

Complaints and Appeals Process

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**AUTHORSHIP**

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# SCOPE

This document details the process adopted by APAC to ensure a timely, impartial and effective resolution of appeals, complaints and disputes.

# DEFINITIONS

The following definitions apply:

* **Appeal**: request by an APAC Member or Affiliate for reconsideration of a decision APAC has made relating to that member.
* **Complaint:** expression of dissatisfaction, other than appeal, by any person or organization, with some matter related to the activities of APAC, APAC committees, APAC Members, Affiliates, applicants, Secretariat, and/or the MRA processes, where aresponse is expected.
* **Dispute:** Expression of disagreement by any person or organization with some matter related to the APAC Secretariat or committees, APAC Members, Affiliates, applicants and/or the MRA processes, where assistance in resolution is sought.
* **Secretariat:** Staff employed by APAC with delegated powers to administer the policies and procedures of APAC.

# COMPLAINTS

* 1. General

3.1.1 This procedure covers the handling of complaints against APAC or APAC Members or Affiliates.

3.1.2 When first contacted by the complainant, APAC initially categorises their specific complaint as ‘correspondence’ unless otherwise determined. Correspondence is not accepted by APAC as an APAC complaint until it is reviewed for sufficient information and evidence in order to register it as a complaint.

3.1.3 In providing a complaint to APAC, the complainant agrees to their ‘correspondence’ being sent to the relevant APAC Member or Affiliate to allow that APAC Member or Affiliate to undertake their own review, and make a response to the complainant in the first instance.

3.1.4 Upon receipt and review of that response, if the complainant wishes to maintain their complaint against the APAC Member or Affiliate they inform APAC of this decision. APAC may then accept the complaint as an APAC complaint and open a formal complaint investigation.

3.1.5 APAC has limitations as to the nature and type of complaints that it can recognise and investigate (see 3.2.3).

3.1.6 Once an APAC complaint investigation is completed APAC will provide a response to the complainant and the relevant APAC Member or Affiliate.

3.1.7 Sources of complaints may be from a complainant or be referred to APAC by either the International Accreditation Forum (IAF) or the International Laboratory Accreditation Cooperation (ILAC) or by a regional accreditation cooperation.

3.1.8 Disputes that cannot be resolved by other means (see below) may also be addressed by this procedure.

* 1. Lodging Complaints

3.2.1 Complainants lodge complaints with APAC by completing APAC FMS-007 *Complaints Form* and submitting it to the APAC Secretariat with supporting evidence. Anonymous complaints, complaints based on hearsay, complaints not based on first-hand knowledge, made on behalf of other entities, or complaints using false names or contact details, will not be considered.

3.2.2 While APAC does not accept anonymous complaints, it does understand that in some circumstances the complainant may not wish to have their identity disclosed to the APAC Member or Affiliate that they are complaining against. If the complainant does not wish their identify to be disclosed it may indicate this on the APAC FMS-007 *APAC Complaint Form*. All information and evidence to support the complaint from the complainant may be provided to the relevant APAC Member or Affiliate. As such it is the complainant’s responsibility provide information that protects their identify if they so wish.

NOTE APAC will endeavour not to disclose the identity of the complainant if the complainant indicates this but that might not always be possible. For example, the information and correspondence that the complainant provides may reveal their identity, or APAC may have to disclose the complainant’s identify to other parties if it is required by law, or under APAC’s IAF or ILAC obligations.

3.2.3 The complainant should also note that not disclosing their identify may impact on the actions able to be undertaken by the APAC Member or Affiliate in response to the complaint.

3.2.4 APAC can only consider complaints if it pertains directly to an APAC Member or Affiliate, or APAC itself. APAC is not a regulator and has no statutory, legislative or regulatory power or mandate. APAC does not have the role to monitor or ‘police’ conformity assessment practice.

3.2.5 APAC cannot respond to complaints about the following:

| **The complaint is about:** | **You may choose to complain to:** |
| --- | --- |
| * a specific product, service or process
 | The supplier of the product, service or process |
| * a conformity assessment result (e.g. certificate, inspection report, test report; proficiency testing result; validation or verification statement, etc.)
 | The conformity assessment body that supplied the conformity assessment result |
| * conformity assessment bodies or their conformity assessment results that are not accredited by an APAC MRA Member
 | The market regulator in the relevant economy |
| * allegations of illegal practices without a formal legal conviction
 | The market regulator or law enforcement agency in the relevant economy  |
| * allegations of corruption, bribery, or other coercive behaviour without a formal legal conviction
 | The market regulator or law enforcement agency in the relevant economy  |
| * allegations of falsification of documents, forgery, or misuse of intellectual property without a formal legal conviction
 | The market regulator or law enforcement agency in the relevant economy |
| * matters of public or personal health, safety or security
 | The market regulator or law enforcement agency in the relevant economy  |
| * non-technical matters pertaining to APAC Members and Affiliates such as fees, invoicing, levels of service, employment or human resource issues
 | The specific APAC Member or Affiliate or market regulator in the relevant economy |

3.2.6 ‘Correspondence’ that APAC considers vexatious will be dealt with in accordance with APAC MS-005.

* 1. Complaint Processing and Responsibilities

Complaints will normally be processed in the following way (the process and timeframe are indicative only and may vary depending on the nature of the complaint):

| **#** | **Indicative process step** | **Responsibility** | **Indicative timeframe** |
| --- | --- | --- | --- |
| 1 | Complainant lodges their complaint with APAC by completing and submitting the APAC FMS-007 *Complaint Form* with supporting evidence. | Complainant | Start |
| 2 | The complaint is deemed ‘correspondence’ and checked for completeness. It is then sent to the relevant APAC Member or Affiliate for a response. | Secretariat | 14 days |
| 3 | The APAC Member or Affiliate considers the correspondence and makes a response to the complainant with a copy to the Secretariat. | APAC Member or Affiliate | 56 days |
| 4 | After review of the APAC Member or Affiliate response, if the complainant wishes to maintain their complaint they inform the APAC Secretariat.  | Complainant | 14 days |
| 5 | The Secretariat passes the complaint to the APAC Quality Manager for further consideration. If the APAC Quality Manager determines all or part of the complaint ineligible and doesn’t require to be dealt further and/or is outside APAC ’s area of responsibility, the APAC Quality Manager shall inform the complainant with the reasons for the decision. | Quality Manager | 28 days |
| 6 | It the APAC Quality Manager determines that all or part of the complaint is eligible and requires to be dealt with, the APAC Quality Manager shall make a recommendation to the APAC Executive to open an APAC complaint investigation. | Quality Manager | 14 days |
| 7 | The APAC Executive Committee deliberate and make a decision on whether to open an APAC complaint investigation and appoint an Action Officer and/or Ad hoc Group (AHG).  | Executive Committee | 28 days |
| 8 | If a complaint investigation is opened it is recorded in APAC FMS-006 *Complaints Register*. | Secretariat | 7 days |
| 9 | The Action Officer/AHG undertakes the complaint investigation, prepares findings and provides recommended actions to the APAC Executive Committee for its decision.Parties to the complaint may be asked to participate in the investigation of the complaint to clarify issues and to establish the relevant facts. In general, investigation of the complaint shall be by email, however it may be decided to finalise the investigation by a face-to-face or hold online meeting(s) with interested parties. Normally, when requested a party shall respond within 15 working days to provide inputs and responses during the complaint investigation, including detailing any actions taken to resolve the complaint. There may be a need for several rounds of correspondence between the Action Officer/AHG and interested parties. If correspondence is not received from the organisation against which the complaint has been made within the specified timeframe, a reminder will be provided. Extended delays shall be brought to the attention of the APAC Chair. | Action Officer/AHG | 56 days |
| 10 | The APAC Executive Committee review the findings and recommendation of the Action Officer/AHG and make a decision on the complaint investigation. If resolution of the complaint leads to a change in an APAC policy or procedure or to a clarification of a policy or procedure, the final decision on the new or revised policy or procedure shall be concluded in accordance with the APAC’s normal policy and document approval procedures. | Executive Committee | 14 days |
| 11 | The APAC Quality Manager informs the APAC Member or Affiliate of the outcome.Any follow-up actions would normally be carried out and checked for effectiveness at the next scheduled peer evaluation (and if need be, by suitably advancing the peer evaluation). Care shall be taken by the peer evaluation team to investigate the complaint and corrective action based on specific issues raised in the complaint and correspondences generated by the APAC Quality Manager. The report of follow-up shall be reviewed by the APAC Quality Manager to decide on the final disposal of the complaint. | Quality Manager | 7 days |
| 12 | The APAC Member or Affiliate may appeal the APAC Executive Committee decision (see clause 4 below). | APAC Member or Affiliate | 56 days |
| 13 | Subsequent to any appeals process, the APAC Quality Manager or the APAC Secretariat informs the complainant of the completion of the complaint investigation and the complaint file is closed. | Quality Manager | 7 days |

* 1. Complaint Against an APAC MRA Signatory

3.4.1 A complaint concerning the activities of an APAC MRA signatory that impinges on its signatory status shall be referred to the Chair of the APAC MRA Council, who is a member of the Executive Committee. The APAC MRA Council Chair may convene the ad hoc group (AHG), in consultation with the other Executive Committee members. When the complaint involves the body represented by the APAC MRA Council Chair, the complaint shall be referred to the APAC MRA Council Vice Chair.

3.4.2 When relevant, the Team Leader for the next evaluation of the APAC MRA signatory shall be briefed about the complaint and the outcome, and may be asked to follow-up on the satisfactory resolution of the issue as part of the evaluation.

* 1. Complaint Against an APAC Member or APAC Committee

The APAC Executive Committee shall discuss the complaint and decide how to proceed with a complaint against an APAC Member or APAC committee that may include a claim of breach of the APAC Constitution or APAC Code of Ethics. It may also be against the activities or decisions of the APAC General Assembly or of an APAC committee.

* 1. Disputes Between APAC Members

3.6.1 In dealing with a conflict between APAC Members, the APAC Quality Manager shall ask the parties involved to settle the conflict between themselves.

3.6.2 If the parties fail to come to an agreement or if confirmation is needed as to whether the agreement is in line with APAC policies and procedures, the issue shall be referred to the APAC Secretariat for further processing by the APAC Executive Committee.

* 1. Complaint Against Delegate/Participant in an APAC Activity

3.7.1 It is difficult to have a prescriptive process for handling this type of complaint which could be, for example, a complaint against a delegate/observer at an APAC meeting or an evaluator/observer at an APAC evaluation. This complaint could be received by anyone within the APAC community but ideally should be reported in writing as quickly as practicable to the APAC Quality Manager or APAC Executive Committee to facilitate a thorough and fair investigation.

3.7.2 Generally, the APAC Quality Manager as Action Officer, or an ad hoc group appointed by the Executive Committee, will undertake the investigation and clarify details with all parties to the complaint.

* 1. Complaints Register

A Complaints Register (APAC FMS-006) of all complaint investigations shall be maintained by the APAC Secretariat, and include the following:

* Unique number for each complaint;
* Date when the complaint was received by APAC;
* Name and organisation of the individual making the complaint;
* Summary of the complaint;
* Date acknowledged;
* Summary of the action(s) taken;
* Date when the complaint was resolved
	1. Records

As a minimum, the following records shall be kept by the APAC Secretariat:

* Copy of complaint and supporting documents, as well as any additional information provided by any party during the investigation;
* Names of the Action Officer or members of the ad hoc group;
* Copy of the investigation report;
* Copy of the Executive Committee’s decision;
* Copy of final response to complainant;
* Any other relevant correspondence or documents.

# APPEALS

* 1. General

4.1.1 Only APAC Members and Affiliates can lodge appeals. This procedure covers the handling of appeals against decisions made by APAC. Such decisions will generally have been made by the APAC General Assembly or APAC Executive Committee and might include but not be limited to refusal of membership to an applicant organisation, suspension or withdrawal of membership, imposition of a sanction for a breach of the Code of Ethics etc.

4.1.2 The procedure does not include decisions made by the APAC MRA Council relating to APAC MRA signatory status. The procedure for appeals against decisions of the APAC MRA Council is set out in APAC MRA-003 *APAC MRA Council – Rules for its Operation*.

4.1.3 The purpose of the procedure is to determine that the APAC decision was carried out in an appropriate and competent manner, in accordance with APAC policies and procedures, considering the circumstances of each case.

4.1.4 All decisions are normally maintained until the results of the appeals investigation are accepted; variations to this may be considered on a case-by-case basis by the APAC Executive Committee.

* 1. Responsibilities

4.2.1 The APAC Secretariat is responsible for recording the appeal in the Appeals Register (APAC FMS-009), for acknowledging receipt of the appeal, and for referring it to the APAC Quality Manager.

4.2.2 The APAC Quality Manager acting on behalf of the APAC Executive Committee is responsible for the management of the appeals process.

4.2.3 The APAC Chair shall ensure that the composition of any Appeals Panel satisfies the requirement of impartiality and avoidance of conflict of interest.

* 1. Submission of an Appeal

4.3.1 Appeals shall be submitted in writing to the APAC Secretary, with the relevant supporting documentation, within 30 days of the notification of the decision against which the appeal is being lodged.

4.3.2 Lodging the appeal by e-mail is acceptable; however, it is the responsibility of the appellant to ensure that the appeal has been successfully received by the APAC Secretariat.

4.3.3 The appeal shall include:

* The decision by APAC being appealed;
* Details of the basis of the appellant’s appeal;
* The remedy sought and requested time frames in which actions should be done;
* The name and title of the executive or official who will represent the organisation and any other person(s) who will accompany the executive or official at the appeals process.
	1. Processing an Appeal

4.4.1 The APAC Secretariat shall send the appeal to the APAC Quality Manager who shall review the information to establish its validity in accordance with the above, and whether the requested actions and timeframes are practical and achievable. The APAC Quality Manager may negotiate with the appellant to define a mutually satisfactory process to consider the remedy sought.

4.4.2 The APAC Quality Manager shall propose the appropriate mechanism for considering the appeal and seek the endorsement of the APAC Executive Committee.

4.4.3 Where the APAC Quality Manager cannot participate in the consideration of an appeal, for example, due to a conflict of interest, the APAC Chair will appoint a member of the APAC Executive Committee instead.

4.4.4 Normally, the APAC Executive Committee will establish an Appeals Panel comprising the APAC Quality Manager and up to three representatives from APAC Full Members, who are not members of the APAC Executive Committee and who have competence regarding the appeal subject, with support from the APAC Secretariat.

4.4.5 No member of an Appeals Panel can have a conflict of interest in relation to the subject of the appeal or the appellant.

4.4.6 If considered appropriate, experts external to the Appeals Panel may be consulted to assist with the resolution of the appeal.

4.4.7 The APAC Secretary, as a non-voting member, shall provide the Secretariat to the Appeals Panel, and shall remain strictly impartial in the collation and presentation of the facts of the case.

4.4.8 The APAC Secretariat shall acknowledge receipt of the appeal within 30 days and advise the appellant how the appeal will be considered.

4.4.9 The appellant has a right to object to the appointment of any member of the Appeals Panel, with valid reason(s). The APAC Executive Committee shall make a final decision on any objection by the appellant.

* 1. Information

In the case of an appeal related to a peer evaluation, the APAC Secretariat, relevant peer evaluators as well as any external experts, are obliged - without prejudice to their declaration of confidentiality towards all others – to provide the members of the Appeals Panel with the necessary information, if requested to do so.

* 1. Confidentiality

The members of the Appeals Panel are required to maintain confidentiality concerning anything that might come to their knowledge during the appeal and must sign a Declaration of Confidentiality (APAC FGOV-007)) before receiving any information regarding the appeal.

* 1. Consideration of the Appeal

4.7.1 The Appeals Panel shall examine the evidence included in the grounds for appeal within 30 days of receiving the appellant’s acceptance with the composition of the Appeals Panel.

4.7.2 The Appeals Panel has the right to hear witnesses, to consult experts and to take all measures and make all provisions deemed necessary for a sound decision. Upon appointment of the Appeals Panel, the APAC Quality Manager shall consult the other members of the Appeals Panel and fix the place, date and time of a hearing, and inform the APAC Secretariat without delay. The Appeals Panel may meet by teleconference or other means as appropriate. In general, investigation of appeals shall be by email correspondence and ballot or by means other than a face-to-face meeting. For exceptional situations where a face-to-face meeting is necessary, the interested parties will aim to meet within the margins of an existing APAC meeting at which the members would normally attend. Each party shall cover their own travel expenses.

4.7.3 The appellant shall be given a minimum of fifteen working days’ notice of the date, time and details of any physical meeting of the Appeals Panel.

4.7.4 Both the appellant and the Appeals Panel have the right to avail themselves of assistance from witnesses, provided the names and addresses of the witnesses have been supplied in writing, to the Appeals Panel or to the appellant, whatever the case may be, not later than five working days before the date of any physical meeting.

* 1. Decision of Appeals Panels

4.8.1 The members of the Appeals Panel shall judge in all fairness. The members are, however, bound by confidentiality and the rules of this procedure.

4.8.2 The Appeals Panel shall decide on the appeal by a majority of votes.

4.8.3 In exceptional circumstances, such as where no decision could be reached, the Appeals Panel may seek the approval of the APAC Chair for an extension of time. The APAC Chair may grant an extension of the time, subject to a full explanation of the reasons for the extension of time being supplied to the appellant and to the APAC Executive Committee. The extension should be no more than 60 days.

4.8.4 If the APAC Chair grants an extension of time, he or she may also refer the question to the Executive Committee for advice. Any advice or comments by the APAC Executive Committee shall be conveyed to the Appeals Panel by the APAC Secretariat, after which the Appeals Panel shall be obliged to reach a decision in accordance with the above procedure.

4.8.5 Once consideration of the appeal has been completed, the outcome shall be reported to the APAC Executive Committee. This shall include a statement as to whether the appeal has been upheld or dismissed. If the appeal is upheld, the report shall also include any action(s) necessary to implement the outcome of the appeal.

4.8.6 The APAC Secretariat shall then promptly advise the appellant in writing of the outcome of the appeal. This decision shall be accepted as binding.

* 1. Appeals Register

 A register of all appeals and decisions shall be maintained by the APAC Secretariat (APAC FMS-009), and include the following:

* unique number for each appeal;
* date when the appeal was received by APAC;
* name and organisation of the individuals involved in the appeal;
* summary of the appeal;
* date of acknowledgement of appeal;
* summary of the action(s) taken; and
* date when the appeal was resolved.
	1. Records

 As a minimum, the following records shall be kept by the APAC Secretariat:

* copy of the appealed decision, appeal and any supporting documents;
* names of the members of the Appeals Panel and any experts and/or witnesses;
* copy of the report on the consideration of the appeal and the recommendation(s);
* copy of the final response to the appellant; and
* any other relevant correspondence or documents.

# DISPUTES

* 1. General

5.1.1 APAC's involvement in disputes is limited to the provision of advice to promote direct dialogue between the interested parties, and the provision of information that the parties should consider before further pursuing the matter.

5.1.2 Disputes are generally referred to APAC by email, letter, or phone. When written notice of a dispute is received, the APAC Chair shall identify an Action Officer (generally the APAC Secretariat or a member of the APAC Executive Committee) to assist in resolution of the dispute. If the dispute involves the APAC Secretariat, the related information will be passed to the APAC Chair, who, in conjunction with the APAC Vice-Chair, will identify an individual to handle the dispute.

* 1. Procedure

5.2.1 The Action Officer shall acknowledge receipt of the assignment and investigate the issue, as deemed appropriate.

5.2.2 When attempting to resolve a dispute, the individual registering the dispute should be made aware that if he/she is not happy with the answer/advice received he/she may ask for the dispute to be referred to the APAC Chair. If the individual registering the dispute is unhappy with the APAC Chair’s decision, the individual is to be advised of the complaints and appeals process.

* 1. Records

Records of disputes shall be forwarded to the APAC Secretariat for filing. The APAC Secretariat can use the Complaints Register (APAC FMS-006) to record details of all disputes and subsequent outcomes.

# REVIEW

Information on appeals, complaints, and disputes shall be included as an agenda item for all APAC Executive Committee and APAC MRA Management Committee meetings. Decisions and improvement actions proposed of the APAC Executive Committee or APAC MRA Management Committee shall be recorded for follow-up. The APAC Secretariat shall act as liaison between the two committees where applicable.

# AMENDMENT TABLE

 This table provides a summary of the changes to the document with this issue.

|  |  |  |
| --- | --- | --- |
| **Date** | **Section(s)** | **Amendment(s)** |
| 2024-03-23 | New 3.2.2 and 3.2.3 | Provisions stated regarding the complainant not wish to disclose their identity approved by the APAC Executive Committee at their 2024-03-14 meeting. |
| 2024-01-24  | 3.2 | Elaborated about anonymity of the complainant. |
| 2022-04-08 | 3.1, 3.2, 3.3 | Substantive rewrite of sections pertaining to complaints lodgements and clarification of the complaints handling process and responsibilities. Minor editorial changes elsewhere in the document. |
| 2022-02-02 | Section 3.3Para 10 | Added option of online meetings. |
| 2022-02-02 | Section 3.3Para 14 | Removed word “on-site” to allow consideration for remote coverage. |
| 2022-02-02 | Section 3.7 | Investigation by quality manager itself is also added. |
| 2022-02-02 | Section 5 | Fax is no longer common hence removed. |
| 2022-02-02 | Footer | Removed Ver 1.0. |
| 2019-01-01 | All | New issue on establishment of APAC. Document based on APLAC MS-000 Management System Manual and PAC-EXEC-007 PAC Procedure for Complaints and Appeals Process (Issue 4.0). |