

## **INTERNAL CONFLICT AND DISPUTES POLICY**

This policy relates to disputes that arise between members of the station and complaints made by one member against another or other members.

### Disputes and Complaints

1. Where a dispute arises between two members of the station or where a complaint is made against one or more other members one or all parties to the dispute shall advise the Public Officer or other person nominated to deal with disputes in writing.
2. A complaint or notification of a complaint may be made by any member of the Association (including a life member) or where the committee is of the opinion that a member has acted as set out herein, without a formal complaint as if such complaint had been made:
  - i. that some other member of the Association: (a) has persistently refused or neglected to comply with a provision or provisions of this constitution;
  - ii. has persistently and willfully acted in a manner prejudicial to the interests of the Association.
  - iii. has abused, threatened, intimidated, committed an assault and/or battery against another member.
  - iv. discriminated against a member on the basis of ethnicity, religious beliefs, age, sexuality, disability or political views.

### Dispute Resolution and Procedure

3. The parties shall Endeavour to resolve the dispute informally between them.
4. Where such a dispute or complaint against another volunteer and the matter cannot be resolved between them the matter should be referred to the Public Officer or other nominated member agreed to by the parties to the complaint who shall.
  - a. Hold a meeting in the presence of a mediator who shall be chosen by agreement of the parties or failing such agreement by the committee.

- b. The mediator may be a member of the Association but cannot be a party to or otherwise involved in the dispute or an independent person.
  - c. Where the complaint or dispute is between a member and the Association the mediator shall be a person agreed upon by the parties to the complaint or where agreement cannot be reached, the mediator shall be selected by the Community Broadcasting Association of Australia.
5. The appointed mediator shall:
  - a. Allow the parties to the dispute to be heard
  - b. Allow due consideration to be given to any written statement or submission submitted by a party
  - c. Ensure that the principals of natural justice procedural fairness are followed in the mediation process.
6. Where mediation fails to resolve the matter the dispute shall be referred to the management committee (hereinafter called “the committee” for resolution.
7. On the receipt of notice of a complaint the committee shall:
  - a. Cause written notice of the complaint to be forwarded to the member concerned
  - b. Advise the parties concerned that they have 14 clear days from the time the notice is received by them to respond to the complaint, make submissions to the committee or give notice that they wish to address the committee.
  - c. following the receipt of such submissions, or if no submissions are received from all or any of the parties to the dispute; the committee shall set a date for hearing of the dispute and give all parties 14 clear days notice of the time, date and place of such hearing.
8. Any member of the Management Committee who is directly involved in the dispute shall not take part in the hearing except as such a party.

9. At the hearing the committee shall take into consideration all submissions made by the member in connection with the complaint and shall:
  - a. Allow the person or persons making the complaint to address the complaint, call witnesses, provide any written material and answer any questions.
  - b. Allow the person or persons against whom the complaint has been made to respond to the complaint either in person or through an advocate, provide any written material and answer any questions.
  - c. An advocate may be a member of the association, or an independent person but shall not be a solicitor, barrister or paralegal. The Advocate shall be appointed in writing and the Committee shall be advised five clear days prior to the date of the hearing of the name of the Advocate.
  - d. The Advocate shall not be a person directly involved in the dispute.
  - e. The Advocate shall be entitled to have access of all documents at the hearing but confidential information shall only be released on the written authority of the person in possession of such documents.
  - f. Submissions to the hearing by any party to a hearing may be made orally or in writing.
  - g. Where a party appears in person the committee or any other party shall have the right to ask further questions or seek additional information.
  - h. All disputes will be determined in line with the principles of natural justice and procedural fairness.
  - i. The committee shall hear any other person who has information or material relevant to the matter being heard.
  - j. Hearsay evidence shall not be admitted.
10. The committee shall take into consideration all matters raised by the all parties to the dispute.

### Determination of a Dispute

11. After taking into consideration any matters raised or submissions made by the member the committee may:
  - a. Take no further action
  - b. Accept an enforceable undertaking from all or any party to the dispute
  - c. Issue an oral caution
  - d. Issue a formal written warning
  - e. Suspend the member for a period of not more than three months for a first incident or not more than 12 months for a subsequent incident provided that the second offence occurs within three years of the date of the first offence.
  - f. Expel the member found to have contravened this policy.
12. After the hearing all parties to the dispute shall be advised in writing of the decision and informed of their right to appeal to a Special General Meeting of the Association.

#### Right of Appeal

13. Any appeal shall be held in accordance with the Constitution of Huon and Kingston FM and its Disciplinary Policy, a copy of which shall be provided to all parties to the dispute.
14. Any Appeal lodged by a member shall be dealt with as provided for in Rule 33 of the Constitution.
15. The Management Committee may, on adequate grounds allow an appeal received outside the time provided for the lodgment of the Appeal
16. The Management Committee may appoint an Independent chairperson to conduct the Appeal.
17. The Appeal may be:
  - a. against the decision of the Management Committee generally or;
  - b. restricted to severity of the penalty imposed.

18. Where the Appeal is covered by 16a. above the appeal will be dealt with by way of a de novo hearing with evidence to be given by all parties to the dispute and relevant witnesses.
19. Where the appeal is related to penalty only evidence and submissions made should address that issue only.
20. An Appeal shall be subject to the provisions of Clause 9 above.
21. Fourteen clear days notice of the Appeal hearing date shall be given to all parties.
22. Where notice of the Appeal has been given to the appellant the Appeal shall proceed unless:
  - a. The appellant seeks an adjournment on one of the following grounds:
    - a.i. The ill-health of the appellant evidenced by a certificate issued and signed by a medical practitioner;
    - a.ii. The inability of a material witness to attend the Appeal.
    - a.iii. There are any other reasonable grounds to adjourn the hearing.

Where an adjournment is granted:

- a. the time, date and place of the adjourned hearing shall be advised to the appellant and other parties within seven days of adjourned hearing
  - b. the appellant shall be given 14 clear days notice of the time, date and place of the adjourned Appeal hearing.
- 
23. The further adjournment of a previously adjourned Appeal shall only be allowed if a refusal would breach the principles of equity and procedural fairness.

24. Where an appellant fails to attend the Appeal or Adjourned Appeal without giving notice or seeking a further appeal the matter shall be dismissed for want of prosecution.
25. Once an Appeal has been dismissed for want of prosecution no further Appeal shall be allowed unless such dismissal would breach the principles of equity and procedural fairness.

### Penalties

26. Upon determining the appeal the penalties previously imposed shall be:
  - a. Upheld
  - b. Dismissed; or
  - c. A lesser penalty imposed
27. Where the offence that led to the dispute is regarded as sufficiently serious to warrant suspension or expulsion the committee shall follow the provisions of the station's Constitution and disciplinary policy in dealing with the matter.
28. Following resolution of the dispute the Management Committee shall review the complaint process and take appropriate action (including changes to policy, the station's constitution, by-laws or complaints handling policy and make changes where necessary).