

EART COMPLAINTS AND APPEALS PROCEDURES

The purpose of the Complaints and Appeals Procedures is to establish structures and procedures to process complaints made about a member of EART. A complaint may be made by an individual or an organisation, including the EART itself. These procedures are an essential part of EART's commitment to accountability and to the protection of the public. The procedures will follow the principles of Choice Theory.

EART Complaints Committee

A Complaints Committee will be set up by EART in the event of a complaint being made which meets the criteria of an investigable complaint set out in these procedures. The Complaints Committee will consist of three members: two EART members, and one member who is not a member of EART.

The Terms of Reference of the Complaints Committee are:

- A. To follow the complaints procedure, to examine all written and oral evidence presented by both parties, to decide whether the complaint is upheld and to make any recommendations it thinks fit.
- B. To maintain confidentiality as far as possible.
- C. To work as quickly as possible to investigate the complaint and reach a conclusion.
- D. As far as is practicable, to work towards an agreed solution which meets the needs of all parties
- E. To be mindful always of the legal/statutory rights of the parties concerned.

Before Making a Complaint

1. EART requires parties to a dispute to do their best to sort out their differences themselves first, before resorting to the Complaints and Appeals Procedure.
2. Mediation by a third party, agreed upon by the parties, can often help in resolving conflict.
3. Where possible and relevant members should refer the complaint to their own national organization's Complaints and Appeals committee.

4. Where these options prove unsuccessful in resolving the difficulty, then the following are the stages in the EART Complaints and Appeals Procedure.

Criteria for a Valid Complaint

5. Complaints must be made in writing to the President of EART clearly stating the practice giving rise to the complaint, with dates, location, etc. There must also be a detailed description of the steps taken to resolve the difficulty prior to invoking the EART Complaints Procedure including a full report on the national organisation's involvement in the case.

Anonymous complaints will not be considered. The person complained of must have been a member of EART at the time of the alleged misbehaviour. The complaint must be made within the following timescale: normally, 2 years from the alleged incident or from the time when the complainant became aware of the alleged inappropriate behaviour.

Legal proceedings should not have been issued or be pending in relation to the complaint. If the complaint relates to the President of EART, then the matter will be referred to the William Glasser Institute (International).

Phase One: Establishing the Complaints Committee.

6. The President of EART, following consultation with relevant parties, will decide which possible violations of the EART Code of Ethics, if any, are alleged to have been breached. He/she may decide at this stage that the complaint does not fit the criteria of these guidelines, and in that case will write to the complainant explaining his/her decision. If he/she considers that the complaint meets the criteria, he/she will seek written permission from the complainant to show the letter of complaint to the EART member. Without this permission, the complaint cannot be processed further. The complainant must also accept that for the purpose of investigating the complaint, counselling confidentiality must be suspended as it applies to the complaint.
7. The President will notify the Honorary Arbitration Committee (from now on: HAC) of the existence of the complaint, but not of its details.
8. In consultation with at least two members of the HAC, the President will nominate two members drawn from the committee and/or Senior Faculty, and one external person, not a member of EART, to form the Complaints Committee to investigate this particular complaint.
9. Any person invited to join the Complaints Committee must declare any interest or dual relationship he/she may have in relation to any complaint, and must refuse appointment to the Committee where there is such an interest.

Phase Two: Written Complaint and Written Response.

10. The Complaints Committee will inform the EART member that there is a complaint and will forward the letter of complaint by registered post. The EART member will be asked to self-evaluate and to respond in writing to the complaint within thirty days, the response to be sent by registered post. They will be told that the response will be forwarded to the complainant.
11. If the EART member does not co-operate with the Complaints Committee, then this fact shall be noted and the Complaints Committee can make a recommendation to the EART President and the HAC. If an EART member against whom a complaint is made resigns from EART or does not renew his/her EART membership, this does not necessarily mean the end of the enquiry.
12. The EART member's response shall be forwarded to the complainant by registered post.
13. If the complainant is satisfied with the written response, and notifies the Complaints Committee within thirty days in writing by registered post to this effect, then the procedure shall be deemed completed and the Complaints Committee shall write to each side to confirm this. A brief written report shall also be submitted to the EART President.

Phase Three: Offer of Mediation:

14. If the complainant is not satisfied by the EART member's written response, then the Complaints Committee will offer an informal meeting with both parties, to be facilitated by an appointed EART member who has no dual relationship, who is not a member of the Complaints Committee, and who meets the approval of the parties. This person will help the parties to explore the issues and to seek a resolution that meets the needs of both sides. At this meeting, each party may be accompanied by a support person.
15. If the issue is not resolved by written response or by the collaborative problem-solving process, the issue shall be referred to the Complaints Committee for investigation, a hearing and a decision with recommendations.

Phase Four: Formal Meeting of the Complaints Committee

16. Parties to this Complaints and Appeals Procedure are required to agree to be bound by the decisions of the Complaints Committee following completion of this stage of the process and subject to the right of appeal as detailed in this document. A Formal Session of the Complaints Committee will be convened. Both parties will be requested to attend. The venue for the formal Session will be in the country of the complainant.

17. Written statements/submissions/witness statements must be submitted to EART twenty-eight days before the meeting. New evidence may be allowed at the hearing if the Chairperson judges it relevant to the complaint, and if there is sufficient reasons advanced by the party/parties advancing the new evidence as to why the evidence was not included in the written submissions to the Complaints Committee. If witnesses are to be called, twenty-eight days notice must be given in writing to the Complaints Committee, and written statements from the witnesses must be presented at that time.
18. Each side at the meeting may be accompanied by a support person. The meeting will review the complaint, the response and questions arising. This meeting will be recorded electronically.

Phase Five: Report and Recommendations to the EART National Executive

19. Following this meeting, the Complaints Committee will make a written report and recommendations to the EART President and the HAC. These, along with the recordings of meetings, shall be submitted to the committee, which shall make the final decision, and both parties will be notified in writing by registered post.

THE APPEALS PROCEDURE

If either side is dissatisfied by the recommendations then they may appeal them, in writing, within four weeks of the recommendations being received by the party appealing. The appeal must state the grounds for the appeal.

Phase Six: Establishing the Complaints Appeals Committee

21. The EART President, in consultation with the HAC will nominate three people to form the Complaints Appeals Committee. These will not have served on the Complaints Committee. Two of these will be EART members of the HAC and/or Senior Faculty; the third member will not be a member of EART.
22. Any person invited to join the Complaints Appeals Committee must declare any interest or dual relationship he/she may have in relation to any complaint, and must refuse appointment to the Committee where there is such an interest..
23. The Complaints Appeals Committee will review the documentation relevant to the complaints procedure, and the recording of the meetings. If it considers the Complaints Committee's report and recommendations to be consistent with the evidence, and that the Complaints Procedures were properly followed, it will report this to the EART President and the HAC, who will inform the parties of this outcome.

Phase Seven: Formal Appeals Meeting

24. If it judges it necessary, the Complaints Appeals Committee may invite the parties to a Formal Appeals Meeting. The complainant, the EART member and the EART are free to engage their own legal advisors or other supporter to attend this meeting., provided notice of same has been given in writing a week before the meeting. This meeting will be recorded electronically. The meeting will be held in the country of the person making the appeal.
25. This meeting will review the complaint, the response, the complainant's reply to the response and any further points the EART member or complainant wishes to make. At any stage, the Complaints Appeals Committee or its legal representative may question the parties.

Phase Eight: Report and Recommendations to the Honorary Arbitration Committee

26. Following the meeting the Complaints Appeals Committee will prepare a report and recommendations for action for the President and HAC. These, along with the recordings of meetings, shall be submitted to the committee, which shall make the final decision, and both parties will be notified in writing. Such decision will be final.

Confidentiality Agreement

27. In all the above procedures strictest confidence must be maintained, with no individual identified to anyone not on the Complaints Committee or the Complaints Appeals Committee or the HAC, which may choose to consult with experts in the field. All involved in examining the issues shall sign a written Confidentiality Agreement before they are given any information so that all fully understand that confidentiality means holding all information, including names and allegations, from all others, including other EART members who have not signed a Confidentiality Agreement in regard to this matter.

Outcomes of the Complaints and Appeals Procedure:

28. The Complaints Committee or the Complaints Appeals Committee may arrive at the following conclusions for submission to the HAC, which shall make the final decision:
 - a. If the Complaints Committee or the Complaints Appeals Committee and the HAC find no breach of the Code of Ethics then the HAC will write to the EART member who is the subject of the complaint and to the complainant with a clear statement of that finding.
 - b. Where a breach or breaches are upheld by the Complaints Committee or the Complaints Appeals Committee and the HAC, the following sanctions may be applied:

- i. Requirement to change in a specific way by a specific date, which may include further training.
- ii. Requirement to work under a supervisor nominated by EART for a specific period of time.
- iii. Withdrawal of EART membership/accreditation for a specific period of time and clear instructions about the requirements to be met before re-registration can be considered by EART.
- iv. Permanent withdrawal of EART membership/accreditation.

29. EART will inform WGI, the member's own national organisation, EAP, National Awarding Organisation (NAO) and any other relevant bodies of the withdrawal of membership or registered status. A summary of the results of the complaint investigation and any sanctions applied will be published on the EART website, and Newsletter, and in any other forum considered necessary by the HAC.

30. The original Complaints Committee will monitor as far as is practicable the operation of the sanctions. The sanctions may be lifted when any requirements set out in the sanction have been met. The onus is on the EART member or former member to inform the Complaints Committee when they have discharged the conditions set out in the sanction, and to present any necessary evidence. If the sanctions are to be lifted, the Complaints Committee will inform the National Executive and other relevant bodies.

31. All persons have a right under law to communicate freely with any inquiry concerning them and these communications will be considered occasions of qualified privilege. In general, communications by all parties within the complaints procedure will be protected, unless judged to be motivated by malice.

32. At the conclusion of a complaints process, all related documents shall be placed in a sealed envelope, with the names of the complainant and EART member on the outside, and the date of completion of the process. This will be kept safely in the EART office for ten years, after which they will be destroyed.