised. Disciplinary measures may be undertaken in respect of a person who harasses or victimises another person for making a complaint or supporting another person's complaint.



If at any point in the complaint handling process the CEO considers that a complainant has knowingly made an untrue complaint, or the complaint is malicious or inappropriately intended to cause distress to the respondent, the matter will be referred in writing to the AILA Board for review and appropriate action, including possible disciplinary action against the complainant.

3.3 Mediation

AILA aims to resolve complaints quickly and fairly. Complaints may be resolved by agreement between the people involved with no need for disciplinary action.

Mediation is a confidential process that allows those involved in a complaint to discuss the issues or incident in question and come up with mutually agreed solutions. It may occur before or after the investigation of a complaint.

If a complainant wishes to resolve the complaint with the help of a mediator, the CEO will, in consultation with the complainant, arrange for an independent mediator where possible. We will not allow lawyers to participate in the mediation process unless a lawyer has been appointed as the mediator.

More information on the mediation process is outlined in Attachment 2.

3.4 External Dispute and Resolution Committee

In accordance with AILA's Constitution, an External Dispute and Resolution Committee may be convened to hear a complaint referred to it by the AILA Board.

Our External Dispute and Resolution procedure is outlined below.

The External Dispute and Resolution Committee is to provide independent review, advice and recommendations on sensitive matters affecting the AILA Board, members and staff. The committee will be formulated on an "as needed" basis as requested by the Board, in matters pertaining to:

- complaints received by the public and / or members that relate specifically about the conduct of the AILA Board and the CEO; unprofessional conduct relating to members; and
- on any other matters as requested by the Board.

3.4.1 Membership: Three members formulate the Committee, with each member being a Fellow. The AILA Board will appoint the Committee. Any Director who is conflicted in the complaint will be excluded from forming the Committee.



In the event that the complaint relates to the entire Board, the Board will work with the Complainant to agree on Fellows to be appointed.

Term of appointment will be for the duration the Committee is required. Fellows will only be appointed where this is no material conflict of interest. All conflicts of interest are to be recorded in accordance with AILA process.

3.4.2 Review of Terms of Reference: will occur prior to any investigation to include the scope of the particular complaint, the anticipated timeframe and detail access to any supporting resources relevant to the complaint.

3.4.3 Accountability: reports as determined by the AILA Board or CEO on a case by case basis.

3.4.4 Meetings: as determined on a case by case basis.

3.4.5 Secretariat: (if requested) AILA Staff member

3.4.6 Legal Counsel: The Committee may need access to legal counsel to assist its recommendations. This will be made available in consultation with the AILA Board or CEO.

3.4.7 Confidential items: Any material that is sensitive to members interest will be handled confidentially.

4. Disciplinary measures

AILA may impose disciplinary measures on an individual or organisation in accordance with the AILA Constitution.

Any disciplinary measures imposed will be:

- fair and reasonable;
- applied consistent with any contractual and employment rules and requirements;
- be based on the evidence and information presented and the seriousness of the breach; and
- be determined in accordance with our constituent section 10.3, by-laws, this policy and/or the rules of AILA.

Disciplining of a Member and the rights of appeal will be in accordance with AILA's constitution section 10.3.



4.1 Factors to consider

The form of discipline to be imposed on an individual or organisation will depend on factors, such as:

- the nature and seriousness of the breach.
- if the person knew, or should have known, that the behaviour was a breach of policy.
- the person's level of contrition.
- the effect of the proposed disciplinary measures on the person, including any personal, professional or financial consequences.
- if there have been any relevant prior warnings or disciplinary action.
- the ability to enforce disciplinary measures if the person is a parent or spectator (even if they are bound by the policy).
- any other mitigating circumstances.



Attachment 1:

COMPLAINTS PROCEDURE

AILA is committed to supporting people associated with our organisation to make and resolve any complaints they may have in a fair, timely and effective way.

We will endeavour to deal with complaints on a confidential basis. We will not provide information about the complaint to another person without the complainant's consent, except if the law requires us disclose this information or it is necessary to properly deal with the complaint. To ensure fairness for everyone involved, we will provide the full details of the complaint to the person or people against whom the complaint has been made and ask for their response. As a result, it may be difficult for us to resolve complaints made anonymously.

We will provide complainants with informal and formal options to deal with complaints. Individuals and organisations can also make complaints to external organisations under anti-discrimination and other relevant laws.

The right for members to seek formal consideration and responses to grievances is included in the AILA Constitution and is a fundamental component of a transparent organisation. Section 25 of the Constitution outlines the formal dispute and grievance resolution process and includes clear obligations for AILA to acknowledge, investigate and respond with appropriate action.

This Policy and supporting Complaints Procedures is intended to support our Constitution by providing clearly documented steps and outcomes. The Policy and supporting procedure also provides an alternative informal process that some complainants might like to pursue as an initial or alternative approach.

Informal approaches

Step 1: Talk with the other person (if safe, reasonable and appropriate)

If you feel confident and comfortable to do so, you can approach the other person to discuss the issues and try and resolve the problem directly.

Step 2: Contact an AILA representative

We encourage you to talk with one of our staff, Board or State Chapter Executive if:

- step 1 (above) is not appropriate;
- you are not sure how to handle the problem by yourself;
- you want to talk confidentially with someone and find out what options are available to address your concern; or



- the concern continues after you approached the other person.

The names and contact details for our staff can be found on the website.

The AILA representative will:

- ask how you would like your concern to be resolved and if you need support.
- seek to provide different options for you to address your concern.
- act as a support person, if you wish.
- refer you to an appropriate person (e.g. a mediator) to help you address your concern, if appropriate.
- inform the relevant government authorities and/or police, if required by law to do so.
- where possible and appropriate, maintain confidentiality.

Step 3: Decide how to address your concern

After talking with the AILA representative, you may decide:

- there is no problem;
- the problem is minor and you do not wish to take the matter forward;
- to try and resolve the problem yourself, with or without a support person;
- to resolve the problem with the help of someone impartial, such as a mediator; or
- to resolve the matter through a formal process.

Formal approaches

Step 4: Making a formal complaint

If it is not possible or appropriate to resolve your complaint through an informal process, you may:

- make a formal complaint in writing to the CEO of AILA or the AILA Board if the complaint is about the AILA CEO. Should the complaint be about a Board member, the AILA CEO will establish an **External Dispute Resolution Committee** in consultation with Directors that are not conflicting with the complaint; or
- approach a relevant external agency, such as an anti-discrimination or equal opportunity commission, for advice and assistance.

After receiving a formal complaint, and based on the material you provide, the CEO will decide whether:

- he or she is the most appropriate person to receive and handle the complaint;
- to refer the complaint to **mediation**;
- to refer the complaint to an **External Dispute Resolution Committee** in consultation with the AILA Board;
- to refer the complaint to the AILA Board for Investigation (consistent with Step 5);
- to refer the matter to the **police or other appropriate authority**; and/or



- to implement any interim arrangements that will apply until the complaint process is completed.

In dealing with your formal complaint, the CEO will take into account:

- whether he or she has had any personal involvement in the circumstances and if so, whether it is appropriate someone else should handle the complaint such as an AILA Board member or External Dispute Resolution Committee;
- your wishes, and the wishes of the respondent, regarding how the complaint should be handled;
- the relationship between you and the respondent (e.g. an actual or perceived power imbalance between you and the respondent);
- whether the facts of the complaint are in dispute; and
- the urgency of the complaint, including the possibility that you might face further unacceptable behaviour while the complaint process is underway.

If the CEO is the appropriate person to handle the complaint, he or she will, where appropriate and/or necessary:

- provide the information received from you to the other person(s) involved and ask for a response;
- decide if there is enough information to determine whether the matter alleged in your complaint did or did not occur; and/or
- determine what, if any, further action to take, including referring the matter for to the AILA Board for investigation or potential disciplinary action in accordance with this policy and AILA Constitution.

Step 5: Investigating the complaint

In some cases, an investigation may be required to determine the facts surrounding the complaint. Our investigations procedure is outlined in Attachment 3.

AILA will appoint an investigator who has the appropriate skills to investigate. This might include an AILA Director, the CEO, an experienced Fellow who is familiar with this policy, appropriate external agency or a legal practitioner.

Following the investigation, a written report will be provided to the AILA Board.

- If the complaint is referred to **mediation**, we will follow the steps outlined in Attachment 2 or as agreed by you, the respondent and the mediator.
- If the complaint is referred to an **External Dispute Resolution Committee**, the Committee will act within the terms of reference.
- If the complaint is referred to the AILA Board, the AILA Board will follow the steps in accordance with the constitution section 10.3.
- If the complaint is referred to the **police or another external agency**, we will endeavour to provide all reasonable assistance required by the police or the agency.

Step 6: Reconsidering a complaint or appealing a decision



If the matter is referred to mediation and is not resolved at mediation, you may request that CEO reconsider the complaint in accordance with Step 3.

In accordance with AILA constitution you or the respondent(s) may appeal a disciplining decision made by the AILA Board. The grounds and process for appeals are set out in the AILA Constitution.

Step 7: Documenting the resolution

The CEO will record the complaint, the steps taken to resolve it and the outcome. This information will be stored in a confidential and secure place. If the complaint was dealt with at the state/district level, the information will be stored by the state association. If the matter is of a serious nature, or if it was dealt with at the national level, the information will be stored by AILA National and a copy stored by the state association.

Approaching external organisations

If you feel that you have been harassed or discriminated against, you can seek advice from your state or territory anti-discrimination or equal opportunity commission. There is no obligation to make a formal complaint. However, if the commission advises you that the issues appear to be within its jurisdiction, you may choose to lodge a formal complaint with the commission.

The commission may investigate your complaint. The commission may also attempt to conciliate the complaint on a confidential basis. If this fails, or if it is not appropriate, the complaint may go to a formal hearing. The tribunal will make a finding and decide what action, if any, will be taken.

Serious incidents, such as assault or sexual assault, should be reported to the police. In the event of a police investigation, AILA may choose to delay its own investigation or disciplinary proceedings.



Attachment 2: MEDIATION

Mediation is a process that seeks to resolve complaints with the assistance of an impartial person – the mediator.

The mediator does not decide who is right or wrong and does not tell either side what they must do. Instead, he or she helps those involved to discuss the issues and seeks to facilitate a mutually agreeable solution.

Our approach to mediation follows the steps set out below.

1. The CEO (or AILA Board where the complaint relates to the CEO) will appoint an appropriate mediator to help resolve the complaint. This will be done under the direction of AILA and in consultation with the complainant and the respondent(s). The mediator will be an independent person in the context of the complaint, however this does not preclude a person with an association with AILA acting as mediator.
2. The mediator will talk with the complainant and respondent(s) about how the mediation will take place and who will participate. At a minimum, the mediator will prepare an agenda of issues to be discussed.
3. All issues raised during mediation will be treated confidentially. We also respect the rights of the complainant and the respondent(s) to pursue an alternative process if the complaint is not resolved.
4. If the complaint is resolved by mediation, where appropriate the mediator may seek to ensure the parties execute a document that sets out the agreement that has been reached. This agreement will be signed by the complainant and the respondent(s). We expect the parties involved to respect and comply with the terms of the agreement.
5. If the complaint is not resolved by mediation, the complainant may:
 - write to the CEO (or AILA Board where the matter involves the AILA CEO) to request that the CEO reconsider the complaint; and
 - approach any relevant external agency, such as an anti-discrimination or equal opportunity commission, to resolve the matter.

We recognise that there are some situations where mediation may not be appropriate, including:

- when the people involved have completely different versions of the incident;
- when one or both parties are unwilling to attempt mediation;
- when there is a real or perceived power imbalance between the people involved;
- matters that involve serious allegations.



Attachment 3: INVESTIGATION PROCESS

There will be times when a complaint will need to be investigated and information gathered.

An investigation helps determine the facts relating to the incident, if requested, recommendations as to possible findings and next steps.

Any investigation we conduct will be fair to all people involved. The investigation process will be undertaken by an unbiased person.

If the AILA Board decide that a complaint should be investigated, the appointed Investigator will follow the steps outlined below.

AILA will appoint an investigator who has the appropriate skills to investigate. This might include an AILA Director, experienced Fellow who is familiar with this policy or a legal practitioner.

1. We will provide a written brief to the investigator that sets out the terms of engagement and his or her roles and responsibilities.
2. The investigator may:
 - interview the complainant and record the interview in writing;
 - provide full details of the complaint to the respondent(s) so that they can respond
 - interview the respondent(s) to allow them to answer the complaint and record the interview in writing;
 - obtain statements from witnesses and collect other relevant evidence;
 - make a finding as to whether the complaint is:
 - **substantiated** (there is sufficient evidence to support the complaint)
 - **inconclusive** (there is insufficient evidence either way);
 - **unsubstantiated** (there is sufficient evidence to show that the complaint is unfounded);
 - **mischievous, vexatious or knowingly untrue.**
 - provide a report to the AILA Board documenting the complaint, the investigation process, the evidence,) and, if requested, any findings and recommendations.
3. We will provide a report to the complainant and the respondent(s) documenting the complaint, the investigation process and summarising key points from the investigation.
4. The complainant and the respondent(s) will be entitled to support throughout this process from their chosen support person.