



## **ADRAI Policy Concerning Complaints about Members**

The ADR Atlantic Institute (the “Institute”) is committed to the highest possible practice standards in dispute resolution so that participants and the general public can have confidence in Institute members, their services and the field of dispute resolution in general. This complaint policy is an important tool to promote and ensure quality control. It is intended to provide a process for the investigation and resolution of complaints about Institute members (“member”) that is open, efficient and fair. Institute members are deemed to submit to this policy by virtue of their current membership.

Whereas the ADR Institute of Canada (“ADRIC”) has established a process to deal with complaints which have not been dealt with by a Regional Association, and

Whereas the Institute wishes to have a process for dealing with complaints arising from its region, without transferring the matter to ADRIC,

The following process will apply when the Institute receives a complaint about one of its members:

1. The President of ADR Atlantic (or in the absence, unwillingness or unavailability of the President, the Vice-President) (hereinafter the “Reviewing Officer”) will review the complaint to ensure that:
  - (i) It concerns a current member of the Institute;
  - (ii) It involves a member acting in the capacity as a dispute resolution practitioner (arbitrator, mediator, facilitator, etc.);
  - (iii) It is in writing and is signed
    - by a direct participant (“complainant”) in a dispute resolution process conducted by the member, or by a person authorized in writing on the complainant’s behalf;
    - by anyone who appears to have a direct knowledge of a member’s non-compliance with the Institute’s Arbitration/Mediation Rules or Model Code of Conduct for Mediators; or
    - by motion of the Board of Directors, who themselves may initiate and investigate a complaint.
  - (iv) It contains sufficient details and particulars to enable an investigation and a response;

- (v) In the instance of a dispute resolution process the member (“respondent”) has completed the dispute resolution mandate (or matter or action) or the mandate (or matter or action) has been terminated by the parties;
  - (vi) The complainant has been informed that the Institute’s complaint process
    - is in the nature of a quality control initiative as opposed to a discipline process;
    - may involve an investigation by 3 members who are independent of the complainant, respondent, and issues in the complaint. The 3 members will make a report with recommendations to the Board of Directors within 30 days unless the time for so doing is extended by the Board.
    - is not a substitute for an appeal, judicial review or other court action in relation to the dispute resolution process.
    - cannot change the outcome of the dispute resolution process or result in an order for a new dispute resolution process
    - cannot award damages or compensation to the person making the complaint
  - (vii) The complainant has signed an undertaking not to use information obtained during the course of the complaint for any purpose outside of the complaint process, including any applications for judicial review or any civil actions against the member or the Institute.
2. When the Reviewing Officer is satisfied that the requirements of section 1 are met, a copy of the complaint, any supporting materials and a copy of this policy will be sent to the respondent together with a request for a response within 30 days.
  3. After the receipt of a response from the respondent, a copy of the response will be sent to the complainant. Included with the copy of the response to the complainant, the Reviewing Officer shall cause to be sent an offer to provide informal dispute resolution. A similar offer of informal dispute resolution shall be sent to the respondent.
  4. If no response is received within the 30 days stipulated in paragraph 2, or such extended time in the discretion of the Reviewing Officer, the Reviewing Officer shall cause to be sent an offer to provide informal dispute resolution to the complainant. A similar offer of informal dispute resolution shall be sent to the respondent.
  5. If there is no request for informal dispute resolution, the complaint and the response, if any, will be forwarded to the Board of Directors for review.
  6. The Board of Directors will appoint a standing committee (the “Review Committee”) for the purpose of reviewing complaints under this policy. The Review Committee will be chaired by a Board Member and consist of two other

Members who may or may not be Board Members. The composition of the Review Committee may be altered from time to time at the discretion of the Board of Directors as necessary to prevent or avoid conflicts of interest. The Review Committee may be comprised of members of the Institute Complaints Committee.

7. For each complaint the Review Committee will act as expeditiously as possible in carrying out the following steps:
  - (i) Receive and review the complaint and the response, if any, from the respondent;
  - (ii) Review any additional materials received;
  - (iii) Seek additional information, if needed, from the complainant, the respondent, the Institute, or from any other source the Review Committee deems appropriate and which may include interviews of the Complainant(s), the Respondent(s), and/or non-party witnesses;
  - (iv) Assess the complaint;
  - (v) Prepare a written report:
    - Indicating whether the complaint is substantiated
    - Providing a basis for their conclusions
    - If the complaint is substantiated provide such recommendations as appropriate. Such recommendations may include a wide range of options, not limited to: remediation; a verbal or written warning; specific training; review; mentoring; observation; temporary or permanent removal from the Institute's membership list, or removal of membership designations (such as C. Arb. or C. Med.);
  - (vi) Provide their report to the Board of Directors explicitly on a confidential basis and with all identifying information removed or redacted and with a copy to the complainant and the respondent.
8. If, at any stage, the Board of Directors determine that the complaint is without merit, or for any other reason, the Board of Directors has the discretion not to proceed with any complaint and to respond directly to the complainant without completing the steps of the complaint process.
9. When the Review Committee has assessed the complaint and delivered their report, the Institute President will arrange to have the matter considered at the next meeting of the Board of Directors.

10. At the next meeting of the Board of Directors, the Directors shall:
- (i) Receive the report of the Review Committee and any necessary background materials, plus any other submissions, all on a no-names basis with all identifying information as to the complainant and respondent removed;
  - (ii) Consider the complaint;
  - (iii) Accept or reject the recommendations of the Review Committee in whole or in part, substitute an alternative outcome less serious than that recommended by the Review Committee. In the event that the Board wishes to adopt a more serious outcome than that recommended by the Review Committee, the respondent will be notified and given an opportunity to make additional written submissions to the Board of Directors before the decision is finalized;
  - (iv) Provide a written decision to the respondent, with reasons; and
  - (v) Notify the complainant as to the outcome of the complaint together with a brief statement of its rationale.
11. In determining the appropriate outcome of a substantiated complaint, the complaint reviewers and the Board of Directors may take into account any previously substantiated complaint about the respondent. There will be a five year limit on complaints considered.
12. At any time during the processing of a complaint and, if acting in the best interests of the Institute, the President, on direction from the Board of Directors, may temporarily remove the name of the member through the Institute's portal and list of mediators and arbitrators for dispute resolution services, pending final resolution of the complaint. The President shall notify the member, in writing, within 10 days of the Board making that decision.
13. There is no appeal of the decision of the Board of Directors, except in cases where the outcome of the complaint is expulsion/permanent removal from the membership list of the Alternative Dispute Resolution Atlantic Institute. In such cases, there is an appeal to the ADR Institute of Canada, Inc. in accordance with that body's by-laws. An appeal to the ADRIIC will be dealt with as if it were an appeal made under ADRIIC'S Discipline Procedure.
14. The Institute reserves the right, but is not obliged, to publish non-identifying information about complaints for the purposes of education, information, risk management and/or quality control.