

FCA Complaints Process

What is the process?

In October 2005 the FCA changed its Constitution to allow for a complaints process against members. The Member Standards were established to ensure the market has confidence in dealing with FCA members and that members maintain high standards within their dealings raising the operational benchmark within the franchise sector.

The complaint process asks that a complainant write to the FCA either electronically or in hard copy setting out in detail the nature of the complaint. Complaints are not taken verbally. This written submission should cover:

- The parties involved and their full contact details.
- The nature of the complaint.
- The process that has been followed to seek resolution.
- The result of any previous complaint negotiations.
- The anticipated resolution needed for the matter to be resolved.

Once the complaint has been received an acknowledgement communication will be sent. An evaluation of the complaint will then be made to determine if the matter breaches best practice standards as articulated by the FCA Member Standards.

If the matter is in breach of the standards the complaint will be dealt with by the appointed complaints officer seeking a reasonable resolution taking into account the needs of the complainant as articulated within the complaint. There is no guarantee the resolution will be made fully as required by the complainant but every effort will be made to resolve the matter amicably between both parties. Complaints are handled as an administrative procedure and do not replace the legal process that remains available at any time by any party.

If the matter proves to be a serious breach of the Standards requiring sanction a recommendation is sent to the FCA National Board's Ethics Committee for determination and application of the sanction. If the member does not accept the sanction and wishes to appeal then it will be passed to the National Board for determination.

Complaints of a consumer nature will not be handled by the FCA and such complaints should be referred to the appropriate State Government Authority.

What is a complaint?

A complaint against an FCA Member is a very serious charge and is dealt with due diligence. The Member Standards prescribe certain relationship behaviours between members and their clients or stakeholders and a breach

of those Standards is deemed very serious.

Who will reply to me and when?

Once a complaint has been received in writing it will be acknowledged and then evaluated. If a complaint matter is deemed to be in breach of the FCA Member Standards then a complaints officer will be appointed. Further information may be required from the complainant and the Officer will may communicate directly.

Once a complaint has been dealt with a communication will be sent to the complainant setting out the resolution by the CEO of the FCA.

What if I have no reply?

If there has been no response to a complaint then contact the CEO of the FCA on 1300 669 030. An investigation will be made.

Can I complain to an outside body?

A complainant has other forms of complaint open to them including the ACCC if the matter breaches the Franchising Code of Conduct; the Office of Mediation if the matter can be negotiated through mediation; or a legal route through the courts.

How does the FCA treat members who do not comply?

If a member is in breach of the Member Standards then action will be taken against the member. This action may result in directing the member to resolve the matter with the complainant in the favour of the complainant or more serious action such as suspension or termination of membership.

If the matter cannot be resolved through negotiation then a recommendation to the Ethics Committee will allow a sanction decision to be made against the member if required. There remains an appeal process to the National Board for the member to use if the sanction is deemed to severe and the National Board decision is final.

If a member is in breach of the Franchising Code of Conduct the Ethics Committee will recommend a sanction to the National Board depending on the nature of the breach. Sanction may include suspension or termination of membership with the FCA.

At the completion of the complaints process the Ethics Committee will prepare a summary of the complaint and its process and recommendations. No identification of either party either direct or implied will be used and this statement will be published in the monthly Visions newsletter so that members can compare their own behaviour to learn and increase standards.