

Arboricultural Association

COMPLAINTS PROCEDURE

February 2024



1. Introduction

- 1.1 The Arboricultural Association (the Association) expects all of its members (including Approved Contractors and Registered Consultants) to abide by the Association **Code of Conduct & Ethics**.
- 1.2 If you believe that the behaviour of a member has fallen below the standards set out in the Code of Conduct & Ethics, then you may wish to make a complaint using this procedure. It applies to Approved Contractors, Registered Consultants and qualified membership grades (Technical, Professional and Fellow members). This procedure also applies to members of staff of the Association (including the CEO) and the Board of Trustees.
- 1.3 In the first instance, anyone considering complaining should ensure that they have taken all reasonable steps to resolve the matter with the member before approaching the Association. This might include straightforward communication, submitting a complaint through the company procedure of the member you are dissatisfied with, or arbitration or mediation through a third party.
- 1.4 The Association will only consider complaints where we are satisfied that all attempts to resolve the matter with the member have already been exhausted. We reserve the right to reject your complaint at any stage if we feel that all reasonable attempts to resolve the situation have not been made, or if the complaint is deemed to be vexatious (i.e. submitted with the intention of causing nuisance or frustration for the member or the Association).
- 1.5 Please note that certain roles – particularly the CEO – play a key part in this procedure. If your complaint is about the CEO, please contact the Chair of Trustees directly and they will handle the matter.

2. Scope of the procedure

- 2.1 We can investigate your complaint if it is about a member of the Association covered by this procedure and if it concerns their conduct, ethical practices or competence in relation to the Association's Code of Conduct & Ethics. The Code is not a set of rules for members to follow, but guidance for them in their professional lives. Disciplinary action would not automatically be taken against a member if they fell below the standards set out in the Code of Conduct &

Ethics, but the Association would seek to determine whether or not their actions amounted to unacceptable professional conduct or serious professional incompetence.

- 2.2 We will treat all complaints fairly. On occasion, complaints will be about issues over which we have no control or jurisdiction. Whilst we can suggest resolution of the issue as a solution (for example, encouraging our member to make good on damage which they might have caused) we cannot order our member to put right something which has gone wrong, and we cannot award compensation – this can only be done through the courts.
- 2.3 The following list shows examples of complaints and circumstances which do not fall under the remit of the Association, and which will not be considered within this procedure.
 - a. Complaints about people who are not members of the Association.
 - b. Complaints about membership grades other than Approved Contractors, Registered Consultants and qualified membership grades (Technical, Professional and Fellow members).
 - c. If you have not taken all reasonable steps to resolve the matter with the member prior to submitting a complaint through the Association.
 - d. If the complaint relates to something that happened more than two years before the date of the complaint being submitted (unless we agree that there are exceptional circumstances).
 - e. If the complaint refers to something covered by statute, such as employment disputes, criminal activity or copyright issues.
 - f. If the complaint relates to something which is already subject to investigation by another organisation, including the police, Trading Standards or the Health & Safety Executive.
 - g. If the complaint relates to something which is the subject of an ongoing planning or Tree Preservation Order appeal or dispute.
 - h. If the complaint relates to enforcement action which is currently being taken, or is due to be taken, by a Local Planning Authority.
 - i. If the complaint relates to a financial matter or contractual issues, including HR issues between an

employee and employer.

- j. If the complaint relates to a matter that is the subject of court proceedings.
 - k. If the complaint is about a contract or fees.
- 2.4 Should the Association become aware that one or more of these situations applies whilst the complaint is moving through the process, or should circumstances change to mean that one of these situations applies, then either the complaint will be paused until such a time it is possible and/or appropriate to proceed, or the case will be closed. This decision will be made at the discretion of the Association.
- 2.5 Whilst the Association will always seek to give you helpful recommendations, we are not able to provide legal advice about a complaint.
- 2.6 It is important that when individuals – whether a member of the public, a member of Association staff or an Association volunteer – sees or becomes aware of wrongdoing that they have a mechanism by which to report this in an appropriate way. Instances such as these are covered by the scope of this complaints procedure, although they will be dealt with on a case by case basis and some elements of the procedure – such as the requirement to attempt to resolve the matter with the member before submitting a complaint – might not be appropriate in these circumstances.

3. The Complaints Procedure

3.1 There are three stages to the Association Complaints Procedure:

- **Stage One:** Initial evidence gathering
- **Stage Two:** Investigation and outcome
- **Stage Three:** Appeal

Stage One

- 3.2 All complaints to the Association must be made using the Complaint Form on our website. If you do not have access to the internet or you require additional support, then please contact the office and we will seek to make alternative arrangements for you. Receipt of complaints will be acknowledged within 7 days.
- 3.3 The information required for the Complaint Form includes: Your name and contact details, the name of the member being complained about, the reason for the complaint and the date of the incident giving rise to the complaint.
- 3.4 The completed Complaint Form and any associated documents will be sent to the Chief Executive Officer (CEO), who will determine if the person being

complained about is a member of the AA, whether or not they are subject to this complaints procedure and if the allegations which have been made are likely to constitute a breach of the Code of Conduct & Ethics. In those cases where the CEO decides that the complaint has not met the required threshold they will send the documentation to an appropriate person (either an appropriate staff member or a Trustee) for a sense check.

- 3.5 At this stage of the process the CEO may, at their discretion, also contact the member being complained about in order to ask for their response (the Response). The member will be sent the full Complaint Form and associated documents unless the complainant has specifically requested anonymity, although it should be noted that in some cases it is not reasonably practicable to guarantee anonymity. It is expected that the member will respond to this request and provide all of the information they wish to be taken into account within 28 days of the request being made. Failure by the member to provide the required information in the appropriate timescales without good reason will be taken into account when considering the outcome of the complaint.
- 3.6 The CEO will assess the Complaint Form and the Response in order to determine whether or not the complaint is valid in accordance with the Code of Conduct & Ethics and this procedure. If not, then the matter will be logged, both parties informed, and the case closed. If the complaint is deemed valid then it will progress to Stage Two. In those cases where the CEO decides not to validate the complaint they will send the documentation to an appropriate person (either an appropriate staff member or a Trustee) for a sense check.
- 3.7 A record will be kept of all instances submitted to the Association, whether the complaint is validated or not. This record will be held confidentially by the CEO but at their discretion may be shared with appropriate individuals – such as members of the Board – if it is necessary to do so.

Stage Two

- 3.8 The CEO will send the Complaint Form and Response to the Chair of the appropriate Association Committee (the Committee Chair) for reference. The CEO, with input from the Committee Chair if required, will allocate the case to two or more members of the Association who have agreed to act as complaint reviewers. These members will become the Complaints Panel for this complaint. Potential Panel members will be asked if

they have any conflicts of interest prior to being sent the documentation, and may be excluded from the process if required.

3.9 The investigation may require additional contact with the complainant and the member (from an appropriate member of Association staff) in order to establish facts and details, or it may be able to proceed purely on the basis of the information which has already been provided. The opinion of the CEO will also be considered.

3.10 The Complaints Panel will report the findings of the investigation to the Committee Chair and the CEO, stating the nature of the breach and making a recommendation as to an appropriate sanction. Broadly speaking, the three levels of Code of Conduct & Ethics breach are:

- No breach.
- Minor breach.
- Major breach.

3.11 In the event of the Complaints Panel finding that there was no breach, the complaint will be closed, and no further action taken.

3.12 In the event of a minor breach being identified, a reprimand will be issued to the member by the Chair and/or CEO which outlines the nature of the breach and the findings of the investigation. This reprimand will be formally kept on file for an appropriate period of time (to be determined by the CEO and Committee Chair) and will be referenced and taken into account by the Association should any future complaint be made against the member. Multiple minor breaches may collectively be considered as a major breach.

3.13 In the event of a major breach of the Code of Conduct, a sanction will be recommended by the Complaints Panel to the Committee Chair and the CEO. Major breaches are extremely rare and the details will vary considerably from one situation to another, so the appropriate sanction will be determined on a case-by-case basis. Such sanctions are at the discretion of the Association and might include a combination of:

- a. An article about the incident written and published in the ARB Mag and other channels, either withholding the name of the member or publishing it, as appropriate.
- b. A formal warning (reprimand) issued by the Chair and/or CEO and kept on file.
- c. Suspension from membership of the Association, down-grading of membership or suspension from one or more accredited scheme, for an appropriate

period.

- d. Bringing forward of the date of a reassessment (for an Approved Contractor) or a Quality Assurance check (for a Registered Consultant).
- e. Permanent removal from membership of the Association, or one or more accredited scheme.

3.14 The Committee Chair and CEO will consider the recommendation and make a decision accordingly. In cases where a major breach of the Code of Conduct has been found to have taken place, the Chair of the Association and/or the Board of Trustees will also be involved in the decision-making process.

3.15 The decision will be communicated in writing to the complainant and the member, as well as the members of the appropriate Committee and the Board of Trustees. Once the decision has been made, communicated and implemented the complaint will be formally closed. If either party wishes to appeal the decision then they are entitled to proceed to Stage Three of the process.

3.16 In cases where an Approved Contractor has been permanently removed from the accreditation scheme and then changes ownership, the Association will consider representations from the new owner should they wish to submit them in writing to the CEO.

Stage Three

3.17 An appeal must be submitted within 21 days of the Stage Two decision having been conveyed to the complainant and member. The appellant will need to explain, in writing, to the CEO and the Chair of the Association their reasons for appealing the decision, along with any additional supporting information they might have.

3.18 The appeal can be against the decision itself or the way in which this procedure was implemented in the decision being made. If additional evidence is being presented for consideration, then it must be evidence which was not available at the time of the original investigation and decision.

3.19 The appeal will be reviewed by an Appeal Panel comprised of three members of an appropriate Committee and/or the Board of Trustees who have not previously been involved in the complaint. This Appeal Panel will be provided with all of the information available to the original Complaints Panel, as well as the appeal documentation.

3.20 The Appeal Panel will review all of the information and determine whether or not the original decision was

correct. The decision of the Appeal Panel is final, and will be communicated to the CEO, the Committee Chair and Chair of the Association to be implemented. No further appeal is possible.

4. Conflict of interest

- 4.1 Any individuals involved in reviewing a complaint (including validating, investigating or making recommendations or decisions) who feels that they might have a conflict of interest in proceedings is required to declare this conflict to the CEO and offer to withdraw from the case. This applies to the CEO, Committee Chair, Chair of the Association and any members of Committees or the Board of Trustees who might be involved at any stage. Any individuals with a conflict of interest will be replaced by a suitable alternative.

5. This procedure

- 5.1 This Association Complaints Procedure is based upon Version 11 (MS 13 July 2015). It was ratified by the Board of Trustees on 23/12/2021 and will be reviewed no later than 23/12/2025.
- 5.2 This Procedure was amended in February 2024 to reflect changes to the Association's Committee structure.