

Australian Association of Social Workers By-Laws on Ethics 2025

Approved by the AASW Board of Directors
May 2025

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1. Introduction

The Australian Association of Social Workers (AASW) is the professional association for qualified social workers in Australia. It has a role in the professional education of social workers, the accreditation of social work education programs and establishing, monitoring, and improving practice standards of social workers.

The AASW is committed to ensuring that its members' practice is safe and that they adhere to the highest standards of ethics and professional practice and conduct.

In the pursuit of its aims, social work is committed to three core values, as set out in the AASW Code of Ethics 2020:

- Respect for persons
- Social justice
- Professional integrity.

These three core values give rise to social workers' ethical and practice responsibilities, which are detailed in the AASW Code of Ethics and the AASW Practice Standards.

Ethical misconduct occurs where an AASW member is found to have breached the AASW Code of Ethics in their professional practice and/or conduct.

2. Purpose

2.1 The AASW has adopted these By-Laws on Ethics to:

- ensure the AASW Code of Ethics Standards in the profession of social work amongst AASW members are upheld; and
- allow for receipt of complaints and effectively respond to complaints about alleged ethical misconduct by AASW members, in their practice and/or conduct; and
- allow for receipt of declarations and effectively respond to declarations made by applicants at the time of applying for membership and declarations made by a AASW member whilst holding membership; and
- provide a process for the AASW to address situations in which AASW members refuse or fail to participate in the ECMP.

3. Definitions

The terms which are used in these By-Laws on Ethics are defined below:

'AASW' means the Australian Association of Social Workers.

'Appeal Panel' means a Panel of at least two (2) people to hear and determine the matters 3 referred to them arising from the outcome of the Hearing Panel process.

'Applicant' is a person applying for AASW membership.

'Board' means the AASW Board of Directors.

'Case Reviewers' are appointed by the AASW to conduct a preliminary assessment of the complaint which includes researching the complaint, gathering information from the parties to the complaint and presents that information with recommendations to the Ethics Council for decision as to how the complaint will be managed by the AASW.

'Code of Ethics 2020' is the core document which informs and guides the ethical practice of AASW Members. The Code of Ethics 2020 expresses the values and responsibilities which are integral to the social work practice of AASW members.

'Complaint' is defined as an expression of concern, dissatisfaction or frustration with the quality or delivery of service, a policy or procedure, or the conduct of another person.

'Complainant' means a person who makes a complaint against an AASW member pursuant to Clause 6.2.4 of these By-Laws on Ethics.

'Declaration' means a written statement that is signed by the declarant, giving information, and saying that something is true and correct. By signing it the declarant agrees the information in it is true.

'ECMP' means the Ethics Complaints Management Process.

'Ethics Council' refers to the group of three (3) people, including at least one experienced social worker, who are appointed by the AASW, to perform the following tasks:

- i. Review the recommendations of the Case Reviewer; and
- ii. Determine how a case will be managed through the AASW Ethics Complaints Management Process; and
- iii. Determine how a declaration for Fitness to Practice will be managed through the Declaration Assessment Process; and
- iv. Provide oversight of the AASW Ethics Complaints Management Process to ensure proper practice and procedures have been followed in the AASW management of the complaint.

'Ethics Office' AASW staff who receive and manage complaints and declarations and provide secretariat duties for the Ethics Council.

'Fair Hearing' the understanding that the AASW will decide on a matter after having given the Respondent a reasonable opportunity to respond to the complaint material it receives.

'Hearing Panel' means a Panel of at least two (2) people who consider the information and make recommendations to the Ethics Council regarding complaints and declarations received by the AASW.

'Membership Office' AASW staff who receive and manage membership applications, renewals and declarations.

'Respondent' means a social work member of the AASW at the time of the alleged conduct, about whom a complaint has been made to the AASW.

4. Procedural Fairness

4.1 In cases which are referred to Hearing and/or Appeal Panels, the AASW endeavours to adopt the two key principles of procedural fairness in its management:

- i. decision making without bias; and
- ii. a fair Hearing.

4.2 The AASW will adopt reasonably practicable measures to manage and mitigate any conflicts of interest, of which it is put on notice, to avoid instances of actual bias, or a reasonable apprehension of bias, in its decision making.

4.3 To manage any conflicts of interest, AASW staff and members who have any role in the administration and implementation of the cases (including the Board, contracted staff, and volunteers) should:

- i. Declare any relationship or association they have had with either of the parties; and
- ii. Declare if they have any personal knowledge in relation to the case; and
- iii. Declare any other interest that they may have in the outcome of the process.

5. Privacy Principles and Confidentiality

5.1 The AASW adheres to the Australian Privacy Principles and is committed to ensuring individuals rights to privacy are protected.

5.2 The appointees to the following positions or bodies will be required to sign a Confidentiality Agreement prior to their commencement as appointed:

- Case Reviewer and Conciliator
- Mediation Pool
- Hearing Pool
- Appeal Pool
- Ethics Council.

5.3 A Confidentiality Agreement will be required to be signed by the parties in relation to the complaint, however there may be some circumstances where a Confidentiality Agreement is not appropriate.

5.4 The Ethics Office will determine when a signed Confidentiality Agreement is required and by which parties.

5.5 The Confidentiality Agreement requires the signatories to keep the personal information about the other parties confidential. Personal information can only be used for purposes directly related to the management of complaints.

5.6 In relation to complaints, contact between the parties as set out in Clause 5.6 (i) and (ii), and must be adhered to by the Complainant and Respondent.

- i. The Respondent is not permitted to contact the Complainant/s or their Representative, directly, regarding the complaint, unless specifically permitted to do so under these By-Laws.
- ii. The Respondent and the Complainant or their Representative must not approach any officeholder of the AASW in relation to the complaint outside of the permitted processes.
 - Should the Respondent attempt to make any contact as described, or breach the Confidentiality Agreement, then that behaviour can be included in the complaint, or dealt with as a new complaint, under these By-Laws.
 - Should the Complainant attempt to make any contact as described, or breach the Confidentiality Agreement, the AASW reserves its right to immediately dismiss the complaint.

6. Complaints

6.1 Informal Resolution of Complaints

6.1.1 The AASW complaints procedures are not a legal process.

6.1.2 In matters which are referred to Conciliation or Mediation, the AASW endeavours to provide Complainants and Respondents with a process which is fair, reasonable, and efficient in the resolution of concerns, via mutual agreement.

6.2 Jurisdiction

Nature of complaint

6.2.1 The AASW Ethics Office can accept complaints which constitute alleged misconduct, in relation to alleged breaches of the Code of Ethics by an AASW member in their professional social work practice.

6.2.2 The AASW will not consider complaints made anonymously.

Timeframe

6.2.3 The AASW will only accept complaints which are lodged within two (2) years of the alleged incident/s; unless exceptional circumstances exist, which warrant further consideration. The Ethics Office will

consider exceptional circumstances and at its discretion will determine if a complaint proceeds through the ECMP outside of the two-year timeframe.

Eligible complaint

6.2.4 Eligible people who can make a complaint to the AASW about a AASW member include:

- i. A person who is the direct recipient of the professional social work services of an AASW member and who is directly affected by the actions of the AASW member.
- ii. The authorised representative of the direct recipient, in situations where the recipient does not have capacity to make a complaint because they are a minor, or because of mental incapacity.
- iii. An AASW member who is obliged to report suspected misconduct and breaches of the Code of Ethics, in accordance with the AASW Code of Ethics.
- iv. A current or former Supervisor, Manager or Contractor of an AASW member who has direct knowledge and evidence of alleged misconduct, which may constitute breaches of the Code of Ethics, by the AASW member.
- v. The AASW CEO, on behalf of the AASW, may lodge a complaint, and participate in the ECMP in the capacity of a Complainant, in circumstances where they know or are advised of potential breach/es of the Code of Ethics alleged to have been committed by a AASW member.
- vi. A member of the public or other person who has directly witnessed a social workers' professional practice and believes the practice to be a breach of the Code of Ethics.

Status of Respondent

6.2.5 The Respondent must be an AASW member at the time of the alleged incident/s.

6.2.6 If the Respondent has resigned their AASW membership (non-member) at the time the complaint is received by the AASW, the Ethics Office will invite the non-member to participate in the ECMP.

6.2.7 If the Respondent chooses not to participate in the ECMP upon notification, the Ethics Council may make a determination in their absence.

6.2.8 The AASW cannot accept complaints about AASW members where those complaints relate to the AASW members functioning in an official AASW role, such as, AASW officeholder, AASW volunteer or AASW paid positions. These matters should be raised to the AASW Chief Executive Officer and follow the process outlined in the Statement of Member Conduct applicable to the position held.

AASW CEO jurisdiction discretion

6.2.9 In the event that a complaint received does not meet the jurisdictional parameters set by the AASW By-Laws on Ethics, it is at the discretion of the AASW CEO to determine whether a complaint will proceed through the ECMP.

Non-compliance by Respondent with AASW By-Laws on Ethics

6.2.10 If a complaint is made against a Respondent (current member) and the Respondent does not participate in the ECMP, or fails to comply with the relevant Conciliation or Mediation processes and/or outcomes as set out in the AASW By-Laws on Ethics and the ECMP, this may result in a breach of these By-Laws on Ethics and/or the Code of Ethics; and

- i. The AASW CEO, on behalf of the AASW, may proceed with a complaint against the Respondent, pursuant to the procedures set out in these By-Laws on Ethics; and
- ii. The Ethics Council may deem such conduct as either alleged misconduct, or alleged serious misconduct; and
- iii. The Ethics Council may determine how a complaint or failure to participate in the Conciliation or Mediation processes and/or outcomes proceeds through the ECMP; and
- iv. In the event a Respondent fails to participate in the ECMP and/or Conciliation or Mediation: the Board, on the recommendation of the Ethics Council, may suspend and/or cancel the Respondent's AASW membership until such time as the Respondent participates

- in the ECMP and/or Conciliation or Mediation. It is the responsibility of the Respondent to inform the Ethics Office of their intention to participate in the ECMP and comply with the determined outcome/s.
- v. If there are agreed outcomes from Conciliation or Mediation with which the Respondent does not comply: the Board, on the recommendation of the Ethics Council, may suspend and/or cancel the Respondent's AASW membership until such time as the Respondent complies with the agreed outcomes of Conciliation or Mediation.
 - vi. In the event the Respondent fails to participate in the Hearing, or related processes, any imposition of outcomes may continue in their absence.
 - vii. In the event the Respondent fails to comply with the outcomes of either a Hearing or Appeal Panel process: the Board, on the recommendation of the Ethics Council, may suspend and/or cancel the Respondent's AASW membership and publish that suspension on the AASW website, until such time as the Respondent complies with the outcomes of the Hearing or Appeal Panel processes.

6.2.11 The Ethics Office will monitor compliance with conditions and/or agreed obligations.

Complaints to other bodies

6.2.12 Where a Complainant raises a complaint which are more appropriately addressed by other bodies, such as matters of illegal/criminal activity, the Ethics Office will refer the Complainant for example, to the police and/or relevant statutory complaints bodies.

6.2.13 In circumstances where a complaint has been referred to another body or is currently being considered by another body, the Ethics Office will at its discretion determine if the complaint made to the AASW will proceed.

6.2.14 Where another body has made a finding or determination about an AASW member in relation to their professional social work practice and/or conduct and that information is in the public domain; or the AASW is otherwise advised of the outcome by that body: the AASW CEO may, at their discretion, lodge a complaint against the AASW member pursuant to Clause 6.2.4 (v) of these By-Laws on Ethics.

6.3 Complaints Process Overview

As an overview, the ECMP consists of the following stages in administering complaints received about an AASW member in their professional practice and/or conduct as social workers.

Stage 1 - AASW Ethics Office

Stage 2 - Case Reviewer

Stage 3 - Ethics Council Review & Decision

Stage 4a - Option A - Informal Resolution (Conciliation or Mediation) OR

Stage 4b - Option B - Formal Resolution (Hearing Panel –and if applicable, Appeal Panel)

Stage 5 - Ethics Council Review

Stage 6 - AASW Board of Directors Decision (if applicable).

6.4 Stage 1 – AASW Ethics Office

6.4.1 Complaints are to be submitted to the Ethics Office in writing and signed, either by completing the relevant form available on the AASW website or by completing the webform.

6.4.2 Complainants requiring support with access may contact the Ethics Office for assistance. All complaints are initially reviewed by the Ethics Office to determine if the complaint falls within the jurisdiction of these By-Laws on Ethics.

6.4.3 The Ethics Office may request additional information from the Complainant to support or clarify the information provided within a specific timeframe.

6.4.4 If a complaint is not within jurisdiction, the Ethics Office will inform the Complainant within fifteen (15) business days of the AASW receiving the full complaint.

6.4.5 If the complaint is within jurisdiction, and the Ethics Office has determined there is not a more suitable body to refer the complaint to, then the Ethics Office will inform the Complainant within fifteen (15) business days of the AASW receiving the full complaint, that the Complaint will be referred to the Case Reviewer for further assessment.

6.4.6 The Ethics Office will advise the Respondent that a complaint has been received and advise them of the ECMP.

6.5 Stage 2 – Case Reviewer

6.5.1 All complaints assessed by the Ethics Office to be within jurisdiction, will be allocated to a Case Reviewer.

Preliminary enquiry

6.5.2 The Case Reviewer will complete a preliminary enquiry to gather information. This preliminary enquiry may include, but is not limited to the following enquiries/activities:

- i. Seeking further information from the Complainant to clarify matters raised;
- ii. Obtaining any other information that may be, in the Case Reviewer's unfettered opinion, appropriate, prudent, relevant, or necessary to the subject or circumstances of the complaint.
- iii. After receiving the additional information, the Case Reviewer may request additional information from the Complainant to support or clarify the information provided, in a timeframe set by the Case Reviewer.

Notification to Respondent

6.5.3 The Respondent will be notified of the complaint, in writing, by the Ethics Office. The Ethics Office will allocate a Case Reviewer to conduct the preliminary enquiry with the Respondent.

6.5.4 The Respondent will be provided with access to the following information:

- i. Any specific queries or questions the Ethics Office wishes to put to the Respondent;
- ii. Complaint and any additional information which the Ethics Office deems appropriate to include as part of the complaint;
- iii. A copy of the By-Laws on Ethics;
- iv. A copy of the Code of Ethics; and
- v. Any other information the Ethics Office or Case Reviewer considers relevant for the Respondent to form a complete understanding of the complaint and provide for a considered response.

6.5.5 The Respondent must provide a written response to the complaint and any supporting documentation they wish to rely on within fifteen (15) business days of receipt of the complaint notice.

Case Reviewer assessment

6.5.6 The Case Reviewer must assess all the information and material available as part of their Case Review of the complaint.

6.5.7 The Case Reviewer must conduct and complete their assessment of the complaint within a reasonable timeframe from when they received all the information.

6.5.8 The Case Reviewer must provide a report to the Ethics Council with a recommendation and rationale which nominates one (1) of the four (4) options available on how to proceed with the complaint including:

- i. Dismissal of the complaint; or
- ii. Informal Resolution - Conciliation; or
- iii. Informal Resolution - Mediation; or
- iv. Formal Resolution - Hearing.

6.6 Stage 3 – Ethics Council Review and Decision

6.6.1 The Ethics Council must give due consideration to the complaint, the Respondent's response and any supporting information, and the recommendation from the Case Reviewer to determine how the complaint will proceed.

6.6.2 Ethics Council will determine one (1) of the four (4) options available to address the complaint:

- i. Dismissal of the Complaint; or
- ii. Informal Resolution - Conciliation; or
- iii. Informal Resolution - Mediation; or
- iv. Formal Resolution - Hearing.

6.6.3 The Ethics Council decision is final and entirely at their own discretion.

- i. Generally, matters which are of minor to midlevel alleged misconduct will be referred to Conciliation or Mediation for resolution.
- ii. Matters which constitute alleged serious misconduct will be referred to a Hearing.
- iii. Serious misconduct allegations may include, but are not limited to complaints regarding abuse, violence, sexual misconduct or relationships, children, and other serious matters.

6.6.4 The Ethics Council will notify the parties, in writing, within fifteen (15) business days of making its decision.

6.6.5 The Complainant may refuse to participate in the process identified by the Ethics Council. However, the AASW will not offer any other options for resolution of the complaint and therefore, the complaint will be closed.

6.6.6 The Respondent must comply with the decision of the Ethics Council and participate, in good faith, in the relevant process identified.

6.6.7 In the event the Respondent does not comply with the decision of the Ethics Council and/or refuses to participate in the processes identified and required by the Ethics Council: such conduct may be regarded as a breach of these By-Laws on Ethics and Code of Ethics and will be addressed in accordance with Clause 6.2.10 of these By-Laws on Ethics.

6.7 Stage 4a – Informal Resolution – Conciliation

6.7.1 The Ethics Council will appoint a Case Reviewer as Conciliator.

6.7.2 The Case Reviewer will consult with the parties to organise the Conciliation.

6.7.3 When implementing a Conciliation, the Conciliator will undertake the following tasks:

- i. Consult with both parties to determine the key concerns, issues, agreed and disputed facts and options for resolution.
- ii. Provide a Conciliation Proposal to both parties which outlines the key issues and an option for resolution for review and agreement.

6.7.4 The Conciliation Proposal may include, but is not limited to options such as:

- i. A formal written apology; and/or
- ii. An agreement by the Respondent to undertake specific training, education and/or supervision.

6.7.5 The Conciliation Proposal cannot include either suspension, or cancellation of the Respondent's AASW membership.

6.7.6 To proceed, both parties must accept the terms of the Conciliation Agreement, in writing, within ten (10) business days.

6.7.7 If both parties agree to the terms of the Conciliation Proposal, any actions outlined therein must be undertaken by the Respondent within sixty (60) calendar days, in conjunction with the Ethics Office. If this time frame is unable to be met, then the Respondent must apply for an extension, in writing, to the Ethics Office prior to the conclusion of the sixty (60) calendar day timeframe, providing reasonable justification to be considered and determined by the Conciliator. The timeframe will not be extended beyond ninety (90) calendar days from the date of the signed Conciliation Agreement.

6.7.8 A record of the Conciliation Agreement will be kept on the Respondent's membership record with the AASW for a period of five (5) years.

6.7.9 A summary of the process followed will be provided to Ethics Council for its reference. The Ethics Council is not required to decide on the matter.

6.7.10 The Ethics Office will monitor compliance of the Conciliation Agreement. If the Respondent refuses to comply with the Conciliation Agreement:

- i. The Ethics Office will note this refusal by the Respondent on the Respondent's AASW membership record for a period of five (5) years; and
- ii. The AASW may proceed with a complaint against the Respondent in accordance with Clause 6.2.8 of these By-Laws on Ethics.

6.8 Stage 4b – Informal Resolution – Mediation

6.8.1 The Ethics Council will appoint a Mediator who is an accredited Mediator.

6.8.2 The AASW Ethics Office will consult with the parties to organise the Mediation.

6.8.3 The Mediator is to function as an independent facilitator of the Mediation between the Complainant and the Respondent, with the aim to resolve the complaint in a manner agreed to by both the Complainant and the Respondent.

6.8.4 The Mediation Agreement may include any reasonable terms to which both parties agree. However, the Mediation Agreement cannot include either suspension or cancellation of the Respondent's AASW membership.

6.8.5 If the complaint can be resolved at Mediation, then the terms of the agreed resolution are to be written and signed by the Complainant, the Respondent, and the Mediator within ten (10) business days of the Mediation.

6.8.6 If both parties agree to the terms of the Mediation, any actions outlined therein must be undertaken by the Respondent within sixty (60) business days, in conjunction with the Ethics Office. If this time frame is unable to be met, then the Respondent must apply for an extension, in writing, to the Ethics Office prior to the conclusion of the sixty (60) calendar day timeframe, providing reasonable justification to be considered and determined by the Mediator. The timeframe will not be extended beyond ninety (90) calendar days from the date of the signed Mediation Agreement.

6.8.7 A record of the Mediation Agreement will be kept on the Respondent's membership record with the AASW for a period of five (5) years.

6.8.8 A summary of the process followed will be provided to Ethics Council for its reference. The Ethics Council is not required to decide on the matter.

6.8.9 If the Respondent refuses to comply with the Mediation Agreement:

- i. The AASW will note this refusal by the Respondent on the Respondent's AASW membership record for a period of five (5) years; and
- ii. The AASW may proceed with a complaint against the Respondent in accordance with Clause 6.2.8 of these By-Laws on Ethics.

6.9 Stage 4c – Formal Resolution – Hearing Panel

6.9.1 In matters of alleged serious misconduct, the Ethics Council will appoint the Hearing Panel ensuring that the Hearing Panel members do not have a conflict of interest or connection with the parties which may be construed as bias or a conflict of interest.

6.9.2 The Hearing Panel consists of at least two (2) people to hear and determine formal allegations of serious misconduct regarding the Respondent's practice and/or conduct as a social worker.

6.9.3 The Hearing Panel will appoint its own Chair.

Hearing – Date & Manner

6.9.4 The Hearing Panel will determine the manner and date of the Hearing.

6.9.5 The Ethics Office will consult with all parties to:

- i. Organise the Hearing which may take account of the Respondent's personal circumstances, and
- ii. Identify the members of the Hearing Panel to the Respondent, so the Respondent may raise any objections based on either an apprehension of bias, or conflict of interest. In such cases, the objection will be referred to the Ethics Council for determination and action.

Notice of Hearing

6.9.6 The Ethics Office, on behalf of the Hearing Panel, will provide to the Respondent the following:

- i. A Notice of Hearing, in writing, no less than twenty (20) business days before the date of the Hearing which advises the time, date and location of the Hearing or Hearing tele-conference; and
- ii. The Hearing Panel members; and
- iii. An outline of the case against the Respondent including specific allegations regarding alleged facts and alleged breaches of the Code of Ethics; and
- iv. Copies of all case material provided by the Ethics Office to the Hearing Panel.

Fair Hearing

6.9.7 To provide a fair Hearing to Respondents whose cases proceed to Hearing, the Chair will afford the Respondent an opportunity to be heard before making a determination which could potentially affect their membership or social work practice.

6.9.8 The AASW will take the following steps to provide a fair Hearing in complaint matters:

- i. Provide the Respondent with prior notice of any decision that may affect the Respondent's interests; and
- ii. Explain the "critical issues" to the Respondent and share information of credibility, relevance, and significance to the issues for the Respondent to address.

6.9.9 A Hearing will be held, and the Respondent will be provided with a reasonable opportunity to present a case.

6.9.10 Submissions are typically made in writing to the Hearing Panel however the Hearing Panel may decide to receive submissions orally if the Hearing Panel determines the Respondent is better served by presenting orally. Before confirming method of Hearing, the Hearing Panel will consider whether the issues can be presented and decided fairly by written submissions alone.

Terms of Reference

6.9.11 The key issues for the Hearing Panel to determine are as follows:

- i. Is the alleged misconduct, on the balance of probabilities, substantiated?
- ii. Does the alleged misconduct constitute any breaches of the Code of Ethics?

- iii. Identification of the alleged Code of Ethics breaches.
- iv. Identification of whether the misconduct is substantiated and if so, does this amount to serious misconduct.
- v. Recommend an outcome proportionate to the substantiated serious misconduct.

Procedure

6.9.12 The Hearing Panel may, at its own discretion, determine the process it undertakes at Hearing to determine the matter.

6.9.13 The Hearing is not a legal proceeding. The parties are not bound by the rules of evidence.

Representation

6.9.14 A representative of the AASW will present the case on behalf of the Complainant, in the name of the AASW, at the Hearing.

6.9.15 The Respondent represents themselves in the matter. Additionally, the Respondent may choose to have one (1) support person present at the Hearing. A support person may include a solicitor or barrister, but they must not function as a representative for the Respondent in the Hearing and the Respondent must personally answer any questions or queries of the Hearing Panel put to the Respondent. There is to be no communication between the support person and the Respondent during the Hearing.

6.9.16 Should the Respondent need to communicate with their support person during the Hearing, they can do so by informing the Hearing Panel of their need to do this and a break and/or private session will be accommodated during the Hearing and as soon as practicable. There is to be no communication between the support person and the Hearing Panel or AASW Ethics Office staff during the Hearing.

Submissions to the Hearing Panel

6.9.17 The Respondent may make written submissions to the Hearing Panel before the Hearing date. All written submissions to the Hearing Panel must be submitted to the Ethics Office no less than five (5) business days prior to the date of the Hearing.

6.9.18 Written submissions prepared for the Hearing Panel by the Respondents support person must be submitted by the Respondent. The AASW Ethics Office will not accept submissions made by any party other than the Respondent.

6.9.19 Should a Respondent provide the AASW Ethics Office with a submission prepared with the assistance of Artificial Intelligence (AI), they must provide the AASW Ethics Office with a declaration outlining this.

6.9.20 The Ethics Office will provide copies of all written submissions to the other party.

6.9.21 The Hearing Panel is not required to consider written submissions provided fewer than five (5) business days prior to the Hearing date.

Attendance by the Complainant and witnesses

6.9.22 Neither the Complainant nor any witness will be permitted to attend the Hearing unless the Hearing Panel have formed the view that their attendance may help to clarify the complaint or issues raised in response to it.

Recording

6.9.23 The AASW will organise for the Hearing Panel proceedings to be recorded.

6.9.24 The in-camera proceedings of the Hearing Panel will not be recorded.

Report

6.9.25 At the conclusion of its deliberations, the Hearing Panel will complete its report in accordance with the Terms of Reference set out at Clause 6.9.11 and include the rationale for its conclusions and if applicable, recommendations.

6.9.26 The Hearing Panel is not required to reach unanimous conclusions on its findings and recommendations. However, it is required to reach a majority on its findings and recommendations.

6.9.27 The Hearing Panel's Report will be reviewed by the Ethics Council to ensure compliance with these By-Laws on Ethics and that procedural fairness has been afforded to the parties.

6.9.28 The Ethics Council considers the Hearing Panel's Report and recommendations and will endorse the outcome and/or make further recommendations.

6.9.29 Both parties will be provided with a Hearing summary which includes the decision from the Ethics Council within sixty (60) business days from the date of the Hearing.

Outcomes

6.9.30 The Ethics Council may, at its discretion, determine outcomes which include, but are not limited to the following:

- i. Imposing conditions of practice, which can include the suspension or revoking of a credential which will be displayed on the AASW website; and/or
- ii. Issuing a formal warning which is recorded on the Respondent's AASW membership record; and/or
- iii. Making a recommendation to the Board, that a Respondent's AASW membership be suspended for a maximum of twelve (12) months which will be published on the AASW website; and/or
- iv. Making a recommendation to the Board, that a Respondent's AASW membership be suspended and published on the AASW website: the duration of which is until such time as the Respondent satisfactorily meets any imposed conditions of practice; or
- v. Making a recommendation to the Board, that a Respondent's AASW membership be cancelled for a specified period and published on the AASW website: (If implemented, the Respondent will have to re-apply for AASW membership to the Ethics Council at the conclusion of the specified period); or
- vi. Making a recommendation to the Board, that a Respondent's AASW membership be cancelled permanently and published on the AASW website.

Compliance by the Respondent

6.9.31 In the event a Respondent does not participate with the processes of the Hearing Panel, the Ethics Office will prepare a report to the Ethics Council. The Ethics Council may decide to make recommendations to the Board to suspend and/or cancel the Respondent's AASW membership and publish this outcome on the AASW website.

6.9.32 It is the responsibility of the Respondent to comply with the outcomes.

6.9.33 The Ethics Office will monitor the compliance to outcomes.

6.9.34 It is the responsibility of the Respondent to inform the Ethics Office of their compliance with the outcomes of the ECMP. Where the Respondent does not adhere to the required outcomes, the Ethics Office will report to the Ethics Council, who may make further determinations against the member's AASW membership.

6.10 Stage 4d – Appeal Panel

6.10.1 In matters where an Appeal is lodged, the Ethics Council will appoint the Appeal Panel of two (2) people ensuring that these panel members do not have a conflict of interest or connection with the parties, which may be construed as bias.

Standing to lodge an Appeal

6.10.2 Either party to the Hearing may lodge an appeal against the outcomes and/or recommendations determined by the Hearing Panel.

Grounds for Appeal

6.10.3 The determination of the Appeal Panel may be appealed on the grounds that:

- i. The Hearing was not procedurally fair; and/or
- ii. The outcomes are disproportionate to the substantiated breaches.

Timeframe

6.10.4 The Appeal must be lodged, in writing, by either party via the Ethics Office, within twenty (20) business days of the AASW sending the Hearing report to the Respondent.

Ethics Council decision

6.10.5 The Ethics Council will decide if the matter will be referred to an Appeal Panel.

Appeal – Date & Manner

6.10.6 The Appeal Panel will determine the manner and date of the Appeal.

6.10.7 The Ethics Office will consult with all parties to:

- i. Organise the Appeal which may take account of the Respondent's work and personal commitments in the finalisation of the Hearing date; and
- ii. Identify the members of the Appeal Panel to the Respondent, so the Respondent may raise any objections based on either an apprehension of bias, or conflict of interest. In such cases, the objection will be referred to the Ethics Council for determination and action, if deemed necessary by the Ethics Council in its endeavours to provide a procedurally fair process.

Notice of Appeal

6.10.8 The Ethics Office, on behalf of the Appeal Panel, will provide to the Respondent the following documents:

- i. A Notice of Appeal, in writing, to the Respondent, no less than twenty (20) business days before the date of the Appeal which advises of the time, date and location of the Appeal or Appeal tele-conference; and
- ii. A list of the Appeal Panel members; and
- iii. Copies of all case material provided by the Ethics Office to the Appeal Panel.

Terms of Reference

6.10.9 The Appeal Panel will hear and determine the Appeal by considering:

- i. The grounds of Appeal submitted by either party and whether they are to be upheld;
- ii. If it is determined that there were procedural shortcomings at the Hearing, the Appeal Panel, may, at its discretion, cure those deficits by actions, including, but not limited to:

- Calling witnesses,
- Putting questions and queries to the parties, and/or
- Taking written submissions subject to the limits specified at Clauses 6.10.15 - 6.10.17.

- iii. If it is determined that the outcomes of the Hearing Panel are disproportionate, the Appeal Panel may overturn and determine the outcomes of the matter, subject to Clause 6.10.24.

Procedure

6.10.10 The Appeal Panel may, at its own discretion, determine the process it undertakes at Appeal to determine these matters.

6.10.11 The Appeal is not a legal proceeding. The parties are not bound by the rules of evidence.

Representation

6.10.12 A representative of the AASW will present the case on behalf of the Complainant, in the name of the AASW, at the Appeal.

6.10.13 The Respondent represents themselves in the matter. Additionally, the Respondent may choose to have one (1) support person present at the Appeal. A support person may include a solicitor or barrister, but the support person must not function as a representative for the Respondent and the Respondent must personally answer any questions or queries of the Appeal Panel put to the Respondent.

6.10.14 Should the Respondent need to communicate with their support person during the Appeal, they can do so by informing the Appeal Panel of their need to do this and a break and/or private session will be accommodated during the Appeal and as soon as practicable. There is to be no communication between the support person and the Appeal Panel or AASW Ethics Office staff during the Hearing.

Submissions to the Appeal Panel

6.10.15 The parties may make written submissions to the Appeal Panel before the Appeal date. All written submissions to the Appeal Panel must be submitted to the Ethics Office no less than five (5) business days prior to the date of the Appeal.

6.10.16 Written submissions prepared for the Appeal Panel by the Respondents support person must be submitted by the Respondent. The AASW Ethics Office will not accept submissions made by any party other than the Respondent.

6.10.17 Should a Respondent provide the AASW Ethics Office with a submission prepared with the assistance of Artificial Intelligence (AI), they must provide the AASW Ethics Office with a declaration outlining this.

6.10.18 The Ethics Office will provide copies of all written submissions to the other party.

6.10.19 The Appeal Panel is not required to consider written submissions provided fewer than five (5) business days before the Hearing date.

Attendance by the Complainant and witnesses

6.10.20 Neither the Complainant, nor any witnesses, will be permitted to attend the Appeal, unless the Appeal Panel has formed the view that their attendance may help to clarify the matters before the Appeal Panel, in which case, the Appeal Panel may request the attendance of a witness.

6.10.21 The Appeal Panel cannot compel the attendance or participation of the Complainant or any witnesses.

Recording

6.10.22 The AASW will organise for the Appeal Panel proceedings to be recorded.

6.10.23 The in-camera proceedings of the Appeal Panel will not be recorded.

Outcomes

6.10.24 The Appeal Panel, may, at its discretion, uphold or overturn the recommendations of the Hearing Panel or determine its own recommendation(s), which include but are not limited to:

- i. Imposing conditions of practice which will be displayed on the AASW website; and/or
- ii. Issuing a formal warning which is recorded on the Respondent's AASW membership record; and/or
- iii. Making a recommendation to the Board that a Respondent's AASW membership be suspended for a maximum duration of twelve (12) months and publication of the suspension on the AASW website: (at the conclusion of the suspension, the Respondent is automatically reinstated to AASW membership for the remainder of the membership cycle); or
- iv. Making a recommendation to the Board that a Respondent's AASW membership be suspended and published on the AASW website until such time as the Respondent satisfactorily meets any imposed conditions of practice; or
- v. Making a recommendation to the Board that a Respondent's AASW membership be cancelled for a specified period and published on the AASW website: (If implemented, the Respondent will have to re-apply for AASW Membership to the Ethics Council at the conclusion of the specified period); or
- vi. Making a recommendation to the Board that a Respondent's AASW membership be cancelled permanently and published on the AASW website, in which case, the Board will determine if this recommendation will be implemented.

Report

6.10.25 At the conclusion of its deliberations, the Appeal Panel will complete its report in accordance with the Terms of Reference set out at Clause 6.10.9 and include the rationale for its conclusions and if applicable, recommendations.

6.10.26 The Appeal Panel is required to reach unanimous conclusions on its findings and recommendations.

6.10.27 The Appeal Panel process will be reviewed by the Ethics Council to ensure compliance with these By-Laws on Ethics and that procedural fairness has been afforded to the parties.

6.10.28 The Ethics Council considers the Appeal Panel's Report and recommendations and will endorse the recommendations and/or make further recommendations.

6.10.29 The applicant/member will be provided with an Appeal summary which includes the decision from the Ethics Council within sixty (60) business days from the date of the Appeal.

Non-compliance by the Respondent

6.10.30 If a Respondent does not comply with the processes of the Appeal Panel and/or the outcomes of the Appeal Panel the Ethics Council may suspend the Respondent's AASW membership and publish that suspension on the AASW website, pursuant to Clause 6.2.10 of these By-Laws on Ethics.

6.11 Stage 5 – Ethics Council Review

6.11.1 In matters of Conciliation and Mediation, the Ethics Council will be provided with a summary of the processes undertaken and outcomes, for its reference and records. The Ethics Council is not required to decide on those matters.

6.11.2 In matters of Hearings and Appeals, the Ethics Council has responsibility for reviewing the Hearing and Appeal Panel reports to oversee compliance with these By-Laws on Ethics and that procedural fairness has been afforded to the parties.

6.11.3 In matters of Hearing and Appeal outcomes, the Ethics Council will consult with the Ethics Office to implement the outcomes of those processes.

6.12 Stage 6 – AASW Board of Directors Determination

6.12.1 In matters where the Hearing or Appeal Panels have recommended suspension or cancellation of a Respondent's AASW membership and publication on the AASW website: the Ethics Council will make the recommendation to the Board; the Board may approve or reject the recommendation.

6.12.2 If the recommendation for suspension or cancellation of a Respondent's AASW membership and publication on the AASW website is rejected by the Board: that outcome recommended by the Hearing or Appeal Panel will not proceed and will be referred to the Ethics Council to review the Board's decision and consider further options.

6.12.3 If the recommendation for suspension or cancellation of a Respondent's AASW membership and publication on the AASW website is approved by the Board: that outcome recommended by the Hearing or Appeal Panel will proceed.

7. Declarations

7.1 Definition and Context of Declarations

7.1.1 Declarations are made to the AASW:

- i. at the time of applying for membership - an applicant will be required to make declarations to the AASW about their commitment to the AASW Code of Ethics and their suitability for membership; and
- ii. during membership - a current member makes a declaration at the time of renewing membership or at any other time when circumstances warrant a declaration to the AASW about a situation that is either criminal in nature or when a person believes they have an impairment that could impact on their ability to practice safely.

7.1.2 Declarations are made by applicants/members to the AASW about the:

- Adherence to the Code of Ethics
- Suitability for AASW membership
- Suitability for social work practice
- Criminal Proceedings
- Obligation of continuing disclosure to AASW
- Agreement to the Ethics Complaints Management Process
- Privacy Policy.

7.2 Declaration Assessment Process – Criminal Declaration (DAP)

7.2.1 A person makes the declarations to the AASW.

7.2.2 The Membership Office will review all declarations received by the AASW and will refer declarations made by applicants/members about criminal background (relevant to the Fitness to Practice declaration) and criminal proceedings to the Ethics Office to consider and process.

7.2.3 Declarations referred to the Ethics Office about criminal background and criminal proceedings will be considered based on the extent that the offences are inconsistent with a social worker being fit to practice as defined in AASW's Code of Ethics (2020), and AASW's Practice Standards (2023). The procedure for assessing declarations will be determined based on the offences(s) and factors relevant to the offence(s). Appendix A includes guidelines used for determining the threshold of a declaration of criminal background and proceedings.

Declarations determined as meeting the low threshold

7.2.4 Declarations determined by the Ethics Office to meet the low threshold may be assessed directly by the Ethics Office.

7.2.5 The Ethics Office will review the information received and may contact the applicant/member for further information or to seek to clarify the information provided. The Ethics Office will consider the information and will make the following recommendations:

- i. may approve the applicant/member for membership; or
- ii. the declaration is referred to a Hearing Panel for further consideration.

7.2.6 The Ethics Council will review the Ethics Office Report and recommendations, and either request further information or endorse the Ethics Office's recommendation.

7.2.7 The Ethics Office will notify the member/applicant and the Members Office of the Ethics Council decision.

Declarations determined as meeting the medium or high threshold

7.2.8 Declarations determined by the Ethics Office to meet the medium or high threshold will result in the Ethics Office making a recommendation to the Ethics Council that the declaration is assessed by a Hearing Panel.

7.2.9 In preparing the recommendation for the Ethics Council, the Ethics Office will request the applicant/member to provide the Ethics Office with a copy of an Australian Federal Police Report about the matters declared. The Ethics Office may also contact the applicant/member for further information or seek to clarify the information provided.

7.2.10 The Ethics Council will review the Ethics Office Report and either request further information or endorse the recommendation that the declaration is assessed by a Hearing Panel.

7.2.11 The Ethics Office will notify the applicant/member and the Membership Office of the Ethics Council decision.

7.3 Formal Resolution – Hearing Panel

7.3.1 For declarations that will be assessed by a Hearing Panel, the Ethics Council will appoint the Hearing Panel ensuring that the Hearing Panel members do not have a conflict of interest or connection with the applicant/member which may be construed as bias.

7.3.2 The Hearing Panel consists of at least two (2) people to hear and assess the declaration in respect to AASW membership.

7.3.3 The Hearing Panel will appoint its own Chair.

Hearing – Date & Manner

7.3.4 The Hearing Panel will determine the manner and date of the Hearing.

7.3.5 The Ethics Office will consult with the applicant/member to:

- i. Organise the Hearing which may take account of the applicant/member's personal circumstances; and
- ii. Identify the members of the Hearing Panel, so the applicant/member may raise any objections based on either an apprehension of bias, or conflict of interest. In such cases, the objection will be referred to the Ethics Council for determination and action.

Notice of Hearing

7.3.6 The Ethics Office, on behalf of the Hearing Panel, will provide to the applicant/member the following:

- i. A Notice of Hearing, in writing, no less than twenty (20) business days before the date of the Hearing which advises the time, date and location of the Hearing or Hearing teleconference; and
- ii. The names of the Hearing Panel members.

Fair Hearing

7.3.7 To provide a fair Hearing to applicant/member whose declaration assessment proceeds to Hearing, the Chair will afford the applicant/member an opportunity to be heard before making a determination which could potentially affect their membership.

7.3.8 The AASW will take the following steps to provide a fair Hearing in complaint matters:

- i. Provide the applicant/member with prior notice of any decision that may affect the applicant/member's interests; and
- ii. Explain the "critical issues" to the applicant/member.

7.3.9 A Hearing will be held, and the applicant/member will be provided with a reasonable opportunity to present a case.

7.3.10 Submissions are typically made in writing to the Hearing Panel, however the Hearing Panel may decide to receive submissions orally if the Hearing Panel determines the applicant/member is better served by presenting orally. Before confirming the method of Hearing, the Hearing Panel will consider whether the issues can be presented and decided fairly by written submissions alone.

Terms of Reference

7.3.11 Each case is to be considered on an individual basis, and will be considered by the Hearing Panel based on:

- i. The extent the matters declared are consistent with the trust that the public and its service users will have in the applicant/member that, as a social worker, the applicant/member will practice competently and ethically; and
- ii. The existence of contextual factors that reduce the enormity of the offence(s) or alleged offence(s), and as such are expected to be factors that restore the trust that the public and its service users have in the applicant/member to practice competently and ethically.

Procedure

7.3.12 The Hearing Panel may, at its own discretion, determine the process it undertakes at Hearing to determine the matter.

7.3.13 The Hearing is not a legal proceeding. Participants are not bound by the rules of evidence.

Submissions to the Hearing Panel

7.3.14 The applicant/member will be requested to make a written submission to the Hearing Panel before the Hearing date. All written submissions to the Hearing Panel must be submitted to the Ethics Office no less than five (5) business days prior to the date of the Hearing.

7.3.15 Written submissions prepared for the Appeal Panel by the applicant/members support person must be submitted by the applicant/member. The AASW Ethics Office will not accept submissions made by any party other than the applicant/member.

7.3.16 Should an applicant/member provide the AASW Ethics Office with a submission prepared with the assistance of Artificial Intelligence, they must provide the AASW Ethics Office with a declaration outlining this.

7.3.17 The Ethics Office will provide copies of all written submissions to the Hearing Panel.

7.3.18 The Hearing Panel is not required to consider written submissions provided fewer than five (5) business days prior to the Hearing date.

Attendance at Hearing Panels

7.3.19 Submissions are made to the Hearing Panel in writing. An applicant/member or witness is not permitted to attend the Hearing unless the Hearing Panel have formed the view that their attendance may help to clarify the submission or issues raised in response to it.

7.3.20 If the Hearing Panel request the attendance of the applicant/member at the Hearing Panel the applicant/member may choose to have one (1) support person present at the Hearing. A support person may include a solicitor or barrister, but they must not function as a representative for the applicant/member in the Hearing and the applicant/member must personally answer any questions or queries of the Hearing Panel put to them. There is to be no communication between the support person and the applicant/member during the Hearing.

7.3.21 Should the applicant/member need to communicate with their support person during the Hearing, they can do so by informing the Hearing Panel of their need to do this and a break and/or private session will be accommodated during the Appeal and as soon as practicable. There is to be no communication between the support person and the Hearing Panel or AASW Ethics Office staff during the Appeal.

Recording

7.3.22 The AASW will organise for the Hearing Panel proceedings to be recorded.

7.3.23 The in-camera proceedings of the Hearing Panel will not be recorded.

Report

7.3.24 At the conclusion of its deliberations, the Hearing Panel will complete its report in accordance with the Terms of Reference set out at Clause 7.3.11 and include the rationale for its conclusions and recommendations.

7.3.25 The Hearing Panel is not required to reach unanimous conclusions on its findings and recommendations. However, it is required to reach a majority on its findings and recommendations.

7.3.26 The Hearing Panel's Report will be reviewed by the Ethics Council to ensure compliance with these By-Laws on Ethics and ensure procedural fairness has been afforded to the AASW applicant/member.

7.3.27 The Ethics Council considers the Hearing Panel's Report and recommendations and will endorse the recommendations and/or make further recommendations.

7.3.28 The applicant/member will be provided with a Hearing summary which includes the decision from the Ethics Council within sixty (60) business days from the date of the Hearing. The Membership Office will be informed of the outcome at this time.

Outcomes

7.3.29 The Hearing Panel may, at its discretion, make recommendations which will include one of the following decisions:

- i. For social workers applying for membership:
 - a. Recommend that membership be granted; or

b. Recommend that membership not be granted.

ii. For social workers who are currently AASW members:

- a. Recommend that membership be renewed or continued; or
- b. Recommend to the Board that membership be suspended, and the suspended membership will be published on the AASW website; or
- c. Recommend to the Board that membership be cancelled, and the cancelled membership will be published on the AASW website.

7.3.30 The Hearing Panel may also recommend a date to review a decision.

7.4 Formal Resolution – Appeal Panel

7.4.1 In matters where an Appeal is lodged, the Ethics Council will appoint the Appeal Panel of two (2) people ensuring that these panel members do not have a conflict of interest or connection with the applicant/member, which may be construed as bias.

Standing to lodge an Appeal

7.4.2 The applicant/member may lodge an Appeal against the outcomes and /or recommendations determined by the Ethics Council.

Grounds for Appeal

7.4.3 The determination of the Appeal Panel may be appealed on the grounds that:

- i. The Hearing was not procedurally fair; and/or
- ii. The outcomes are disproportionate to the matter that was declared.

Timeframe

7.4.4 The Appeal must be lodged in writing via the Ethics Office within twenty (20) business days of the AASW notifying the applicant/member of the outcome.

Ethics Council decision

7.4.5 The Ethics Council will decide if the matter will be referred to an Appeal Panel.

Appeal – Date & Manner

7.4.6 The Appeal Panel will determine the manner and date of the Appeal.

7.4.7 The Ethics Office will consult with the applicant/member to:

- i. Organise the appeal which may take account of the personal commitments of the applicant/member in the finalisation of the Appeal Hearing date; and
- ii. Identify the members of the Appeal Panel to the applicant/member, so that the applicant/member may raise any objections based on either an apprehension of bias, or conflict of interest. In such cases, the objection will be referred to the Ethics Council for determination and action, if deemed necessary by the Ethics Council in its endeavours to provide a procedurally fair process.

Terms of Reference

7.4.8 The Appeal Panel will hear and determine the Appeal by considering:

- i. The grounds of appeal submitted by the applicant/member and whether they are to be upheld.
- ii. If it is determined that there were procedural shortcomings at the Hearing, the Appeal Panel, may, at its discretion, cure those deficits by actions, including, but not limited to:

- a. Clarifying information
 - b. Putting questions and queries to the applicant/member
 - c. Taking further written submissions subject to the limits specified at Clause 7.4.3 (i).
- iii. If it is determined that the recommendations of the Hearing Panel are disproportionate, the Appeal Panel may overturn and make further recommendations to the Ethics Council, subject to Clause 7.4.3 (ii).

Procedure

7.4.9 The Appeal Panel may, at its own discretion, determine the process it undertakes at Appeal to determine these matters.

7.4.10 The Appeal is not a legal proceeding. The participants are not bound by the rules of evidence.

Submissions to the Appeal Panel

7.4.11 The applicant/member may make written submissions to the Appeal Panel before the Appeal date. All written submissions to the Appeal Panel must be submitted to the Ethics Office no less than five (5) business days prior to the date of the Appeal.

7.4.12 Written submissions prepared for the Appeal Panel by the applicant/members support person must be submitted by the applicant/member. The AASW Ethics Office will not accept submissions made by any party other than the applicant/member.

7.4.13 Should an applicant/member provide the AASW Ethics Office with a submission prepared with the assistance of Artificial Intelligence (AI), they must provide the AASW Ethics Office with a declaration outlining this.

7.4.14 The Ethics Office will provide copies of all written submissions to the Appeal Panel.

7.4.15 The Appeal Panel is not required to consider written submissions provided fewer than five (5) business days before the Appeal Hearing date.

Attendance at Appeal Panels

7.4.16 An applicant/member is not permitted to attend the Appeal Hearing, unless the Appeal Panel has formed the view that attendance may help to clarify the matters before the Appeal Panel, in which case, the Appeal Panel may request the attendance of the applicant/member.

7.4.17 The Appeal Panel cannot compel the attendance of the applicant/member.

7.4.18 If the Appeal Panel request the attendance of the applicant/member at the Appeal Panel the applicant/member may choose to have one (1) support person present at the Appeal. A support person may include a solicitor or barrister, but they must not function as a representative for the applicant/member in the Appeal and the applicant/member must personally answer any questions or queries of the Appeal Panel put to them. There is to be no communication between the support person and the applicant/member during the Appeal.

7.4.19 Should the applicant/member need to communicate with their support person during the Appeal, they can do so by informing the Appeal Panel of their need to do this and a break and/or private session will be accommodated during the Appeal and as soon as practicable. There is to be no communication between the support person and the Hearing Panel or AASW Ethics Office staff during the Appeal.

Recording

7.4.20 The AASW will organise for the Appeal Panel proceedings to be recorded.

7.4.21 The in-camera proceedings of the Appeal Panel will not be recorded.

Outcomes

7.4.22 The Appeal Panel, may, at its discretion, uphold, or overturn the Hearing Panel's recommendation, and make its own recommendation, which will include one of the following decisions:

- i. For social workers applying for AASW membership:
 - a. Recommend that membership be granted; or
 - b. Recommend that membership not be granted.
- ii. For social workers who are currently AASW members:
 - a. Recommend that membership be renewed or continued; or
 - b. Recommend to the Board that membership be suspended, and the suspended membership will be published on the AASW website; or
 - c. Recommend to the Board that membership be cancelled, and the cancelled membership will be published on the AASW website.

Report

7.4.23 At the conclusion of its deliberations, the Appeal Panel will complete its report in accordance with the Terms of Reference set out at Clause 7.4.8 and include the rationale for its conclusions and if applicable, recommendations.

7.4.24 The Appeal Panel is required to reach unanimous conclusions on its findings and recommendations.

7.4.25 The Appeal Panel process will be reviewed by the Ethics Council to ensure compliance with these By-Laws on Ethics and that procedural fairness has been afforded to the applicant/member.

7.4.26 The Ethics Council considers the Appeal Panel's Report and recommendations and will endorse the recommendation or not endorse the recommendation.

7.4.27 A summary of the Appeal Report will be provided to the applicant/member within sixty (60) business days from the date of Appeal. The Ethics Office will advise the AASW Membership Office at this time of the outcome of the Appeal.

7.5 AASW Board of Directors Determination

7.5.1 In the event that the Board rejects the outcome recommended by the Hearing or Appeal Panel, then that outcome recommended by the Hearing or Appeal Panel will not proceed and will be referred to the Ethics Council to review the Board's decision and consider further options.

7.5.2 In the event that the Board accepts the outcome recommended by the Hearing or Appeal Panel, then that outcome recommended by the Hearing or Appeal Panel will proceed.

7.5.3 The Ethics Office will inform the Membership Office of the outcome. The Membership Office will then notify the member or the applicant.

8.1 Declaration Assessment Process - Fitness to Practice

8.1.1 A person makes the declarations to the AASW.

8.1.2 The Membership Office will review all declarations received by the AASW and will refer declarations made by applicants/members about fitness to practice to the Ethics Office to consider and process.

8.1.3 Declarations referred to the Ethics Office about fitness to practice will be considered based on the extent that the factors requiring declaration are inconsistent with a social worker being fit to practice

as defined in AASW's Code of Ethics (2020), and AASW's Practice Standards (2023). The procedure for assessing declarations will be determined based on the factors requiring disclosure(s) and factors relevant to the offence(s). Appendix B includes guidelines used for determining the threshold of a declaration of fitness to practice.

Declarations determined as meeting the low threshold

8.1.4 Declarations determined by the Ethics Office to meet the low threshold may be assessed directly by the Ethics Office.

8.1.5 The Ethics Office will review the information received and may contact the applicant/member for further information or to seek to clarify the information provided. The Ethics Office will consider the information and will make the following recommendations:

- i. may approve the applicant/member for membership; or
- ii. the declaration is referred to a Hearing Panel for further consideration.

8.1.6 The Ethics Council will review the Ethics Office Report and recommendations, and either request further information or endorse the Ethics Office's recommendation.

8.1.7 The Ethics Office will notify the member/applicant and the Members Office of the Ethics Council decision.

Declarations determined as meeting the medium or high threshold

8.1.8 Declarations determined by the Ethics Office to meet the medium or high threshold will result in the Ethics Office making a recommendation to the Ethics Council that the declaration is assessed by a Hearing Panel.

8.1.9 In preparing the recommendation for the Ethics Council, the Ethics Office will request the applicant/member to provide the Ethics Office with a copy of any or a combination of the following:

- a Statutory Declaration outlining their circumstances
- medical certificate
- treating doctor/psychologist/psychiatrist report
- other professional report
- employers report
- social work supervisors report
- any documentation relevant to the matter being declared.

8.1.10 The Ethics Office may also contact the applicant/member for further information or seek to clarify the information provided.

8.1.11 The Ethics Council will review the Ethics Office Report and either request further information or endorse the recommendation that the declaration is assessed by a Hearing Panel.

8.1.12 The Ethics Office will notify the applicant/member and the Membership Office of the Ethics Council decision.

8.2 Formal Resolution – Hearing Panel

8.2.1 For declarations that will be assessed by a Hearing Panel, the Ethics Council will appoint the Hearing Panel ensuring that the Hearing Panel members do not have a conflict of interest or connection with the applicant/member which may be construed as bias.

8.2.2 The Hearing Panel consists of at least two (2) people to hear and assess the declaration in respect to AASW membership.

8.2.3 The Hearing Panel will appoint its own Chair.

Hearing – Date and Manner

8.2.4 The Hearing Panel will determine the manner and date of the Hearing.

8.2.5 The Ethics Office will consult with the applicant/member to:

- i. Organise the Hearing which may take account of the applicant/member's personal circumstances; and
- ii. Identify the members of the Hearing Panel, so the applicant/member may raise any objections based on either an apprehension of bias, or conflict of interest. In such cases, the objection will be referred to the Ethics Council for determination and action.

Notice of Hearing

8.2.6 The Ethics Office, on behalf of the Hearing Panel, will provide to the applicant/member the following:

- i. A Notice of Hearing, in writing, no less than twenty (20) business days before the date of the Hearing which advises the time, date and location of the Hearing or Hearing teleconference; and
- ii. The names of the Hearing Panel members.

Fair Hearing

8.2.7 To provide a fair Hearing to applicant/member whose declaration assessment proceeds to Hearing, the Chair will afford the applicant/member an opportunity to be heard before making a determination which could potentially affect their membership.

8.2.8 The AASW will take the following steps to provide a fair Hearing in complaint matters:

- i. Provide the applicant/member with prior notice of any decision that may affect the applicant/member's interests; and
- ii. Explain the "critical issues" to the applicant/member.

8.2.9 A Hearing will be held, and the applicant/member will be provided with a reasonable opportunity to present a case.

8.2.10 Submissions are typically made in writing to the Hearing Panel; however the Hearing Panel may decide to receive submissions orally if the Hearing Panel determines the applicant/member is better served by presenting orally. Before confirming the method of Hearing, the Hearing Panel will consider whether the issues can be presented and decided fairly by written submissions alone.

Terms of Reference

8.2.11 Each case is to be considered on an individual basis, and will be considered by the Hearing Panel based on:

- i. The extent the matters declared are consistent with the trust that the public and its service users will have in the applicant/member that, as a social worker, the applicant/member will practice competently and ethically; and
- ii. The existence of contextual factors that reduce the enormity of the limitations of fitness to practice (s) or alleged limitations to practice(s), and as such are expected to be factors that restore the trust that the public and its service users have in the applicant/member to practice competently and ethically.

Procedure

8.2.12 The Hearing Panel may, at its own discretion, determine the process it undertakes at Hearing to determine the matter.

8.2.13 The Hearing is not a legal proceeding. Participants are not bound by the rules of evidence.

Submissions to the Hearing Panel

8.2.14 The applicant/member will be requested to make a written submission to the Hearing Panel before the Hearing date. All written submissions to the Hearing Panel must be submitted to the Ethics Office no less than five (5) business days prior to the date of the Hearing.

8.2.15 Should an applicant/member provide the AASW Ethics Office with a submission prepared with the assistance of Artificial Intelligence (AI), they must provide the AASW Ethics Office with a declaration outlining this.

8.2.16 The Ethics Office will provide copies of all written submissions to the Hearing Panel.

8.2.17 The Hearing Panel is not required to consider written submissions provided fewer than five (5) business days prior to the Hearing date.

Attendance at Hearing Panels

8.2.18 Submissions are made to the Hearing Panel in writing. An applicant/member or witness is not permitted to attend the Hearing unless the Hearing Panel have formed the view that their attendance may help to clarify the submission or issues raised in response to it.

8.2.19 If the Hearing Panel request the attendance of the applicant/member at the Hearing Panel the applicant/member may choose to have one (1) support person present at the Hearing. A support person may include a solicitor or barrister, but they must not function as a representative for the applicant/member in the Hearing and the applicant/member must personally answer any questions or queries of the Hearing Panel put to them. There is to be no communication between the support person and the applicant/member during the Hearing.

8.2.20 Should the applicant/member need to communicate with their support person during the Hearing, they can do so by informing the Hearing Panel of their need to do this and a break and/or private session will be accommodated during the Appeal and as soon as practicable. There is to be no communication between the support person and the Hearing Panel or AASW Ethics Office staff during the Hearing.

Recording

8.2.21 The AASW will organise for the Hearing Panel proceedings to be recorded.

8.2.22 The in-camera proceedings of the Hearing Panel will not be recorded.

Report

8.2.23 At the conclusion of its deliberations, the Hearing Panel will complete its report in accordance with the Terms of Reference set out at Clause 7.3.11 and include the rationale for its conclusions and recommendations.

8.2.24 The Hearing Panel is not required to reach unanimous conclusions on its findings and recommendations. However, it is required to reach a majority on its findings and recommendations.

8.2.25 The Hearing Panel's Report will be reviewed by the Ethics Council to ensure compliance with these By-Laws on Ethics and ensure procedural fairness has been afforded to the AASW applicant/member.

8.2.26 The Ethics Council considers the Hearing Panel's Report and recommendations and will endorse the recommendations and/or make further recommendations.

8.2.27 The applicant/member will be provided with a Hearing summary which includes the decision from the Ethics Council within sixty (60) business days from the date of the Hearing. The Membership Office will be informed of the outcome at this time.

Outcomes

8.2.28 The Hearing Panel may, at its discretion, make recommendations which will include one of the following decisions:

- i. For social workers applying for membership:
 - a) Recommend that membership be granted; or
 - b) Recommend that membership not be granted.
- ii. For social workers who are currently AASW members:
 - a) Recommend that membership be renewed or continued; or
 - b) Recommend to the Board that membership be suspended, and the suspended membership will be published on the AASW website; or
 - c) Recommend to the Board that membership be cancelled, and the cancelled membership will be published on the AASW website.

8.2.29 The Hearing Panel may also recommend a date to review a decision.

8.3 Formal Resolution – Appeal Panel

8.3.1 In matters where an Appeal is lodged, the Ethics Council will appoint the Appeal Panel of two (2) people ensuring that these panel members do not have a conflict of interest or connection with the applicant/member, which may be construed as bias.

Standing to lodge an Appeal

8.3.2 The applicant/member may lodge an Appeal against the outcomes and /or recommendations determined by the Ethics Council.

Grounds for Appeal

8.3.3 The determination of the Appeal Panel may be appealed on the grounds that:

- i. The Hearing was not procedurally fair; and/or
- ii. The outcomes are disproportionate to the matter that was declared.

Timeframe

8.3.4 The Appeal must be lodged in writing via the Ethics Office within twenty (20) business days of the AASW notifying the applicant/member of the outcome.

Ethics Council decision

8.3.5 The Ethics Council will decide if the matter will be referred to an Appeal Panel.

Appeal – Date and Manner

8.3.6 The Appeal Panel will determine the manner and date of the Appeal.

8.3.7 The Ethics Office will consult with the applicant/member to:

- i. Organise the appeal which may take account of the personal commitments of the applicant/member in the finalisation of the Appeal Hearing date; and
- ii. Identify the members of the Appeal Panel to the applicant/member, so that the applicant/member may raise any objections based on either an apprehension of bias, or conflict of interest. In such cases, the objection will be referred to the Ethics Council for determination and action, if deemed necessary by the Ethics Council in its endeavours to provide a procedurally fair process.

Terms of Reference

8.3.8 The Appeal Panel will hear and determine the Appeal by considering:

- i. The grounds of appeal submitted by the applicant/member and whether they are to be upheld.
- ii. If it is determined that there were procedural shortcomings at the Hearing, the Appeal Panel, may, at its discretion, cure those deficits by actions, including, but not limited to:
 - a) Clarifying information
 - b) Putting questions and queries to the applicant/member, and/or
 - c) Taking further written submissions subject to the limits specified at Clause 8.3.3.
- iii. If it is determined that the recommendations of the Hearing Panel are disproportionate, the Appeal Panel may overturn and make further recommendations to the Ethics Council, subject to Clause 7.4.3 (ii).

Procedure

8.3.9 The Appeal Panel may, at its own discretion, determine the process it undertakes at Appeal to determine these matters.

8.3.10 The Appeal is not a legal proceeding. The participants are not bound by the rules of evidence.

Submissions to the Appeal Panel

8.3.11 The applicant/member may make written submissions to the Appeal Panel before the Appeal date. All written submissions to the Appeal Panel must be submitted to the Ethics Office no less than five (5) business days prior to the date of the Appeal.

8.3.12 Should an applicant/member provide the AASW Ethics Office with a submission prepared with the assistance of Artificial Intelligence (AI), they must provide the AASW Ethics Office with a declaration outlining this.

8.3.13 The Ethics Office will provide copies of all written submissions to the Appeal Panel.

8.3.14 Written submissions prepared for the Appeal Panel by the applicant/member support person must be submitted by the Respondent. The AASW Ethics Office will not accept submissions made by any party other than the applicant/member.

8.3.15 The Appeal Panel is not required to consider written submissions provided fewer than five (5) business days before the Appeal Hearing date.

Attendance at Appeal Panels

8.3.16 An applicant/member is not permitted to attend the Appeal Hearing, unless the Appeal Panel has formed the view that attendance may help to clarify the matters before the Appeal Panel, in which case, the Appeal Panel may request the attendance of the applicant/member.

8.3.17 The Appeal Panel cannot compel the attendance of the applicant/member.

8.3.18 If the Appeal Panel request the attendance of the applicant/member at the Appeal Panel the applicant/member may choose to have one (1) support person present at the Appeal. A support person may include a solicitor or barrister, but they must not function as a representative for the applicant/member in the Appeal and the applicant/member must personally answer any questions or queries of the Appeal Panel put to them. There is to be no communication between the support person and the applicant/member during the Appeal.

8.3.19 Should the applicant/member need to communicate with their support person during the Appeal, they can do so by informing the Appeal Panel of their need to do this and a break and/or private session will be accommodated during the Appeal and as soon as practicable. There is to be no communication between the support person and the Hearing Panel or AASW Ethics Office staff during the Appeal.

Recording

8.3.20 The AASW will organise for the Appeal Panel proceedings to be recorded.

8.3.21 The in-camera proceedings of the Appeal Panel will not be recorded.

Outcomes

8.3.22 The Appeal Panel, may, at its discretion, uphold, or overturn the Hearing Panel's recommendation, and make its own recommendation, which will include one of the following decisions:

- i. For social workers applying for AASW membership:
 - a) Recommend that membership be granted; or
 - b) Recommend that membership not be granted.
- ii. For social workers who are currently AASW members:
 - a) Recommend that membership be renewed or continued; or
 - b) Recommend to the Board that membership be suspended, and the suspended membership will be published on the AASW website; or
 - c) Recommend to the Board that membership be cancelled, and the cancelled membership will be published on the AASW website.

Report

8.3.23 At the conclusion of its deliberations, the Appeal Panel will complete its report in accordance with the Terms of Reference set out at Clause 7.4.8 and include the rationale for its conclusions and if applicable, recommendations.

8.3.24 The Appeal Panel is required to reach unanimous conclusions on its findings and recommendations.

8.3.25 The Appeal Panel process will be reviewed by the Ethics Council to ensure compliance with these By-Laws on Ethics and that procedural fairness has been afforded to the applicant/member.

8.3.26 The Ethics Council considers the Appeal Panel's Report and recommendations and will endorse the recommendation or not endorse the recommendation.

8.3.27 The applicant/member will be provided with an Appeal summary which includes the decision from the Ethics Council within sixty (60) calendar days from the date of the Appeal. The Ethics Office will advise the AASW Membership Office at this time of the outcome of the Appeal.

AASW Board of Directors determination

8.4.1 In the event that the Board rejects the outcome recommended by the Hearing or Appeal Panel, then that outcome recommended by the Hearing or Appeal Panel will not proceed and will be referred to the Ethics Council to review the Board's decision and consider further options.

8.4.2 In the event that the Board accepts the outcome recommended by the Hearing or Appeal Panel, then that outcome recommended by the Hearing or Appeal Panel will proceed.

8.4.3 The Ethics Office will inform the Membership Office of the outcome. The Membership Office will then notify the member or the applicant.

APPENDIX A - Guidelines for determining thresholds for declarations of criminal background and proceedings

The threshold for a declaration is primarily determined by the nature of the offence. However, there may be other factors, such as repeated offences in a time period, which may alter the threshold. For example, while declarations of parking infringements are normally determined to be low threshold, if a declaration is received where a social worker had many parking infringements in a 12-month period, then the Ethics Office may consider the declaration meets the medium threshold.

Table 1 below is a guideline of how thresholds for a declaration are determined. However, it needs to be noted that the determination of the threshold of a declaration is at the discretion of the Ethics Office and the Ethics Council.

Table 1: Guidelines for setting thresholds for declarations of criminal background or criminal proceedings underway

Threshold	Nature of the offence
Low	Offences that are unlikely to be incompatible with the professional identity of an AASW member and a person's fitness to practice as a social worker. This includes offences that suggest the offender is unlikely to pose a risk to the safety and well-being of service users. It includes offences that don't attract any prison term. For example, parking infringements, minor traffic offences, offences that have been decriminalised or are inconsistently applied across states and territories (such as possession of cannabis), Council by-law infringements.
Medium	Offences that could be considered incompatible with the professional identity of an AASW member and a person's fitness to practice as a social worker. This could include offences that suggest the offender may pose a risk to the safety and well-being of service users. It includes offences that don't attract any prison term, and offences that attract a prison term of less than 12 months. For example, drink driving, failure to provide a breath test, theft, dealing in a controlled substance, serious driving offences, repeated low threshold offences.
High	Offences that are likely to be incompatible with the professional identity of an AASW member and a person's fitness to practice as a social worker. These include: • Offences against people vulnerable to harm, including children and young persons under the age of 18, the elderly, people experiencing mental illness, and people with a physical or intellectual disability • Offences involving the abuse of trust • Offences involving violence or cruelty. For example, murder, rape, sexual assault, possession of child abuse material, dishonesty and deception.

APPENDIX B: Guidelines for determining thresholds for fitness to practice declarations

The thresholds are used to determine how a fitness to practice declaration is assessed and by whom. The Ethics Office assesses the threshold that a declaration meets based on the information supplied by the social worker making the declaration.

The threshold for a fitness to practice declaration is primarily determined by the nature of the condition impacting fitness to practice. However, there may be other factors, such as the regular or one-off occurrence of those factors, whether these factors are self-imposed or not, the period within which the social worker was limited and other circumstantial considerations, which may alter the threshold.

For example, while declarations of physical impairment for a brief period are normally determined to be low threshold, if a declaration is received where a social worker had many interruptions to their social work career due to a lengthy mental health impairment or addiction to alcohol and other drugs, then the Ethics Office may consider the declaration meets the medium or high threshold.

Table 1 below is a guideline of how thresholds for a fitness to practice declaration are determined. However, it needs to be noted that the determination of the threshold of a declaration is at the discretion of the Ethics Office and the Ethics Council.

Table 1: Guidelines for setting thresholds for fitness to practice declarations

Threshold	Fitness to Practice factor requiring declaration
Low	Conditions limiting fitness to practice that are unlikely to be incompatible with the limitations to the professional capacity of an AASW member and a person's fitness to practice as a social worker. This includes conditions that suggest the social worker is unlikely to be impacted with their ability to practice safely and effectively in their social work practice. It includes conditions that do not require ongoing or continuous maintenance/monitoring by any professional. For example, surgery to repair a broken limb which restricts capacity to work for a specified period of time.
Medium	Conditions limiting fitness to practice that could be considered incompatible with the professional capacity of an AASW member and a person's fitness to practice as a social worker. This could include conditions that suggest the offender is limited to the point of being unable to practice safely or effectively if not adequately treated/supported or monitored. For example, the occasional use of drug or alcohol in that has commenced in recent months.
High	Conditions that are likely to be incompatible with the professional capacity of an AASW member and a person's fitness to practice as a social worker. These include: • A severe mental health diagnosis requiring treatment • A health impairment requiring lengthy treatment • A physical impairment requiring lengthy treatment • A drug and alcohol dependence requiring treatment For example, a mental health diagnosis requiring hospitalisation or medical attention/intervention.