



ATG
Code of Practice

AUSTRALIAN
TATTOOISTS
GUILD



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Preface

**RESEARCH AND INFORMATION COMPILED IN DRAFT FORMAT ONLY BY THE AUSTRALIAN TATTOOISTS GUILD (ATG)
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1. DEFINITIONS

In this Code of Practice:

“Aftercare” means non-prescription ointment or lotion recommended or sold by a Member to a client for the care of a tattoo post procedure/application.

“Aftercare Instructions” means written and verbal instructions that are provided to a client to assist them in the care of a new tattoo.

“Amateur” tattooer or operator means an individual who is working in an unregistered and unprofessional environment with no prior training within the industry.

“Awareness Activity”: A communication to consumers which, without advertising or promoting any individual Member, provides information in relation to health and standards or current issues within the industry.

“Branded Advertising” This type of advertising is also referred to as direct to consumer advertising and is only permissible for ATG Committee or Members or by permission of either to raise awareness of the ATG.

“Broadcast media” means any radio or television broadcast for consumers, which may also include video, podcast or audio broadcast online.

“Consumer Health Information (CHI)” is confined to factual information concerning practices within the procedure, application and after care of tattooing (Schedule 3) and their use. The purpose is to help consumers care for their tattoo appropriately and supplement, support any counseling activities of doctors, pharmacists and other caregivers. CHI is not an advertising tool. It may be used as a promotional tool for the branding of the ATG and its Members. CHI must comply with all current State Health Guidelines and must be consistent with Product Information.

“Code” means the ATG Code of Practice or other codes and standards as defined by the ATG.

“Complaints Panel” means a group elected by Ethics Subcommittee who are independent of the Guild and its Members



“Management Committee” means the Committee as specified in Part of the Rules* of the Association, which has been elected to control and manage the affairs of the Association. †

“Complaints Panel” means the ATG Code of Practice Complaints Panel.

“Discredit” means injure the reputation of or destroy confidence in the industry through conduct, acts or slander. This includes but is not limited to acts, which damage or bring into disrepute individuals who are Members of the ATG.

“Ethics Subcommittee” means an external panel of industry leaders who have been appointed by the Committee of Management.

“Guild” refers to the Australian Tattooists Guild, a registered not for profit organisation and industry appropriate body.

“Healthcare professional” includes a person that meets the description of a healthcare professional in section 42AA(1), (2), (3) of the *Therapeutic Goods Act 1989*.

The **“Industry”** means the professional individuals who work within council registered premises and uphold all current State guidelines applicable to the body art industry in their state.

“Members” means all individuals who have applied for full membership with the ATG and been approved. For the purpose of this Code, “Member” also applies to any Associate members as defined by the ATG Rules.

“Mainstream Print media” means any magazine or newspaper for consumers containing a range of news, public interest items, advertorials, advertisements or competitions.

“Marketing & Ethics Subcommittee” means the committee appointed by the Committee of Management to, *inter alia*, monitor and review the ATG Code of Practice. .

“New Entrant” to industry means, individuals who join industry with no prior training within the industry.

“Professional Tattooist” means an individual who upholds a high standard of practice and integrity towards the art form of tattooing, its application and the safety of their client. A Professional is a recognised practitioner within the broader industry who



upholds all State Health Guidelines.

“Promotion” means any form of communication, including by means of:

- (i) Any form of publication, display, notice, catalogue, leaflet, booklet, letter (whether circular or addressed to a particular person) or other document;
- (ii) Any educational event or training material;
- (iii) Any materials (including labels, direction folders, and other packaging components bearing printed matter);
- (iv) Any words inscribed on any article;
- (v) Any exhibition of a photograph or film; and
- (vi) Any sound recording, radio, television ,digital media or spoken word.

“Parties” means for the purpose of the complaint and appeal processes, both the complainant and the Member, which is the subject of a complaint.

“Quality Use of Equipment” means:

- (i) Selecting and using quality pigments and equipment wisely based on the best available evidence and the consumer’s needs;
- (ii) Choosing suitable products if this is considered necessary; and
- (iii) Using products safely and effectively.

“Rules” mean the Rules of the Association for the time being in force.

“Stakeholders” means Government departments, other qualified professional persons and consumers.

“Studio” means the workspace of a Professional Tattooist ; within Council Registered Premises where required by State Regulation.

“Unfair” means not equitable or honest or impartial or according to the Rules.

Note: The first use of a defined term is marked with an asterisk ().*



2. INTRODUCTION

2.1 The Guild* is the industry appropriate body which is representative and advocates for Professional Tattooists.

2.2 As an integral part of Australia's Professional Tattooing community, the Guild, through its Members*, is committed to;

- (i) promoting high standards of practice through continual education
- (ii) positively encouraging responsible growth within the industry in Australia
- (iii) making appropriate information available to the public
- (iv) maintaining contact with Professional Tattooists to ensure the safety of the public is maintained.

2.3 The Guild's Members recognise that this Code of Practice has as its primary objective the maintenance of the trust and confidence of, and accountability to, all communities with which the Guild and its Members engage, the effectiveness of which is assessed through the eyes of the relevant community.

2.4 Recognising that the conduct of an individual Member can reflect upon both the industry* and the Guild's membership as a whole, the Code* sets out to address what are deemed to be appropriate standards of commercial and professional conduct generally and of procedural practices in particular.

2.5 Acceptance and observance of its provisions are binding and a condition of membership of the Guild.

2.6 Members also acknowledge that the Code itself is to be applied in theory, as well as in the letter, so that high ethical standards are followed throughout the industry.

2.7 Members shall ensure that all agents and studio staff acting on their behalf are fully conversant with the provisions of this Code. Manufacturing companies of industry specific products outside the Guild are invited to accept and observe this Code.

2.8 The Guild commits to collaborate with relevant Stakeholders* in Code of Practice monitoring, updating, education and compliance.



3. OBJECTIVES OF THE CODE

3.1 This Code is intended to establish the basic parameters, which guide Members in the conduct of their practice.

3.2 Specifically, in relation to upholding high standards of practice, the Code seeks to assist Members to:

3.2.1 Responsibly inform consumers about the health aspects of the practice and inform consumers which products which are available;

3.2.2 Uphold a high standard in the communication of information about the products and the consumer's role in their use during the healing and aftercare of a tattoo;

3.2.3 Ensure that all claims made for the products are accurate, balanced and based on sound and objective scientific considerations;

3.2.4 Ensure that such information is communicated in a way, which promotes the responsible use of the products.

3.2.5 Ensure that Members observe high working practices with current information and education being promoted within the Guild.

PROVISIONS OF THE CODE

PART A: THE CODE AND ITS APPLICATION

4. PRINCIPLES OF PRACTICE

4.1 Members shall at all times ensure that they are familiar with, and comply with, the relevant provisions of Commonwealth and/or State Acts, Regulations or other legal instruments which pertain to the functions and operations in the industry.

4.2 Members must uphold the law in the conduct of their professional activities.

4.3 Members must abide by the Code of Ethics and Conduct of the ATG, including such other Codes as are from time to time developed as well as laws enforced in the countries and jurisdictions in which they provide or intend to provide professional services.

4.4 Members must neither communicate nor promote themselves or their professional



services in a false, misleading or deceptive manner.

4.5 Members must not partake in any criminal behaviour.

4.6 Members must not use any form of persuasion or undue influence in securing and delivering services.

4.7 Members must refrain from physical contact that endangers, threatens, or harms the health or safety of any person, or behaviour that causes a reasonable person to fear such conduct.

4.8 Members must not tattoo minors under any circumstances.

4.9 Members must refrain from tattooing individuals who are intoxicated or otherwise affected by legal or illegal substances.

4.10 Members must not sell tattoo equipment to unlicensed or unprofessional persons through an established supply company or privately

4.11 A Member shall ensure that all relevant persons, including representatives employed by the Member are aware of the requirements of this Code and the responsibilities inherent in membership of the Association.

4.12 Members will cooperate with the Guild in the investigation of a problem or a complaint, which may from time to time arise with respect to the compliance of this Code.

4.13 Members will cooperate to whatever extent they are reasonably able in programs conducted by the Guild, either on its own or in collaboration with Government authorities, which are aimed to educate the user or the consumer in the safe and proper use of industry related products.

4.14 Members will assist the Guild and/or Government authorities and industry bodies to the full extent that they are able in consideration of any existing regulations or voluntary schemes aimed at achieving high levels of practice within the industry.

4.15 Members will draw to the attention of the Guild any information, which may lead to improvement in standards of correct and safe use of industry related products.

4.16 Members will draw to the attention of the Guild any tattoos applied by amateur operators and if possible the name and whereabouts of the individual, that they



encounter within their studio/business practice.

4.17 Members may, by virtue of belonging to other industry associations, be required also to conform to codes of practice of such other associations.

4.18 Requests for information on non-prescription consumer aftercare products must be answered in a balanced way to avoid the risks of raising unfounded hopes or fears in the public mind as to the results of the use of such medicines.

4.19 Members will adhere to the guidelines for the training of new entrants to industry as are set out within the ATG Guidelines for Training New Entrants.

EXPLANATORY NOTES

4. PRINCIPLES OF PRACTICE

4.11 Members are responsible for the behaviour of their employees and agents. Members should therefore ensure that appropriate training is available and that all relevant persons understand the Code and comply with its requirements. It is especially important that representatives who have direct contact with consumers are made aware of the importance of maintaining the standards and integrity of professional tattooists.

5. OBLIGATION TO THE CLIENT

GENERAL PRINCIPALES

5.1 This section of the Code applies to members of the general public who employ the services and become a client of a Member of the Guild.

5.2 Members have obligations to their clients to carry out their professional work conscientiously, competently and in a professional manner.

5.3 Members should exercise judgement with due regard to relevant technical and professional standards when performing all professional services. Learned and professional judgement should take precedence over any other motive in the pursuit of the art, craft and business of tattooing.

5.4 Members must perform their professional work with due skill, care and diligence.

5.5 Members must carry out their professional work without undue delay and, as far



as it is within their powers, within an agreed reasonable time frame.

5.6 Members must keep their client informed of the progress of work undertaken on the client's behalf and any issues that may affect its quality or cost.

5.7 Members must disclose to clients significant circumstances known to them that could be construed as creating a conflict of interest, and must ensure that such conflict does not compromise the legitimate interests of such persons or interfere with the tattooist's duty to render impartial judgement in relation to services rendered.

5.8 Members must at all times afford clients respect and equanimity, eschewing judgement and accepting differences in beliefs, values and perception.

5.9 Members may not refuse services to any person based on their ethnicity, age (tattooing of minors excluded), gender, religious or political persuasion. In engaging with others in tattooing work, artists should strive to create a climate of equality and openness in the client-professional relationship.

5.10 Members must communicate about tattooing sessions, offering clients a clear and concise description of what tattoo sessions involve and especially with respect to possible effects [focal and side effects] and professional fees.

5.11 Members must be apprised of and utilise at all times the requirements of the Associations Duty of Care in all aspects of the relationship with clients. This includes attending to client needs prior to, during and post-sessions.

5.12 Members must ensure clients are aware of any known potential effects on their health from the tattoo process should their current health be compromised by an existing condition which has been disclosed to the member.

5.13 The services that a member delivers should be of a kind that preserves the dignity and autonomy of the client and in no way sully the privacy, physical, sexual, financial or psychological integrity of the client.

5.14 Members must ensure that clients are not tattooed by or advised in regard to the procedure and aftercare of the tattoo by a trainee tattooer unless prior consent is sought from the client.

5.15 Information about non-prescription consumer aftercare products must be



current, accurate, balanced, and must not mislead either directly, by implication, or by omission. Points of comparison should be based on facts which have been previously substantiated and reflect the body of scientific evidence or experience at the time the advertisement or information is published.

5.16 Members must refrain from using any pigment or other industry related product in the procedure of tattooing that has been recalled by either their State Health Department, the Guild or RAPEX.

5.17 Appropriate written materials, which describe the recommended aftercare of the tattoo must be provided to the client.

6. OBLIGATIONS TO THE PROFESSION

GENERAL PRINCIPALS

6.1 Members have an obligation to uphold the integrity and dignity of the profession, and must in every circumstance conduct themselves in a manner that respects the legitimate rights and interests of others.

6.2 Members must pursue their professional activities with honesty and fairness.

6.3 Members must not take as a co-owner an unsuitable person such as:

(i) a person whose name has been removed from any ATG Register of Tattooist's otherwise than at his or her own request

(ii) a person disqualified from membership pursuant to the standards and process prescribed in the ATG's constitution;

6.4 Members must establish and maintain:

(i) adequate professional premises which are of appropriate size and facilities so as to optimise the delivery of services and maintenance of privacy.

(ii) premises that embody standard occupational health and safety provisions as well as conforming to local fire and health department standards.

6.5 Members must ensure the public's well being whilst in the studio environment.

6.6 Particular care should be taken when allowing children in the premises.



- 6.7** Studio and premises should be considered a sterile environment. Any outside elements that threatens the cleanliness of the tattoo premises, such as animals entering the premises should not be tolerated.
- 6.8** Records of client details in the form of a release form, which is easily recoverable, and which conform to professional standards. These records should be safely stored and contained within the framework of confidentiality.
- 6.09** Members have an obligation to respect and acknowledge the professional aspirations and contributions of their colleagues.
- 6.10** Members must not discriminate on grounds of race, religion, disability, marital status, or gender.
- 6.11** Members must not maliciously or unfairly criticise or attempt to discredit another tattooist of their work.
- 6.12** Members must, if approached to undertake a piece for which it is known, or should reasonably be known, that another tattooist is currently working on or preparing for, request for the client to notify the other tattooist.
- 6.13** Members must provide their associates, contractors or employees with a suitable working environment, compensate them fairly, and facilitate their professional development.
- 6.14** Members must not claim ownership of another tattooist's original design of published work through direct and obvious reproduction of said work.
- 6.15** Members who undertake the training of a new entrant to industry must abide by the ATG Guidelines for Training New Entrants to Industry.
- 6.16** Members who undertake the training of a new entrant will register with the ATG and to the best of their ability observe the ATG Recommendations as outlined within the Guidelines for Training New Entrants to Industry.
- 6.17** Members will display the ATG Logo at a prominent position on the front window/door or a position that is viewable by consumers in their studio.



7. AWARENESS ACTIVITIES

GENERAL PRINCIPALS

Awareness Activities may provide information, promote awareness and educate the public about health, disease and their management when related to tattooing.

Awareness Activities can provide relevant information to consumers and enhance their awareness of the dangers of being tattooed by a non-professional practitioner.

Awareness Activities can provide general information about the ATG and its Members.

Objectives

The need to create such awareness may arise from the availability of unregulated and untested pigments and tattoo related equipment via online commerce.

Accordingly, Awareness Activities should:

- inform consumers of the availability of Professional Tattooists in their area;
- emphasise that the Professional Tattooist is a member of the Guild and therefore adheres to the Codes and Standards as are prescribed by the Guild;
- convey information of an educational nature;
- focus on building consumer awareness

8. RELATIONSHIPS WITH STAKEHOLDERS

8.1 General

Interactions between Members and Stakeholders, must be ethical and consistent with this Code. All interactions should be able to withstand public scrutiny and should not discredit, or be likely to discredit, the Industry, the Organisation or Members.

In addition to these general requirements, Members must comply with the following specific requirements.



- 8.2** where co-regulatory arrangements for licensure at a state level exist Members must ensure that all requirements of the state-licensing regime are met.
- 8.3** where requirements for health certification exist Members must ensure that certification is obtained and current.
- 8.4** current state health guidelines must be observed by Members at all times.
- 8.5** all Members of the ATG may seek assistance from the Management Committee in any issues related to the licensing or registration process in their state.
- 8.6** the ATG Management Committee may submit any written documentation to a relevant Government department on behalf of its Member.
- 8.7** Members of the ATG Management Committee or State Representatives of the ATG may accompany a Member to any Government Board, Panel or Tribunal hearing and where directed by the Member speaks or provides representation on their behalf.
- 8.8** where a current license of a Member is to be renewed or re applied for in either NSW/QLD under regulation relating to the *NSW Tattoo Parlours Bill 2012* and the *QLD Tattoo Parlour Bill 2013* and the license is denied by the regulating agency the ATG Management Committee will be notified in writing within 7 working days.
- 8.9** where an application for licensure of a Member is denied in either NSW/QLD under regulation relating to the *NSW Tattoo Parlours Bill 2012* and the *QLD Tattoo Parlour Bill 2013* the ATG Management Committee will be notified in writing within 7 working days.
- 8.10** the Management Committee will be notified in writing within 7 working days of any fines issued to Members for breaches of regulation as defined within the policy of the Administering Agency under regulation relating to the *NSW Tattoo Parlours Bill 2012* and the *QLD Tattoo Parlours Bill*.
- 8.11** where the ATG Code of Practice exists as a mechanism within legislation the Member shall meet all requirements as are defined by the ATG for entry to industry.



PROVISIONS OF THE CODE

PART B: MANAGEMENT OF THE CODE

9. ADMINISTRATION OF THE CODE

9.1 The administration of the Code shall be:

- supervised by the Committee of Management*
- coordinated by the Executive Director, and
- monitored and reviewed by the Subcommittee*

9.2 The Ethics Subcommittee will appoint a Code of Practice Complaints Panel to participate as and when necessary in the administration of the Code in accordance with Sections 10, 11 and 12 of the Code. Members of the Complaints Panel* shall hold office for one year and shall be eligible for re-appointment.

As a condition of appointment all members of the Complaints Panel must enter into a confidentiality agreement regarding the deliberations of the Complaints Panel in the form determined by the Subcommittee. This confidentiality agreement will not apply to the determinations of the Complaints Panel.

9.3 The Ethics Subcommittee shall ensure that the external members of the Complaints Panel are independent of the Guild and its Members, of high public standing and with demonstrated experience and ability in the respective areas of expertise they bring to the Complaints Panel.

9.4 The Complaints Panel shall comprise a lawyer with trade practices experience; a community member representing consumers; three Industry members, being members of the Committee of Management or Members of Professional Industry Supply companies or their nominee on a rotating membership; a nominee from a broad-based representative consumer/community organization.



The Chair of the Complaints Panel shall be the lawyer with trade practices experience or his/her alternate, also a lawyer with trade practices experience.

The Ethics Subcommittee may appoint an alternate to officiate in the absence of a member.

When the Complaint concerns CHI, the Complaints Panel will include a non-voting observer with expertise in the writing of CHI.

A member of the Complaints Panel having an interest in the subject matter of a complaint or likely to have a conflict of confidentiality in hearing the complaint, may not sit to hear that complaint unless the parties* to the complaint otherwise agree but shall be replaced by an alternate having the same qualifications for appointment as the member. The Complaints Panel will be convened only to hear and make findings and determinations on complaints/disputes. The quorum for the Complaints Panel shall be five, two of whom shall be external members.

Member's of Industry Supply companies or their nominees (being employees of Member companies) may, unless a party to a particular complaint objects, by arrangement with the Executive Director and upon signing a confidentiality agreement in the form determined under section 9.2 of this Code, attend as an observer any meeting of the Complaints Panel, except where confidential information has been provided to the Complaints Panel.

9.5 To ensure that the Code accurately reflects current community standards and values, the Ethics Subcommittee shall regularly (and at minimum annually) review the Code. The Ethics Subcommittee, in consultation with the external members of the Complaints Panel and other Stakeholders identified by the Subcommittee, shall consider ways in which the Code should be amended and/or updated and shall formulate recommendations to the Committee of Management.

9.6 To ensure that all Stakeholders are aware of complaint procedures and previous decisions about complaints, the Executive Director after removing any confidential information, shall publish determinations of the Complaints Panel, determinations of the Arbiter and the relevant information to the complaint on the public section of the ATG website.



Once determinations are published, ATG shall also publish and keep up to date on its website in the Member's section a tabulation listing:

- Complaint number and date of determination hyperlinked to the determination
- Member/ Supplier Member Company name
- Claims and conduct the subject of the complaint
- Panel findings, classification of breaches and sanctions
- Appeal outcomes hyperlinked to Appeal determination, ensuring the integrity of the complaints

Because the integrity of the complaints handling mechanism depends on the Complaints Panel and the Arbiter operating independently of the Association, it is inappropriate for the Executive Director and staff (who provide administrative support) to comment on their decisions.

9.7 A copy of the Code will be displayed on the ATG website and be available to be viewed by Members and the general public at all times.

10. COMPLAINT PROCEDURE

For the purposes of the Complaint Procedure, "Member" includes non-member companies agreeing to be bound by the Code (refer definition of "Member").

10.1 Policy

It is the policy of the Guild that all complaint procedures will be administered in accordance with general principles of fairness.

10.2 Complaint Handling Procedure – General

10.2.1 A complainant is not precluded from resorting to litigation but the Complaints Panel must not consider a complaint while its substance is the subject of pending court proceedings.

10.2.2 A party to a complaint must notify the Executive Director immediately upon becoming aware of any court proceedings concerning the substance of the complaint.



10. COMPLAINT PROCEDURE *Continued*

10.2.3 Upon receiving a complaint concerning the advertising or promotion by a Member of a non-prescription aftercare product, the Executive Director must

- a) notify the Committee of Management; and
- b) consider whether the Therapeutic Goods Advertising Code may have been breached. Where this likelihood exists, the Executive Director must ascertain whether the complainant has approached the Complaints Resolution Panel. If not, the Executive Director must ensure that the relevant authority is made aware of the complaint. However, ATG retains the right to consider the complaint in relation to the ATG Code and to apply sanctions, where appropriate.

10.2.4 Upon receiving a complaint concerning the use of a recalled pigment or industry related product by a Member, the Executive Director must

- a) notify the Committee of Management; and
- b) consider whether the State Health Departments Guidelines may have been breached. Where this likelihood exists, the Executive Director must ascertain whether the complainant has approached the Complaints Resolution Panel. If not, the Executive Director must ensure that the relevant authority is made aware of the complaint. However, ATG retains the right to consider the complaint in relation to the ATG Code and to apply sanctions, where appropriate.

10.2.4 The Executive Director must ensure all complaints are acknowledged in writing within seven working days of receipt and are handled as expeditiously as possible.

10.2.5 The Executive Director must ensure that details of the complaint are notified to the Chief Executive, of the Member whose conduct is the subject of the complaint.

10.2.6 The Executive Director may, from time to time, make available for the guidance of Members, copies of previous determinations of the Complaints Panel and of the Arbiter (excluding confidential matters). Complaints Panel members and the Arbiter may receive such material to assist them in making their determinations. Members proposing to make complaints or responding to complaints may receive such material for the purposes of their conduct of the complaint or of their response to the complaint.



10. COMPLAINT PROCEDURE *Continued*

10.2.7 Prior decisions, although of instructive and persuasive value, are not binding on the Panel or the Arbitrator.

10.3 Complaints From Consumers And Other Persons Outside The Industry

10.3.1 Complainants are encouraged to contact the Member concerned prior to lodging a complaint, as a satisfactory solution may be immediately available.

10.3.2 Where a complaint is made by a consumer or other person outside the industry, the complainant may simply state the nature of the conduct to which objection is taken and give the reason(s) for the objection. Where the complaint is based on procedural issues, supporting literature is desirable to ensure a balanced review.

10.3.3 The Member whose conduct is the subject of the complaint must be given full details of the complaint. The Member must provide such references and information as the Executive Director may require. The Member must respond to the complaint within 10 working days.

10.3.4 ATG will provide to the complainant a copy of the Member's response. The complainant may deliver to ATG within 5 working days any reply it wishes to make. ATG will send a copy of the reply to the Member.

10.3.5 All material provided by the parties in accordance with the provisions of this Code will be considered by the Complaints Panel.

10.4 Industry-Generated Complaints

10.4.1 Informal procedures

10.4.1.1 Members are encouraged to seek to resolve their differences informally both before invoking the formal procedures described below and at any time before final determination of a formal complaint. No informal communications may be sent to ATG nor communicated to the Panel or the Arbitrator.



10.4.1.2 If the complaint is resolved by agreement after the initiation of the formal

10. COMPLAINT PROCEDURE *Continued*

complaint process and before final determination of the complaint (whether by the Complaints Panel or by the Arbitrator), the complainant (or, in the case of an appeal, the appellant) must inform the Executive Director immediately and the complaint will be treated as withdrawn.

10.4.2 Formal procedures

10.4.2.1 Industry-generated complaints should not be used simply as a competitive tool.

10.4.2.2 Subject to any contrary order of the Arbitrator on Appeal, the unsuccessful party to an industry-generated complaint must reimburse ATG its out-of-pocket expenses associated with the determination of the complaint (such as fees payable to the Panel Chair) unless the Panel determines that each party should contribute a specified proportion, in which case each party must contribute that proportion. This payment is separate from and in addition to any fine payable to ATG in accord with the schedule of fines outlined in Clause 11.2.3.

10.4.2.3 If the complaint is resolved by agreement after the initiation of the formal complaint process and before determination of the complaint by the Complaints Panel, the parties must bear ATG's out-of-pocket expenses associated with the complaint in such proportions as they may agree or, failing agreement, in equal shares.

10.4.2.4 Industry-generated complaints must be initiated by letter from the complainant to the respondent in hard copy and, to the extent practicable, electronically, stating that it is a formal complaint under the ATG Code of Practice. Everything on which the complainant proposes to rely should be included because generally there will be no opportunity to add anything later. Therefore the formal complaint should:

- include details of the perceived breach
- if the breach relates to unsatisfactory and unprofessional tattooing include where possible images of this work if applicable;
- explain why it is said this Code has been contravened;



- specify the section or sections of this Code said to have been contravened; and
- identify the category of breach.

The formal complaint should not be sent to ATG at this stage.

10. COMPLAINT PROCEDURE *Continued*

10.4.2.5 Any formal response which the respondent wishes to make to the formal complaint must be delivered to the complainant in hard copy and, to the extent practicable, electronically, within 10 working days of receipt of the hard copy of the formal complaint or within such further time as the complainant, acting reasonably, may allow. The formal response must state that it is a formal response under the ATG Code of Practice. The formal response should contain everything on which the respondent wishes to rely because generally there will be no opportunity to add anything later. The formal response should not be sent to ATG at this stage.

10.4.2.6 If the complainant is not satisfied with the formal response, the complainant may invoke the ATG complaints resolution procedure by sending to ATG 10 hard copies of both the formal complaint and any formal response and, to the extent practicable, one copy electronically, and state that it wishes the Panel to resolve the complaint. The complainant must, at the same time, also send one hard copy of this material and, to the extent practicable, one copy electronically, to the respondent.

10.4.2.7 Neither the complainant nor the respondent may send to ATG or to any member of the Panel any informal correspondence between the parties.

10.4.2.8 If a formal response was delivered out of time, the complainant must nevertheless include copies of the response in the material provided to ATG, and, if it objects to the Panel considering the response, must state so, with its reasons. In such a case, the Panel Chair must ask the respondent to show cause why the Panel should take the response into account. If and only if the Panel Chair decides that the response should be received despite being delivered out of time, the Executive Director must ensure the response is placed before the Panel for its consideration. The decision of the Panel Chair on this issue shall be final.

10.4.2.9 Unless the Panel Chair has decided to place a late response before the Panel, the Panel must determine the complaint without regard to a late response.

10.4.2.10 The Panel must determine the complaint solely with regard to the formal



complaint and any formal response that was made within time or placed before the Panel upon a decision of the Panel Chair pursuant to the previous paragraph. In exceptional cases, the Panel or the Panel Chair may allow further written material to be put before the Panel and may allow an opportunity to respond to it. The question whether a late response should be taken into Account cannot be considered an exceptional circumstance.

10. COMPLAINT PROCEDURE *Continued*

The Panel may invite both parties to the complaint to attend the Panel meeting either in person or electronically solely to answer any questions from the Panel directed to clarifying issues arising out of the formal complaint and the formal response. No new written material will be accepted at this stage nor will a party be permitted to introduce new arguments. Both parties are entitled to hear each other's answers. A transcript of the questions and answers will be made available to the Panel and, in the event of an appeal, to the Arbitrator.

10.4.2.11 Where the parties have determined that they do not wish to attend and once all members of the Complaints Panel have received from ATG copies of the complaint and the response electronically and, to the extent unavailable electronically, in hard copy, they may consider and discuss complaints in a secure, password-protected online chat room on the ATG website and, if all members agree to do so, may determine the complaint without meeting face to face. Where a member desires to ask a question of a party, as contemplated by clause 10.4.2.10, the Panel must meet face to face.

10.5 Panel Procedures For All Complaints

10.5.1 Should a complaint concern a Member represented by a person who is a member of the Complaints Panel, the person shall, for that complaint, disqualify himself or herself and another Industry member shall act as a member of the Complaints Panel.

10.5.2 The Complaints Panel shall consider all information provided in accordance with the provisions of this Code before making any decision. Where the Complaints Panel is hearing a complaint about CHI, the Complaints Panel may elect to refer an issue to the CHI Quality Assurance Reference Group for comments, prior to the Complaints Panel completing its deliberations.



10.5.3 Should the Complaints Panel consider that no breach of the Code has occurred, it shall so advise the Executive Director, with reasons.

10.5.4 Should the Complaints Panel consider that a breach of the Code has occurred, it shall determine appropriate sanctions as provided for under Section 11 of this Code and advise the Executive Director of its findings and determinations, with reasons.

10.5.5 Within seven working days of the Panel meeting, a Draft Determination will be provided to the parties to the complaint. Within five working days each party may notify the Panel Chair of any claimed inconsistencies and ambiguities in the draft

10. COMPLAINT PROCEDURE *Continued*

determination and must at the same time notify the other party. (This is not an opportunity to re-argue the case but rather to point out some inconsistency or ambiguity in the reasoning.) Within three working days i.e 3 days after a party has claimed an inconsistency either party may provide comment i.e. on the inconsistency claimed by the other party to the Panel Chair, who will make any changes to the draft that the Panel Chair considers necessary to address any demonstrated ambiguities or inconsistencies. Within 5 working days i.e. after party 2 has commented on the claim by party 1 and vice versa the Panel Chair must then provide the Final Determination to the Executive Director who must notify the parties and the ATG Committee of Management of the Complaints Panel's findings and determination, with its reasons.

10.5.6 If the Complaints Panel identifies a possible breach of the Code not raised by the complainant, the Complaints Panel may draw the possible breach to the attention of the Member (with sufficient particularity for the Member to understand the respect(s) in which a breach may be established) and may request a response from the Member. If the Complaints Panel finds a breach established, after having considered the Member's response in light of all other material before it, the Complaints Panel may classify the breach and impose sanctions pursuant to section 11 of this Code.

10.5.7 The Executive Director must ensure that the parties to the complaint are advised of the appeal procedures contained in Section 12 of this Code.



Annual Report

The Executive Director shall publish annually a report of all matters arising under Sections 11, 12 and 13 of this Code, including the names of the parties, the nature of the complaint, the stage reached and what sanctions, if any, have been imposed.

11. SANCTIONS

11.1 Breaches

11.1.1 Where a breach of the Code has been established, the Complaints Panel must first classify what kind of breach has occurred, in accordance with the classification set out below:

Minor Breach: a breach of the Code that has no safety implications and will have no effect on how consumers or other Members view the industry

Moderate Breach: a breach of the Code with no safety implications but will impact on the perceptions of the consumer or other Members regarding the integrity of Industry

Severe Breach: a breach of the Code that has safety implications or will have a major impact on how consumers or Members view the integrity of industry

Repeat Breach: when the same or a similar breach is repeated, which had been found to be in breach of the Code within the preceding 24 months.

11.1.2 After classifying the breach, the Complaints Panel must consider whether or not it will impose any sanctions. The Complaints Panel is not obliged to impose a sanction where breaches of the Code have been established.

11. SANCTIONS *Continued*

11.1.3 In determining whether or not to impose a sanction and, if so, what that sanction should be, the Complaints Panel will consider all the circumstances of the case, including whether:

- behaviour or practice has ceased;
- steps have been taken to rectify the issue;
- corrective statements have been made;



- the breach was deliberate or inadvertent;
- the Member that is the subject of the complaint has previously breached the Code;
- there were or are safety implications; and
- the perception of industry professionals or consumers has been or will be affected.

11.2 Sanctions Able To Be Applied By The Complaints Panel

11.2.1 Undertaking to discontinue issue/ practice

The Complaints Panel may require the Member to give an undertaking in writing to discontinue any practice which has been determined to constitute a breach of the Code on or before a date determined by the Complaints Panel, such date being determined in line with the severity of the breach of this Code.

The Panel may require the undertaking to oblige the Member to cease application of a particular method of tattooing until a demonstration and substantiation of the competency of the Member can be provided to the Panel.

Where a breach of 6.1.4 involving failure to provide substantiation is found, the Panel may direct the Member to provide substantiation to the complainant, within such time as the Panel may specify.

11.2.2 Retraction and/or corrective statements

The Complaints Panel may require the Member to issue retraction statements and/or corrective statements and/or to use its best endeavours to rectify behaviours/practices found to be in breach on such conditions as the Complaints Panel specifies, as appropriate.

11. SANCTIONS *Continued*

The format, method, undertaking or course to rectify the breach shall be specified by the Complaints Panel in its determination and will in general conform to the original statement. This does not preclude the party that is the subject of the complaint from suggesting amendments to the retraction or corrective statements and to the associated directions. Such suggested amendments must be made to the Panel Chair within five working days of receipt of the Draft Determination and must be notified to



the other party at the same time. Within three working days the other party may provide any comment to the Panel Chair. The Complaints Panel through its Chair is under no obligation to accept the suggested amendments. Subject to the appeal process set out in the Code, the decision of the Complaints Panel is final. The time for lodging an appeal is unaffected.

11.2.3 Fines

The Complaints Panel may issue a fine to the subject Member/company in accordance with the schedule of fines, detailed below. The fine to be paid within 30 days of being advised subject to any appeal that may be lodged under Clause 11.2 of the Code.

BREACH	FINES
Minor Breach	NIL
Moderate Breach	Maximum: \$5,000
Severe Breach	Maximum: \$10,000
Repeat Breach	Maximum: \$20,000

11.2.4 Failure of the offending Member to comply with any of the above sanctions shall entitle the Complaints Panel to direct the Guild to publish in the next edition of the Guild's Newsletter details of the breach of the Code and the Guild's consequent requirements for remedial action as described in 11.2.1, 11.2.2 and 11.2.3.

11.2.5 Continued refusal by the offending Member to undertake the required remedial actions shall entitle the Complaints Panel to direct the Guild to publish details in the trade press of the Member's breach of the Code, the Guild's requirements for remedial action/s and the prospect of suspension or expulsion from the Guild in the event of the continued failure by the Member to comply, and notify the appropriate government agency if deemed necessary.

11. SANCTIONS *Continued*

11.2.6 A Member found in breach and directed to take remedial action is required to demonstrate to ATG that such action has been taken. This may include providing details of clients lists used as well as an inspection of premises by a State Representative of the ATG or Member of the Management Committee or Ethics Panel.



11.2.7 One or more of the following sanctions against a Member notified in writing may be applied by the Complaints Panel where breaches of Clause 8.1 of the Code have been established.

11.2.7.1 That the Member discontinue immediately distribution of the CHI.

11.2.7.2 That corrective measures be taken to redraft the CHI in accordance with the findings of the Complaints Panel.

11.2.7.3 That the Member issues retraction and/or corrective statements, as appropriate, flagging the redrafted CHI.

11.2.8 Abuse of the Code

If in the course of hearing a complaint lodged by an Industry member, the Complaints Panel considers that the complaint has been submitted as a competitive tool and for vexatious reasons, the Complaints Panel may request the complainant to show cause why the Complaints Panel should not impose a charge of \$10,000 for vexatious use of the Code.

11.3 Sanctions Able To Be Applied By Committee Of Management

11.3.1 The Complaints Panel may recommend to the Committee of Management application of further sanctions. Such further sanctions may consist of one or more of the following or any other action deemed appropriate by the Committee of Management, under the procedures laid down in Section 11 of the Code.

11.3.1.1 Suspension of the Member from the Guild for a period to be determined by the Committee of Management, under the provisions of the Rules* of the Guild.

11.3.1.2 The expulsion of the Member from the Guild, under the provisions of the Rules of the Association.

11. SANCTIONS *Continued*

11.3.1.3 Notification, wherever applicable, to client and employing studio of the offending Member of its expulsion from the Association.

11.3.1.4 Notification of the offending Member's suspension and/or expulsion from the Association to the editors of all trade journals.



12. RIGHT OF APPEAL

For the purposes of the appeal procedure, “Member” includes non-member companies agreeing to be bound by the Code (refer definition of “Member”).

12.1 Compliance With Sanctions

In the event of a Member being required by a determination of the Complaints Panel to cease a procedural activity, the Member shall make every endeavour to comply with the ruling as soon as the Member receives the Draft Determination, pending any appeal against the decision pursuant to this Code. A procedural activity thus suspended shall not be recommenced before the appeal process has been concluded, nor shall any similar procedural activity be commenced during the period in question.

12.2 Appeal Against Determinations Of The Complaints Panel

The appeal process will be conducted following the principles of fairness and equity for both parties to the appeal process. The appeal will have regard to section 10.3 and 10.4 of the Code of Practice.

12.2.1 A party dissatisfied with a Final determination of the Complaints Panel may, within 10 working days of being notified of the determination, lodge a written appeal to the Executive Director or President of the ATG setting out the grounds for objection.

12.2.2 The unsuccessful party to an industry generated appeal must reimburse ATG its out-of-pocket expenses associated with the determination of the appeal (such as fees payable to the Arbiter) and of the complaint (such as fees payable to the Panel Chair) unless the Arbiter determines that each party should contribute a specified proportion, in which case each party must contribute that proportion. This payment is separate from and in addition to any fines payable to ATG in accord with the schedule of fines outlined in clause 11.2.3

12. RIGHT OF APPEAL *Continued*

12.2.3 If the complaint is resolved by agreement after the initiation of the formal complaint process and before determination of the complaint by the Arbiter, the parties must bear ATG’s out-of pocket expenses associated with the complaint in such proportions as they may agree or, failing agreement, in equal shares.



12.2.4 The Committee of Management will be advised of the appeal lodgement within 7 working days.

12.2.5 The appeal shall be held not later than 28 days after receipt of the written appeal. The parties shall be advised of the date, time and place of the appeal meeting and any adjournment thereof.

12.2.6 The appeal shall be determined by an independent person (the “Arbiter”) appointed by the Ethics Subcommittee with appropriate legal and trade practice expertise and not involved in any previous hearing of the particular complaint, sitting alone on an at-call basis. Parties to the appeal shall not introduce medical expertise to assist the Arbiter in deliberating the scientific or medical aspects of the appeal. The arbiter can request that the ATG Executive Director or President appoint an independent scientific or medical expert to advise the arbiter in their deliberation.

12.2.7 Three copies of the written appeal shall be received by the Executive Director or President and a copy will be provided to the consumer/ company which lodged the original complaint and the Arbiter. The responding Member/company will have 10 working days within which to provide three copies of any written response to the appeal to the Executive Director, should it so wish. The written response will be forwarded to the appellant Member/ company and to the Arbiter.

12.2.8 To avoid the appeal becoming a new hearing on fresh material, the materials to be considered by the Arbiter shall be confined to the evidence that was before the Complaints Panel; the determination and reasons of the Complaint Panel and any written submissions of the parties. In exceptional circumstances the Arbiter may decide to accept material that was not available when the complaint was heard by the Complaint Panel, such as new published material or changes to Members registration.

12.2.9 The parties will indicate in writing whether they wish to attend and speak at the meeting. The party may appear in person or through representatives or both. The names and positions of the nominated persons are to be notified to the Executive

12. RIGHT OF APPEAL *Continued*

Director prior to the date of the appeal meeting who will then inform the Arbiter prior to the meeting.



Chief Executive Officers of Member companies or their nominees (being employees of Member companies) may, unless a party to a particular complaint objects, by arrangement with the Executive Director and upon signing a confidentiality agreement in the form determined under section 9.2 of this Code, attend as an observer any appeal meeting, except where confidential information has been provided to the Arbiter.

12.2.10 At the appeal meeting referred to in 12.2.2 and 12.2.6 above, the Arbiter shall ensure proper consideration of the appeal, whilst not being bound by the rules of evidence. The Arbiter shall;

a) give the parties the opportunity to make oral representations. In the event of an oral representation, the following procedures shall apply;

- the party bringing the appeal will be heard first and that party shall be entitled to reply to any oral representations made on behalf of the other party;
- with the consent of the Arbiter proceedings may be adjourned for a short time between oral submissions;
- neither party may intervene during the other party's oral presentation, or direct questions to the other party;
- the Arbiter may ask questions of either party and may (but shall not be obliged to) ask a question of a party at the suggestion of the other party.

b) The Arbiter shall give due consideration to any written representations submitted by the parties prior to the meeting.

12. RIGHT OF APPEAL *Continued*

12.2.11 The Arbiter in reaching a determination may confirm, revoke or modify the decision of the Complaints Panel. The Arbiter may request the Complaint Panel to reconvene to reconsider the complaint in the event that;

- a) a procedural error is identified by the Arbiter;
- b) new technical or scientific information is presented.

The procedures of the Complaints Panel under these circumstances will be



determined by the Chair of the Complaints Panel in consultation with the Executive Director. Upon such reconsideration the Complaints Panel may confirm, revoke or vary its previous determination(s).

12.2.12 Within 10 working days following the conclusion of the appeal meeting, the Arbiter shall determine whether to confirm, modify or revoke any determination made or sanction applied or recommended by the Complaints Panel and shall notify the Executive Director in writing of the determination and of the reasons for it. The determination of the Arbiter shall be final, except where the Arbiter recommends suspension or expulsion of a Member.

11.2.13 The Executive Director shall, as soon as practicable, inform the parties in writing of the Arbiter's decision, and shall also inform the Committee of Management where the Arbiter recommends suspension or expulsion of a Member. The Executive Director shall not comment or engage in correspondence in relation to the substance of the decision or reasoning of the Arbiter.

13. MONITORING OF PRACTICE

13.1 Objectives

To support compliance with the ATG Code of Practice, the Monitoring Panel will proactively monitor selected images /material of tattoo work applied by Members on a regular and ongoing basis.

13. MONITORING OF PRACTICE *Continued*

13.2 Aims of the Monitoring Process

- To encourage compliance with the ATG Code of Practice through the review of all printed, audiovisual, computer based and associated product related materials in light of the provisions of the Code.
- To provide comment on compliance issues where requested.
- To provide an ongoing mechanism for the identification of trends in health and practice matters related to the tattoo industry, marketing activities or changes in technology which may indicate the potential need for amendments to the Code of Practice.
- To provide and publish statistical data on the rate of compliance.



13.3 Scope

All forms of promotional material which are not subject to the formal approval process may be reviewed by the Panel.

13.4 Membership Of Monitoring Panel

The Ethics Subcommittee will determine the composition of the Monitoring Panel which will include adequate representation from consumer groups and Industry.

The Chairperson of the Monitoring Panel will be independent of the Australian Tattoo Industry and its member companies.

The Monitoring Sub-Committee is comprised of the following members:-

Permanent Members:

Chairman – independent of ATG and its members

One Member from the industry

One Member of the ATG Secretariat

One Member of a relevant client or consumer support group

Rotating Members;

one member of an industry related company without a conflict of interest.

13. MONITORING OF PRACTICE *Continued*

13.5 Protocol For The Activities Of The Monitoring Panel

This protocol delineates the activities of the ATG Monitoring Panel (MP), which is responsible for the examination of industry practice standards, and linked activities within nominated categories, with regard to compliance with the Code of Practice.

OPERATING PROCEDURES

Specific types of materials will be requested of Member's from within the various categories on a random basis.



Member's will be required to submit to the MP through the Secretariat, nine copies of the selected type of material, issued by the member over a period to be specified by the Committee, e.g. 3 months, for the selected category under review.

It is acknowledged that although the MP has the right to request all types of material relevant to the practice of industry during a review, Members will only be required to submit, within 15 working days of receipt of the request, all material of the type specified by the Secretariat. The Ethics Subcommittee will, from time to time, determine the subject matter to be reviewed by the Monitoring Panel.

A written statement, signed by the Member or their representative confirming that the supplied material constitutes all the selected material for the category under review will be required.

The Chairman of MP and one member of the ATG Secretariat will pre-sort material so that only material that is specifically sought within the required category of the review is sent to panellists for review. In addition large pieces of material will not be sent to panellists but reviewed on the day of the MP meeting.

The Secretariat will provide a copy of each piece of material to each member of the MP at least seven (7) days prior to the meeting date, together with any other relevant information e.g. consumer information, or other observations.

Meetings will be held quarterly to allow time for feedback to the Member and Members response.

If, following the review of the submitted material, the MP considers that there has been a failure to comply with the Code of Practice, the member in question will be contacted in writing by the Secretariat, supplied with the relevant portion of the

13. MONITORING OF PRACTICE *Continued*

Minutes, and asked to give, within 15 working days of receipt of the request, any answer, clarification or explanation deemed necessary. The MP will consider the response and provide if necessary any further advice or comment to the Member or refer the matter on to the Ethics Subcommittee.



13.6 Categories

Technical competence

Consumer welfare / relations

Sterilisation techniques

Teacher – Trainee relations

Professional practice

13.7 Reporting

The MP will report to the Committee of Management as required. In addition, the MP will issue an Annual Report for inclusion in the ATG Annual Report. This Report will include the categories and the type of material reviewed, the number of items reviewed, the number and type of problems detected, and the number of Code of Practice complaints generated.

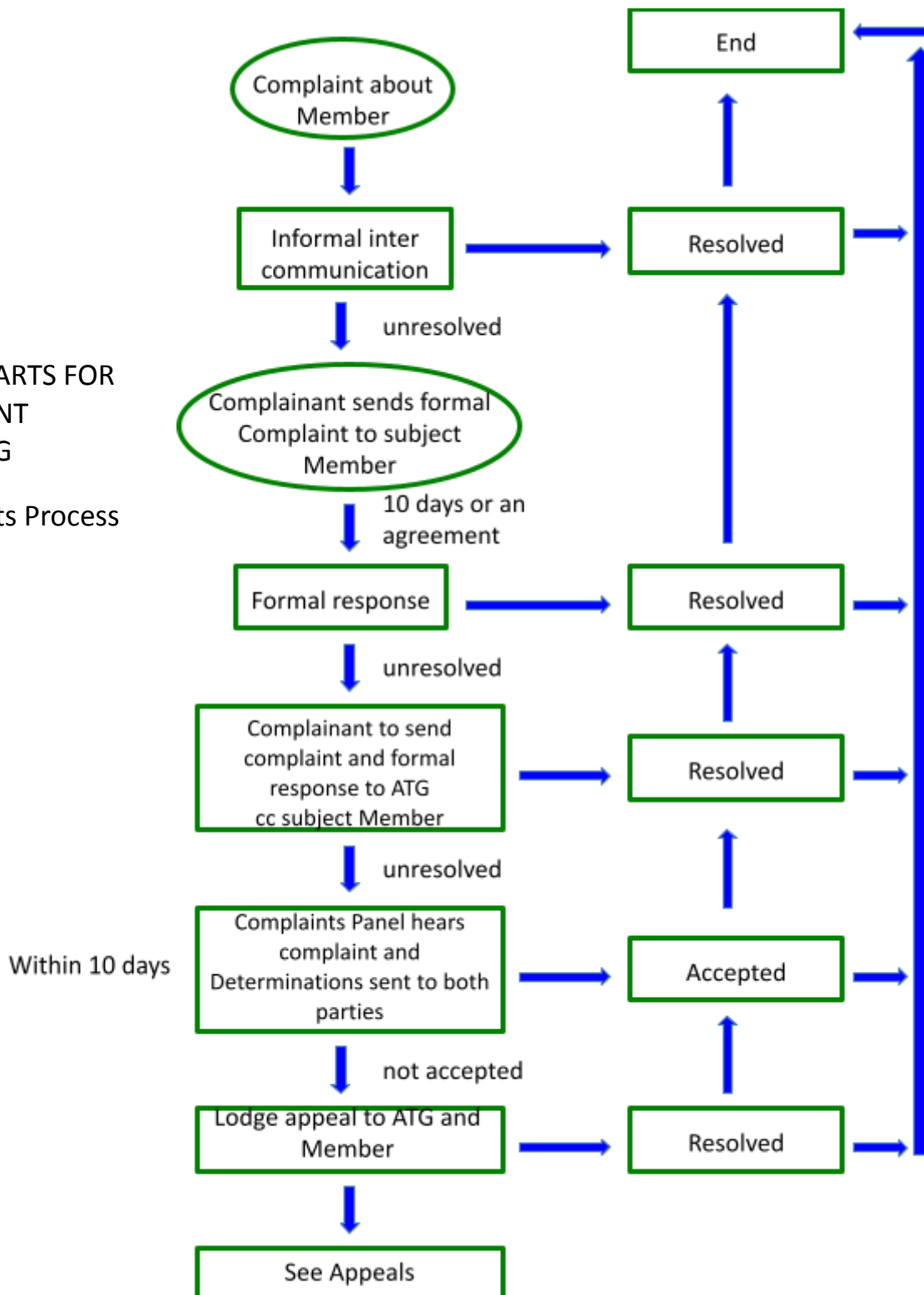
In addition the Monitoring Panel will provide ongoing reports to the Ethics Subcommittee on issues concerning the Code of Practice, which require review.



- FLOW CHARTS COMPLAINT HANDLING

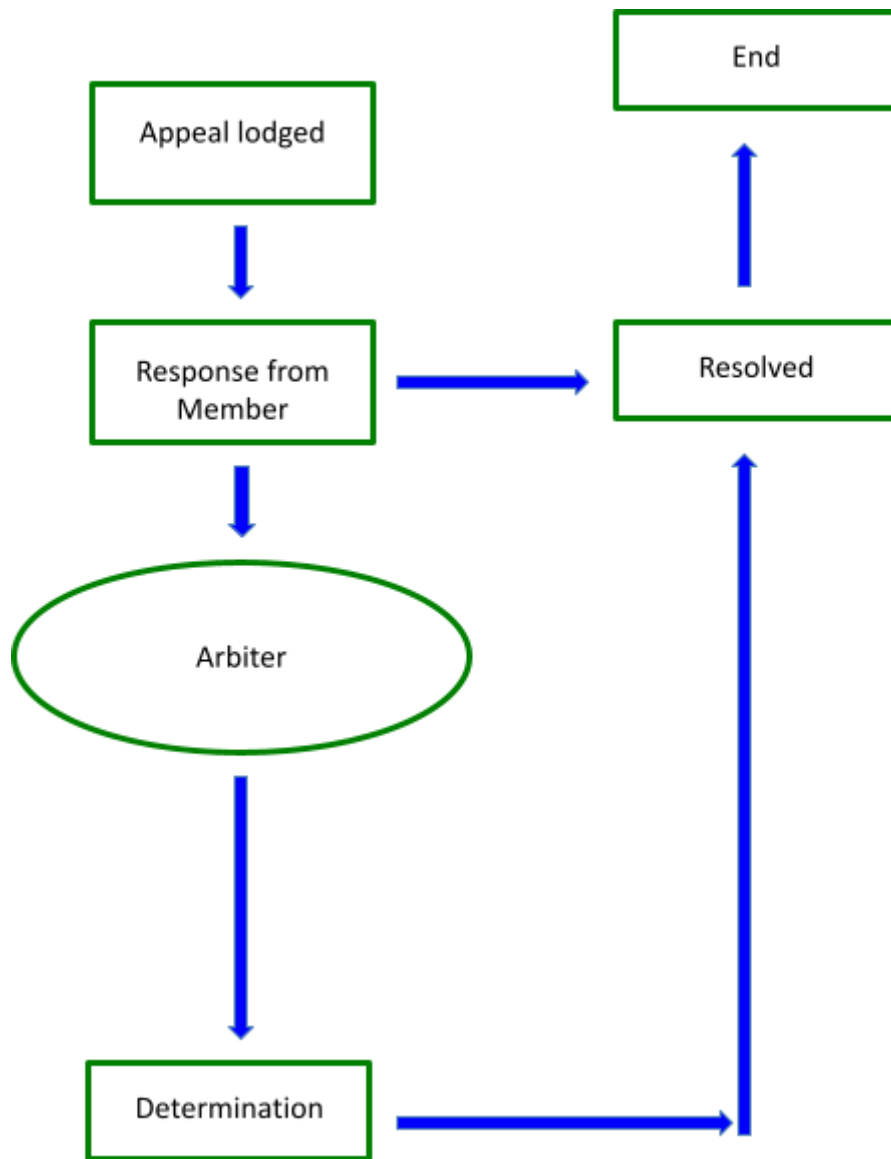
FLOW CHARTS FOR COMPLAINT HANDLING

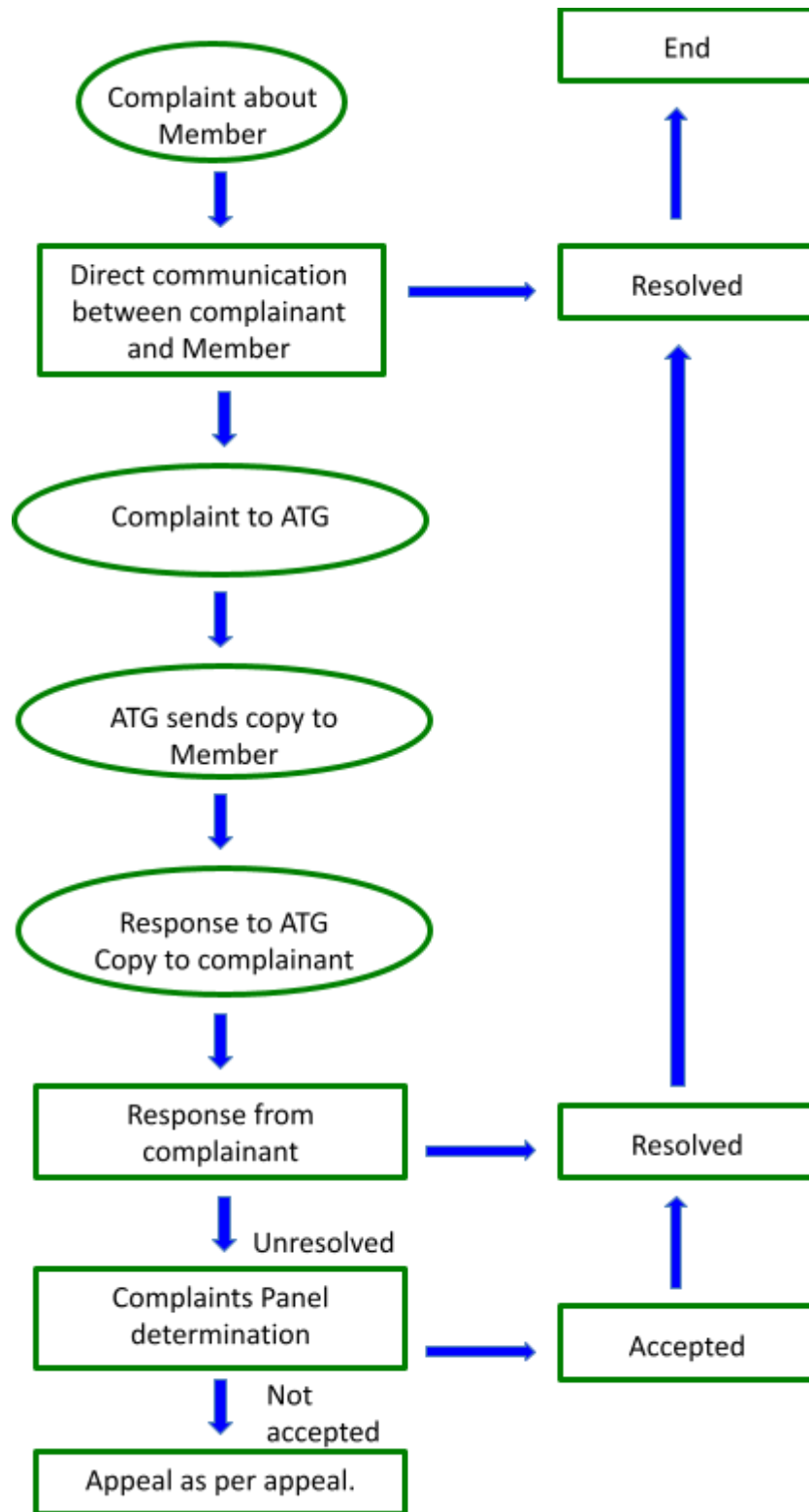
Complaints Process (Industry)





FLOW CHART FOR COMPLAINT HANDLING *Continued*







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