

## 1.4 Policy – Complaints Management

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## 1. Principles and Intent of Complaints Management Policy

- 1.1 The Zoo and Aquarium Association Inc. (**ZAA**) exists to encourage and support the development of zoological parks and aquaria as resources for species conservation, community engagement and conservation based research.
- 1.2 The primary goal of this *Complaints Management Policy* is to promote best practice, and encourage ethical and professional practice and conduct by all Applicable Persons.
- 1.3 All complaints and disputes against or concerning an Applicable Person regarding an alleged breach of the *Code of Conduct*, the *Constitution* or other related policy of the ZAA, whether they are raised by another Applicable Person or an external party, will be subject to this *Complaints Management Policy*.
- 1.4 In implementing the *Complaints Management Policy*, the ZAA will apply the principles of Natural Justice.
- 1.5 This *Complaints Management Policy* is to be read in conjunction with the *Code of Conduct*, the *Constitution* and other related policies of the ZAA.
- 1.6 Where a matter arises that is not directly dealt with in this *Complaints Management Policy*, the *Constitution* or other related policy of the ZAA, but is within the spirit and intent of the *Complaints Management Policy*, the *Constitution* or other related policy of the ZAA, the matter will be dealt with in accordance with this *Complaints Management Policy*.
- 1.7 A member cannot participate in a scheduled Accreditation Site Review if a complaint regarding that member has been lodged and is under investigation. Any scheduled reviews for the member must be postponed until all active investigations are satisfactorily completed.

## 2. Definitions

- 2.1 In this policy, unless the context requires otherwise:

**Appeal** means an appeal against a Determination or Sanction.

**Appeals Determination** means a determination of an Appeal by the Appeals Group pursuant to clause 6.4(a).

**Appeals Group** means between three (3) and five (5) Board Members, appointed by the Board, for the purpose of conducting an Appeal under this *Complaints Management Policy*, established as a Committee in accordance with clause 33 of the *Constitution*. The Appeals Group shall not include Board Members who were members of the Complaints Group in relation to the same Complaint.

**Appellant** means the person who is appealing against a Determination or Sanction.

**Applicable Person** means a Member, Board Member, Committee member or Subscriber of the ZAA.

**Board** means the board of management of the ZAA.

**Board Member** means a member of the Board.

**Code of Conduct** means the *Code of Conduct* setting out the standards of ethical and professional practice and conduct for Applicable Persons.

**Committee** means a committee of the Board established in accordance with clause 33 of the *Constitution*.

**Complainant** means an individual or Organisation who makes a Complaint to the ZAA.

**Complaint** means a complaint or dispute against or concerning an Applicable Person, regarding an alleged breach of the *Code of Conduct*, the *Constitution* or other related policy of the ZAA, raised by another Applicable Person or an external party, by way of a completed Complaint Form, concerning an alleged breach by a Member of any part of the *Code of Conduct* or other related policies of the ZAA.

**Complaint Form** means the Complaint Form included at Appendix 2 of this document.

**Complaints Group** means between three (3) and five (5) Board Members, appointed by the Board, for the purposes of making Determinations regarding a Complaint(s) against an Applicable Person for allegedly breaching the *Code of Conduct* or other related policies of the ZAA. The Complaints Group is established as a Committee in accordance with clause 33 of the *Constitution*.

**Constitution** means the *Constitution* of the ZAA, as amended from time to time.

**Determination** means a determination of a Complaint by the Complaints Group in accordance with the *Complaints Management Policy*.

**Executive Director** means the Executive Director of the ZAA.

**Member** means a member of the ZAA, as defined in the *ZAA Membership Policy*, and may include an employee, officer or agent of a Member of the ZAA.

**Natural Justice** means a due process that provides fairness to all parties. It includes the right:

- (a) to be heard;
- (b) of reply;
- (c) to be treated fairly;
- (d) to independent, unbiased decision making;
- (e) to be informed of allegation(s) being made; and
- (f) to a decision based solely on the relevant evidence.

**Organisation** means an unincorporated entity, or an entity incorporated under Commonwealth, State or Territory legislation.

**Respondent** means the respondent to an Appeal.

**Review** means a review of relevant institutional policies and/or practices or an on-site inspection relating to a complaint. In the situation where an on-site inspection

is deemed necessary by the Board the organisation under review may be required to cover any associated travel costs.

**Sanction** means a warning notice, suspension of membership or cancellation of membership under the *Complaints Management Policy*.

**Subject Applicable Person** means an Applicable Person who is alleged to have breached the *Code of Conduct*, the *Constitution* or other related policies of the ZAA and is the subject of a Complaint.

**Subscriber** means a subscriber of the ZAA, as defined by the *ZAA Subscribers Policy*.

**ZAA** means the Zoo and Aquarium Association Inc. (ABN 71 836 556 156).

## 3. Lodging and Initial Processing of a Complaint

### 3.1 Resolution of Complaint without Resorting to the Complaints Management Policy

- (a) In the interest of good will, any dispute or complaint against or concerning an Applicable Person, regarding an alleged breach of the *Code of Conduct*, the *Constitution* or other related policy of the ZAA, whether raised by another Applicable Person or an external party should be sought to be resolved amicably through consultation and negotiation between the parties directly.
- (b) Where a resolution in accordance with clause 3.1(a) cannot be achieved within twenty (20) business days of the initial dispute or complaint being raised with the other party, the party alleging the breach may seek to resolve the dispute or complaint through the procedure set out in this *Complaints Management Policy*.

### 3.2 Lodging a Complaint

- (a) Where the parties are unable to resolve a dispute or complaint between themselves pursuant to clause 3.1(a), the Complainant may lodge a Complaint in accordance with this *Complaints Management Policy*.
- (b) A Complaint shall:
  - (i) be submitted in writing, using the Complaint Form set out in Appendix 2 to this *Complaints Management Policy*, with the ZAA via email or post;
  - (ii) if a Complaint is received otherwise than by way of a completed Complaint Form, be referred back to the Complainant for submission of the Complaint in accordance with clause 3.2(b)(i);
  - (iii) be submitted within thirty (30) days of the date on which the conduct, which gave rise to the Complaint, is alleged to have occurred;
  - (iv) contain sufficient details to enable the ZAA to identify the Complainant, the Subject Applicable Person and the nature of the Complaint;

- (v) indicate the part(s) of the *Code of Conduct*, the *Constitution* or other related policies of the ZAA that are alleged to have been breached by the Subject Applicable Person;
- (vi) have attached to it such evidence and submissions as the Complainant relies on in support of the Complaint; and
- (vii) indicate what steps (if any) the Complainant has already taken to resolve the Complaint with the Subject Applicable Person directly.

### 3.3 Review of Complaint by Executive Director

- (a) The Executive Director will receive the Complaint and, within twenty (20) business days of receiving the Complaint:
  - (i) must acknowledge receipt of the Complaint to the Complainant;
  - (ii) may request further information from the Complainant, if the Executive Director considers it necessary for the assessment of the Complaint;
  - (iii) may, if there is insufficient information to warrant investigation or it appears, in the Executive Director's reasonable opinion, that the Complaint is frivolous, vexatious or otherwise without merit, dismiss the Complaint and notify the Complainant of the dismissal in writing; or
  - (iv) must, if there is sufficient information to warrant an investigation, in the Executive Director's reasonable opinion, refer the Complaint to the Subject Applicable Person for a response.
- (b) Subject to clause 3.3(a)(iii), the Executive Director will provide the Subject Applicable Person with a copy of the Complaint, and any further information obtained pursuant to clause 3.3(a)(ii), within twenty (20) business days of receiving the Complaint, or the further information, whichever is the later.
- (c) The Subject Applicable Person may respond to the Complaint by writing to the Executive Director and, if the Subject Applicable Person chooses to do so, must submit the response within twenty eight (28) days of receiving the Complaint pursuant to clause 3.3(b).
- (d) If the Subject Applicable Person does not respond to the Complaint within the permitted time pursuant to clause 3.3(c), the Executive Director will continue with the process in the *Complaints Management Policy* and ensure the Subject Applicable Person is informed of the outcome.
- (e) A decision of the Executive Director pursuant to clause 3.3(a)(iii) is final and the parties shall have no right of appeal to ZAA, and the parties shall immediately release and discharge ZAA, its Board Members, trustees, employees, agents, related entities, assignees or successors from any liability past, present or future and from all claims, suits, demands, actions or proceedings arising out of or connected with the Complaint.

- (f) Notwithstanding anything else in this *Complaints Management Policy*, where the Executive Director reasonably, either upon his or her initial assessment of the Complaint pursuant to clause 3.3 or during the investigation pursuant to clause 4.1, believes that there has been a breach of a legislative requirement, including in relation to animal welfare, the Executive Director will inform the relevant authority, without prior reference to the Subject Applicable Person.

## 4. Investigation

### 4.1 Investigation Process

Within twenty (20) business days of:

- (a) receiving the Subject Applicable Person's response to the Complaint, pursuant to clause 3.3(c); or
- (b) the deadline referred to in clause 3.3(c), in the event that the Subject Applicable Person did not respond;

the Executive Director, or his or her delegate, must:

- (c) review and investigate the Complaint;
- (d) seek such further information as may be necessary;
- (e) examine the records of the ZAA to determine whether a complaint has previously been made against the Applicable Person in relation to the same, or a related matter; and
- (f) make a preliminary assessment of the Complaint.

### 4.2 Result of Investigation

Within seven (7) days of completing the investigation pursuant to clause 4.1, the Executive Director shall report the findings of his or her investigation to the Complaints Group and refer the Complaint to the Complaints Group for Determination.

## 5. Determination

### 5.1 Determination of Complaint

- (a) When a Complaint is referred to the Complaints Group, it may:
  - (i) seek legal advice in relation to the handling of the Complaint;
  - (ii) where it is reasonably believed that there has been a breach of a legislative requirement, including in relation to animal welfare, which has not previously been reported by the Executive Director pursuant to clause 3.3(f), refer the Complaint to the relevant authority, without prior reference to the Subject Applicable Person; and
  - (iii) defer the Determination of a Complaint where legal proceedings have commenced, pending the outcome of those proceedings.

- (b) The Complaints Group will review the Complaint within twenty eight (28) days of the referral of the Complaint from the Executive Director by:
  - (i) notifying the parties of the time and date at which the Complaints Group will review the Complaint at least fourteen days (14) prior to the date, and the parties may inform the Complaints Group of their intention to attend the review at least two (2) business days prior to the scheduled date for review;
  - (ii) ensuring the parties are able to attend the review in person or via telephone link or such other means as may be available and approved by the Complaints Group;
  - (iii) informing the parties that they have a right to bring a support person to the review and that if such support person is legally qualified, the Complaints Group must be notified at least two (2) business days before the scheduled date of the review that the support person is legally qualified;
  - (iv) conducting the review without recourse to the formal rules of evidence; and
  - (v) adopting specific procedures for the review, as it deems appropriate, in order to provide a fair hearing that complies with Natural Justice.
- (c) The Complaints Group, having considered the results of the investigation and the review, will make a Determination regarding the Complaint within seven (7) days of the review to either:
  - (i) dismiss the Complaint; or
  - (ii) impose a Sanction on the Subject Applicable Person.
- (d) A Sanction may include:
  - (i) issuing the Subject Applicable Person with a warning notice;
  - (ii) if the Subject Applicable Person is a Member, suspension for a period of not less than three (3) months and not more than forty eight (48) months; or
  - (iii) cancellation of the Subject Applicable Person’s membership.

## 5.2 Notification of Parties

- (a) The Complaints Group will notify the Complainant and the Subject Applicable Person in writing of its Determination, the Sanction imposed, if any, and the reasons for its Determination, within ten (10) business days of having made its Determination.
- (b) The Complaints Group will, at the same time as the notification under clause 5.2(a) is made, notify the Complainant and the Subject Applicable Person of their right to appeal the Determination in accordance with clause 6.

- (c) The Complainant and the Subject Applicable Person will have fourteen (14) days from the date of notification of the Determination to lodge an appeal against the Determination and/or Sanction.

## 6. Appeals Process

### 6.1 Lodging an Appeal

- (a) An Appeal against a Determination made by the Complaints Group under clause 5.1 must:
  - (i) be in writing;
  - (ii) be addressed to the Appeals Group;
  - (iii) be lodged with the ZAA within fourteen (14) days of notice of the Determination by the Complaints Group pursuant to clause 5.2(b);
  - (iv) clearly identify the Determination or Sanction which is the subject of the Appeal;
  - (v) state the grounds on which the Appeal is made;
  - (vi) have attached to it the evidence and submissions that the Appellant relies on in support of the Appeal.
- (b) The grounds for an Appeal are limited to one or more of the following:
  - (i) new evidence;
  - (ii) failure by the Complaints Group to follow the *Complaints Management Policy*;
  - (iii) a material error or omission of fact by the Complaints Group in determining the Complaint; and/or
  - (iv) the severity of the Sanction imposed by the Complaints Group.

### 6.2 Notification of Appeal

- (a) The Appeals Group shall provide to the Respondent a copy of the Appeal and the Appellant's evidence and submissions, within fourteen (14) days of it being received.
- (b) The Respondent may provide to the Appeals Group evidence and submissions in relation to the Appeal within fourteen (14) days of receipt of the Appeal, pursuant to clause 6.2(a).
- (c) The Appeals Group will provide to the Appellant copies of any evidence and submissions it receives from the Respondent pursuant to clause 6.2(b).

### 6.3 Consideration of an Appeal

- (a) The Appeals Group must act independently, impartially and objectively, and must not have been members of the Complaints Group that took part in the review and determination of the Complaint which is being appealed.



- (b) In considering an Appeal, the Appeals Group may take into account:
  - (i) the grounds of the Appeal, including whether it is being made on a technicality;
  - (ii) all material before the Complaints Group when the Complaints Group made its Determination;
  - (iii) whether additional information is available or required;
  - (iv) whether circumstances have changed in such a way (including in relation to staff, funding or ownership of the Subject Applicable Person) that there may be grounds for reconsideration;
  - (v) whether the principles of Natural Justice were applied by the Complaints Group; and
  - (vi) whether the Appeal was submitted in accordance with the *Complaints Management Policy*.

#### **6.4 Determination of an Appeal**

- (a) The Appeals Group must make an Appeals Determination within twenty eight (28) days of the expiry of the period referred to in clause 6.2(b):
  - (i) dismiss the Appeal; or
  - (ii) uphold the Appeal.
- (b) Where the Appeals Group determines to uphold an Appeal, the Appeals Group may substitute its own Appeals Determination for that of the Complaints Group.
- (c) The Appeals Group must inform the parties and the Complaints Group of the Appeals Determination and the reasons for the Appeals Determination within fourteen (14) days of making the Appeals Determination.
- (d) An Appeals Determination pursuant to clause 6.4(a) is final and the parties shall have no further right of appeal to ZAA, and the parties shall immediately release and discharge ZAA, its Board Members, trustees, employees, agents, related entities, assignees or successors from any liability past, present or future and from all claims, suits, demands, actions or proceedings arising out of or connected with the Complaint.

## **7. Consequences of Determination**

- (a) Where an Appeals Determination is made regarding a Member, or the time for lodging an Appeal pursuant to clause 5.2(c) expires and no Appeal has been lodged and the:
  - (i) Member's membership has been suspended or cancelled by the Determination or the Appeals Determination, ZAA may note such details on its website or register of Members, but will not record details of the Complaint or the reasons for the Sanction on its website or register of Members.

- (ii) Member's membership has been cancelled as the result of a Determination or Appeals Determination, the Member will not be permitted to renew its membership at a later stage until permitted to do so pursuant to a resolution of the Board.

## 8. Conflicts of Interest

- (a) Subject to clause 8(b), an interest of a Board Member in relation to a Complaint must be dealt with in accordance with the provisions of the Corporations Act 2001 (Cth), which shall include disclosing an interest and having the Executive Director record all declarations in the minutes of the relevant meeting.
- (b) A Board Member who has an interest in relation to a Complaint and has disclosed the interest to the Board may:
  - (i) not be a member of the Complaints Group or Appeals Group in relation to the Complaint;
  - (ii) not be present while the matter is being considered at any meeting;
  - (iii) not vote on the matter;
  - (iv) still be counted in determining whether or not a quorum is present at any meeting of the Board considering that Complaint; and
  - (v) not vote in respect of, or in respect of any matter arising out of, the Complaint.
- (c) A Complainant or Subject Applicable Person who identifies that a Board Member has an interest in relation to the Complaint, must notify the Executive Director in writing at the time of lodging the Complaint or at the first available opportunity thereafter.

## 9. Confidentiality

- (a) All parties involved in a Complaint shall observe the confidentiality of documents, information and data received during the lodgement, investigation and determination of a Complaint and any subsequent Appeal.
- (b) In the event of the imposition of a Sanction on the Subject Applicable Person, all parties (being the ZAA, the Subject Applicable Person and the Complainant) shall maintain the confidentiality of such information.
- (c) Nothing in this clause 9 prevents the ZAA from reporting any breach of legislation to the relevant federal, State or Territory authority.

## 10. Board Approval

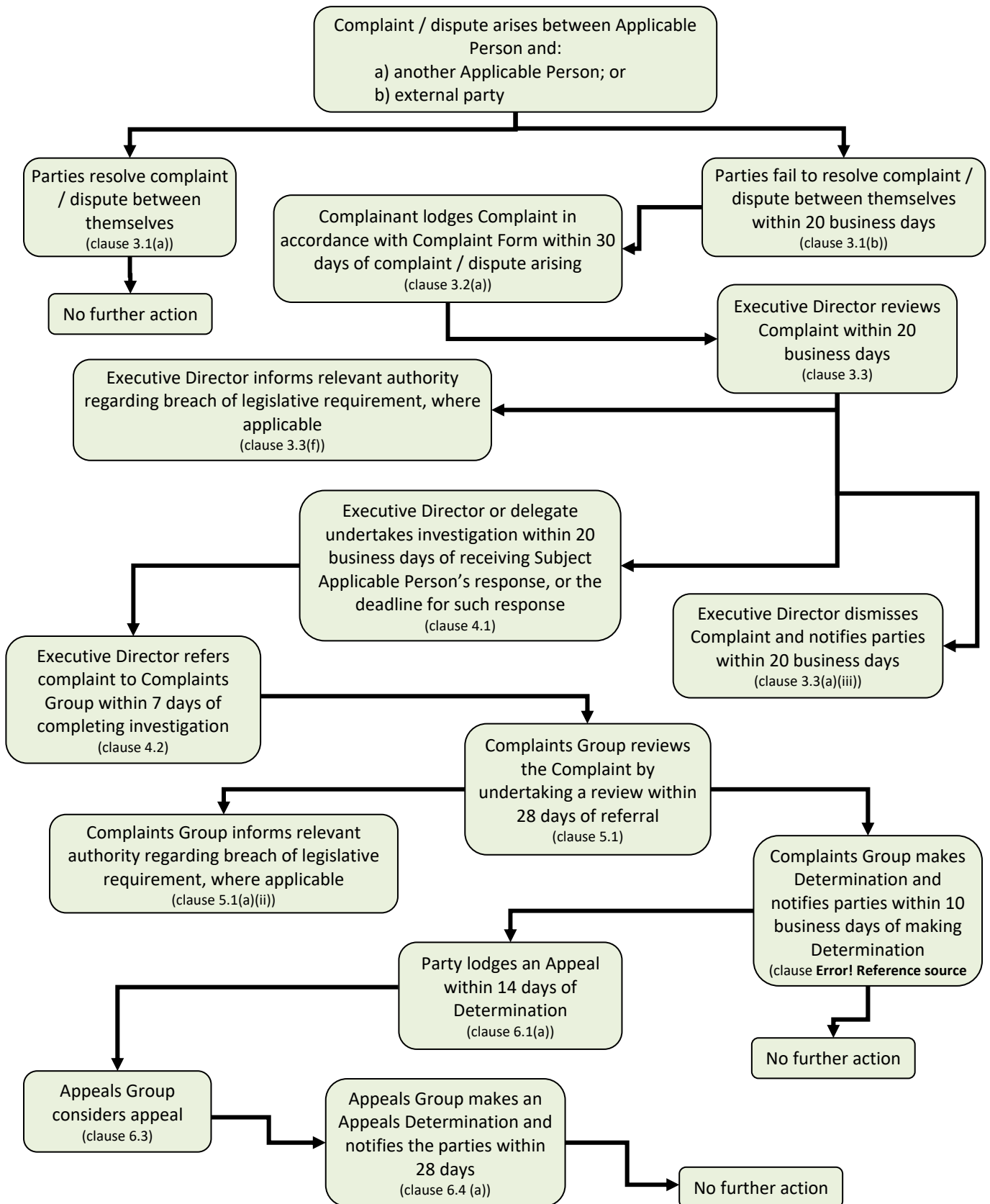
This Complaints Management was approved by the Board of the Association on 28/09/2015.

**Revision Record**

Approved / Amended/ Rescinded / Reviewed	Date	Description

This document should be reviewed within 5 years of the date of approval or last review.

## Appendix 1 – Flow Chart of Complaints Management Policy



## Appendix 2 – Complaint Form

*Allegation of a breach of the Code of Conduct, the Constitution or other related policies of the Zoo and Aquarium Association Inc.*

### Details of the Complainant

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Member Organisation (if applicable): \_\_\_\_\_

### Details of the Applicable Person the subject of the Complaint

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Member Organisation (if applicable): \_\_\_\_\_

### Nature of the Complaint

*Identify sections of the Code of Conduct, the Constitution or other related policies of the Zoo and Aquarium Association Inc. that you allege have been breached by the person or organisation who is the subject of the Complaint. Please attach any evidence or submissions which support your Complaint.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Date(s) of the conduct that is the subject of the complaint: \_\_\_\_\_

**Attempted Resolution of the Complaint**

*Outline efforts you have made to resolve the Complaint directly with the person or organisation, prior to lodging this Complaint.*

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*I authorise the copying of the Complaint and any supporting evidence and submissions and its distribution to the person or organisation who is the subject of the Complaint and such directors, members and support staff of the Zoo and Aquarium Association Inc. as may be involved in processing the Complaint.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Please mark CONFIDENTIAL and return this completed form and supporting documents to:**

**THE EXECUTIVE DIRECTOR  
Zoo and Aquarium Association Inc.  
P.O. Box 20  
Mosman  
NSW 2088  
AUSTRALIA**

**OR**

Email [admin@zooaquarium.org.au](mailto:admin@zooaquarium.org.au)