



# **Disciplinary & Dispute Resolution Procedures**

## **VERSION (4)**

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# 1. About These Procedures

## 1.1 Procedures for Councils & Committees

(a) These Procedures have been developed by the Board to assist Councils & Committees of RCSA in the handling of complaints, issues and matters that might arise from time to time under RCSA's Code for Professional Practice ('the Code').

(b) These Procedures are based upon *AS 4269 – 1995: Complaints Handling*. Where this Guideline is silent on any matter, reference may be made to *AS 4269 – 1995* for guidance.

## 1.2 Members Are Liable to Discipline

(a) Clause 2.8 of RCSA's Constitution stipulates that Members are liable to discipline in accordance with RCSA's Disciplinary and Dispute Resolution Procedures.

(b) Clause 2.8 of RCSA's Constitution stipulates that the Board may censure, suspend or expel a Member from the RCSA following the guidelines and processes stipulated in RCSA's:

- (i) Code for Professional Practice;
- (ii) Disciplinary and Dispute Resolution Procedures; and
- (iii) Constitution.

(c) Whilst RCSA can discipline its Members, it cannot discipline non-members. It can pass resolutions that find in a member's favour as provided in these Procedures. If a non-member is aggrieved by such a resolution, it can take such civil action as it may wish or it can appeal as may be provided by these Procedures. If a non-member is a party to arbitration, the arbitrator's award will bind the non-member in accordance with the rules of the arbitration. If a non-member participates in mediation, the outcome (if an agreement is reached) is binding upon the non-member in accordance with the normal rules of contract.

## 1.3 RCSA's Code for Professional Practice

(a) RCSA has developed a Code for the Professional Conduct of its Members ("the Code"). The Code can be found on the RCSA's website. [The Code has been authorised by the ACCC].

(b) The Code is divided into a number of sections which set out General Principles and 8 key principles:

- (i) Confidentiality and Privacy;
- (ii) Honest Dealings;
- (iii) Respect for Work Relationships;
- (iv) Respect for Laws;
- (v) Respect for Safety;
- (vi) Respect for Certainty of Engagement;
- (vii) Professional Knowledge;
- (viii) Good Order.

(c) The Code also contains within its schedules, relevant application guidelines, recommendations and explanatory notes.

#### **1.4 RCSA's Disciplinary and Dispute Resolution Procedure**

(a) RCSA has developed a Disciplinary and Dispute Resolution Procedures to support the Constitution and the Code.

(b) The Disciplinary and Dispute Resolution Procedures are contained within this document.

#### **1.5 Revocation of Previous Procedures and Guidelines**

(a) These Procedures supersede any previous Regional Guideline and Disciplinary and Dispute Resolution Procedure, that dealt with any of the matters dealt with in these Procedures and the same are hereby expressed to be revoked.

## 2. Definitions

**2.1 Arbitrator** means an arbitrator appointed under these Procedures;

**2.2 Board** means the Board of Directors of RCSA;

**2.3 CEO** means the Chief Executive Officer of RCSA or a person performing the duties of the CEO during her or his absence;

**2.4 Code** means the Code for Professional Practice established by RCSA and authorised by the ACCC;

**2.5 Complainant** means a person who makes a complaint or who lodges a dispute notification;

**2.6 Complaint** means any expression of dissatisfaction with a Member regarding that Member's compliance or non-compliance with the Code;

**2.7 Constitution** means the Constitution of RCSA;

**2.8 Consumer** means a person to whom a service is offered or supplied by RCSA or by a Member;

**2.9 DDRP** means the Disciplinary and Dispute Resolution Procedures set out in these Procedures;

**2.10 Dispute Notification** means a notification of a dispute other than Complaint;

**2.11 Ethics Registrar** means the person appointed by the CEO to perform the functions of the Ethics Registrar as described in the DDRP;

**2.12 Matter** means complaint or dispute notification proposed for resolution under these procedures;

**2.13 Member** means a member of the RCSA;

**2.14 NEC** means the National Ethics Committee established under the Constitution.

**2.15 PPC** means the Professional Practice Council established by the Board to perform functions that may be described in the DDRP or in its terms of reference;

**2.16 RC** means a Regional Council established under the Constitution;

**2.17 REC** means a Regional Ethics Committee established by a RC under a direction given by the Board;

### **3. Responsibility of Bodies**

#### **3.1 What the Board Does**

(a) The Board has the following responsibilities with respect to disciplinary matters and the resolution of disputes:

(i) ACCOUNTABILITY - the Board has overriding responsibility for the management and control of RCSA;

(ii) ACCOUNTABILITY/RESOURCES - the Board produces Guidelines for Regions;

(iii) ACCOUNTABILITY/RESOURCES - the Board directs each RC., within its respective territorial jurisdiction, to establish a REC;

(iv) ACCOUNTABILITY/RESOURCES - the Board approves appointees to the REC;

(v) RESOURCES - the Board develops and maintains a Code for Professional Practice for its Members;

(vi) RESOURCES - the Board appoints a NEC comprising:

3.1.a.vi.1 at least 1 Director; and

3.1.a.vi.2 such other Members of the RCSA as the Board thinks fit.

(vii) RESOURCES - the Board delegates such of its powers to the RC's, the REC's and the NEC as may be necessary for their proper functioning;

(viii) REMEDIES - the Board may resolve to censure, suspend or expel a Member;

(ix) ACCESS/ACCOUNTABILITY - the Board may approve a RC's initiating and prosecuting before the NEC a complaint against a Member within the jurisdiction of the relevant Region on behalf of the Board;

(x) ACCOUNTABILITY - the Board may resolve to adopt and enforce a recommendation of a REC, the NEC or an Arbitrator or may decline to adopt and enforce such a recommendation as provided in these Procedures;

(xi) ACCOUNTABILITY/FAIRNESS - the Board may refer an unresolved difference to arbitration.

### **3.2 What the RC. Does**

(a) Each RC. has, within the area of its own jurisdiction, the following responsibilities:

(i) RESOURCES - each RC. is to appoint, for a two year term and subject to Board approval, a REC comprising of:

3.2.a.i.1 one member of the relevant RC., who is to chair the REC;

3.2.a.i.2 such other members of the relevant Region not exceeding six;

(ii) FAIRNESS - the RC. receives complaints and dispute notifications in accordance with the DDRP and decides whether to refer them to the REC, the NEC, or whether to decline them;

(iii) FAIRNESS/ACCESS - the RC. may initiate and prosecute before the NEC, a complaint against a Member within the jurisdiction of the relevant Region on behalf of and with the prior approval of the Board;

(iv) ACCOUNTABILITY - the RC. reports promptly to the Board and the NEC regarding complaints or disputes handled or declined by it;

(v) ACCOUNTABILITY - the RC. receives the recommendations of the REC following a hearing or determination and, subject to such confidentiality or anonymity as the circumstances may require, passes those recommendations to:

3.2.a.v.1 the Board for such further action as the Board may determine; and

3.2.a.v.2 the PPC for information.

### **3.3 What the REC Does**

(a) Each REC has, within the area of its own jurisdiction, the following responsibilities:

(i) FAIRNESS - the REC receives references from the relevant RC.;

(ii) FAIRNESS - the REC investigates and hears complaints;

(iii) FAIRNESS - the REC assists in the resolution of disputes using such dispute resolution procedures as the parties may agree;

(iv) FAIRNESS - the REC may seek advice from the NEC;

- (v) ACCOUNTABILITY - the REC, following the conclusion of a hearing makes a recommendation to the Board supported by reasons;
- (vi) ACCOUNTABILITY - the REC provides a report of its recommendations to the relevant RC.

### **3.4 What the NEC Does**

- (a) The NEC has the following responsibilities:
  - (i) FAIRNESS - the NEC receives references from the relevant RC.;
  - (ii) FAIRNESS - the NEC investigates and hears complaints;
  - (iii) FAIRNESS - the NEC may provide advice to the REC;
  - (iv) FAIRNESS - the NEC assists in the resolution of disputes using such dispute resolution procedures as the parties may agree;
  - (v) SYSTEMATIC AND RECURRING PROBLEMS - the NEC at the request of the Board makes test case determinations and develops advisory standards to deal with systematic and recurring problems and with novel matters of national or international interest to RCSA Members ;
  - (vi) ACCOUNTABILITY - the NEC, following the conclusion of a hearing makes a recommendation to the Board supported by reasons;
  - (vii) ACCOUNTABILITY - the NEC provides a report of its recommendations to the Board;
  - (viii) REVIEWS - the NEC reviews the Code; DDRP, determinations and non-binding rulings made thereunder and makes recommendations to the Board for their further development.

### **3.5 What the CEO Does**

- (a) The CEO has the following responsibilities:
  - (i) COMMITMENT - the CEO obtains the commitment of members to abide by the Code and to support the mission of the RCSA;
  - (ii) RESOURCES - the CEO ensures that the RC's, the REC's and the NEC are resourced to handle complaints and disputes;
  - (iii) RESOURCES/ASSISTANCE – The CEO ensures that there are sufficient training and support opportunities to assist Members

to meet their obligations under the Code and these Procedures provided that this will not require the RCSA to provide legal or other professional assistance or the cost thereof to any party to a complaint or dispute notification;

(iv) VISIBILITY/ACCESS - the CEO ensures that RCSA's Code and DDRP are well publicised to consumers and that consumers are informed about the right to complain;

(v) VISABILITY/ACCESS - the CEO co-ordinates the publication of proceedings of the REC's, the NEC and the Board;

(vi) ASSISTANCE - the CEO ensures that there are sufficient training and support opportunities to assist Members to meet their obligations under the Code;

(vii) ASSISTANCE – the CEO ensures that assistance is available for consumers and Members in the formulation and lodgement of complaints and disputes notifications and that decisions of the REC's and NEC are available to complainants and members;

(viii) ASSISTANCE/FAIRNESS – the CEO establishes systems for the receiving of complaints and dispute notifications, their forwarding to appropriate bodies, and ensures that notifications are issued as required by these Procedures;

(ix) ASSISTANCE/PREVENTION – the CEO ensures that arrangements are in place to enable Members and consumers to obtain preliminary non-binding rulings on matters that might arise under the Code;

(x) RESPONSIVENESS – the CEO monitors the disciplinary and dispute handling processes to ensure that complaints and dispute notifications are dealt with quickly and courteously;

(xi) DATA COLLECTION – the CEO ensures that there is appropriate systematic recording of complaints, dispute notifications and their outcomes and that such data is published each year in the annual report of RCSA;

(xii) REVIEW - the CEO ensures that the Code and DDRP are reviewed regularly to ensure that they are efficiently delivering effective outcomes.

### **3.6 What the Arbitrator Does**

(a) An Arbitrator has the following responsibilities:

(i) FAIRNESS – an Arbitrator may arbitrate:

3.6.a.i.1 a declined matter;

3.6.a.i.2 a matter that has miscarried as set out in clause 4.9(a)(iii)(1) to (3) of these Procedures;

3.6.a.i.3 a matter on appeal.

(ii) ACCOUNTABILITY – an Arbitrator makes an award which may contain a recommendation to the Board.

(iii) REMEDIES – an Arbitrator may recommend, but not impose sanctions or make any award in the nature of sanctions except with the agreement of the parties to the arbitration.

### **3.7 What the Court Does**

(a) FAIRNESS - a court of competent jurisdiction may review an Arbitrator's award.

### **3.8 What the Ethics Registrar Does**

(a) RESOURCES/ASSISTANCE – the Ethics Registrar assists Members and consumers with inquiries concerning the Code and the DDRP;

(b) RESOURCES/ASSISTANCE – the Ethics Registrar assists in the handling of matters as set out in the DDRP;

(c) RESOURCES/ACCESS – the Ethics Registrar facilitates access to the DDRP through the Intervention Process described in the DDRP.

### **3.9 WHAT the PPC Does**

(a) REVIEWS – the PPC reviews the Code; DDRP, determinations and non-binding rulings made thereunder and makes recommendations to the Board for their further development.

## 4. Disciplinary & Dispute Resolution Procedures

### 4.1 Intervention Process

(a) When a concern is raised at a Region level or through the Head Office of the RCSA, it is referred to the Ethics Registrar. The Ethics Registrar requests a brief email outlining the concerns raised and the parties involved.

(c) The Ethics Registrar checks that the party against whom the concern is raised is a Member of the RCSA.

(d) The Ethics Registrar prepares a sequence of events/summary in relation to the concern and confirms with the complainant that these are correct and seeks approval for it to be forwarded to the Member against whom the complaint has been raised.

(e) The Ethics Registrar notifies the Member by email in the first instance and then letter that a concern has been raised, and provides the Member with the sequence of events/summary, a copy of clause 4.1 of these Procedures and a copy of the Code.

(f) The Member is given ten business days in which to respond and the complainant is notified that this has occurred. The Ethics Registrar may extend the period for a response if the Ethics Registrar is reasonably satisfied that it would be fair to do so. The Ethics Registrar notifies the complainant of any extension of the period for response that is granted.

(g) If the Member fails to respond within the ten day timeframe or any extension of it allowed by the Ethics Registrar under paragraph (f) above, the Member's failure to respond may be referred to the Board and the Member may immediately be liable to the imposition of sanctions under clause 2.8 of the Constitution.

(g) When the Ethics Registrar receives the response:

(i) if the parties agree to resolve the dispute between them then a timeline for resolution will be agreed via the Ethics Registrar;

4.1.g.i.1 if this occurs both parties are required to advise the RCSA Ethics Registrar of the outcome.

4.1.g.i.2 the RCSA will contact both parties, in writing, to confirm agreement.

(ii) if there is a clear need for the Ethics Registrar to seek information from other parties – permission may be sought to do this. Information so collected will be provided to the complainant and the respondent subject

to such privacy or confidentiality constraint that may apply.

(iii) if following these steps the party who raised the concern wants to proceed to a formal complaint;

4.1.g.iii.1 the RCSA Ethics Registrar notifies the complainant as to their opportunity to proceed to a formal complaint and provides the necessary paperwork;

4.1.g.iii.2 the RCSA Ethics Registrar will ascertain whether the complainant wants to lodge a complaint or dispute notification in accordance with the DDRP.

(h) If the matter proceeds to a formal complaint, the timelines are established as part of the complaints procedure.

(i) If the complainant wishes to advance the matter to a formal complaint, the intervention process is terminated and a complaint form is issued. All material provided by the Ethics Registrar to the complainant and respondent as part of the intervention is provided to the Region Council to assist in determining whether the matter should be addressed by an Ethics Committee.

(j) If the complainant does not wish to advance the matter to a formal complaint and the matter has not been resolved, the complaint lapses.

## **4.2 Lodging a Complaint/Dispute Notification**

(a) Formal Complaints and Dispute Notifications are to be made in writing addressed and mailed or emailed to:

The Chief Executive Officer  
Recruitment & Consulting Services Association Ltd  
PO Box 18028  
Collins Street East  
VIC 3000

(b) Upon receipt of a complaint or dispute notification the Ethics Registrar will record and acknowledge the time and date of receipt as well as brief details sufficient to describe the nature of the complaint or dispute.

## **4.3 Referral**

(a) The Ethics Registrar will collate all information provided by the Ethics Registrar to the complainant and respondent in the intervention

process and forward it with the formal complaint or dispute notification – if lodged to:

- (i) the RC that has jurisdiction in respect of the complaint or dispute;
- (ii) if more than one RC has jurisdiction in respect of the complaint or dispute – the NEC;
- (iii) if, in the reasonable opinion of the CEO the complaint or dispute raises significant issues of national or international interest to RCSA Members – the NEC;
- (iv) if the complaint or dispute notification is instituted by an RC – the NEC.
- (v) if either party requests it, and subject to agreement being reached as to the payment of any additional costs arising thereby, to the NEC.

*Note: The Costs and procedures for this will be outlined on application.*

(b) Upon receiving a complaint or dispute notification the RC or NEC as the case may be will determine within 7 days whether or when the RC or NEC are able to convene a extraordinary meeting to decide whether:

- (i) to accept it for investigation, hearing and determination; or
- (ii) to decline it.

(c) A RC may, instead of declining a complaint or dispute notification, refer it to the NEC, which shall then investigate, hear and determine the complaint or dispute notification as the circumstances may require.

(d) If a RC determines to accept a complaint or dispute notification for investigation, hearing and determination, it will immediately forward the complaint or dispute notification to the relevant REC.

#### **4.4 Notice and Directions**

(a) A REC or NEC that receives a complaint or dispute notification will advise the CEO whether it has accepted or declined it and the CEO will inform the complainant accordingly.

(b) When a REC or the NEC accepts any complaint or dispute notification, the Ethics Registrar will write, within 21 days of acceptance, to such parties as it thinks are necessary for the just determination of any issue raised before it and state any directions required to be complied with to enable it to dispose of the matter.

(c) Without limiting the generality of sub-paragraph (b), directions made by a REC or NEC may include directions thought appropriate:

- (i) for the representation of any party;
- (ii) to preserve the anonymity of any natural person;
- (iii) to clarify any issue in dispute;
- (iv) to require the provision of information or documents;
- (v) for the giving or obtaining of any evidence;
- (vi) for the making of written submissions to ensure the validity of facts and to clarify information for the Ethics Committee
- (vii) to preserve the confidentiality of any information communicated in the course of the matter;
- (viii) for mediation;
- (ix) for expedited determination, including determination on the basis of written submissions;
- (x) otherwise for the conduct of the investigation, hearing or determination.

(d) Any party may on reasonable notice apply to the REC or NEC for further directions to assist it in the preparation of its case.

(e) A Member who fails to comply with a direction of a REC or the NEC may, upon evidence of such failure being presented to the Board, immediately be liable to the imposition by the Board of sanctions under clause 4.8 of the Constitution.

(f) A party, who is not a Member and who fails to comply with a direction of a REC or the NEC may:

- (i) if the party is a complainant - have its complaint or dispute notification dismissed;
- (ii) if the party is not a complainant – have a determination on the complaint or dispute notification made against it.

#### **4.5 Proceedings Generally**

(a) Proceedings conducted by a REC or NEC shall be based upon the parties' right:

- (i) to a lawful outcome;
- (ii) to be heard;

- (iii) to know whether the Code has been observed;
  - (iv) to provide and request all relevant material to support or respond to the complaint or dispute notification;
  - (v) to be informed of the criteria and processes for determining the complaint or dispute, including avenues for further review;
  - (vi) to be informed of the response of any party against whom allegations or cross allegations are made;
  - (vii) to be informed of the outcome and reasons for that outcome;
  - (viii) to have the complaint or dispute heard and determined independently so far as is practicable;
  - (ix) to maintain the confidentiality of any confidential information;
  - (x) to maintain privacy so far as is practicable in accordance with the National Privacy Principles and subject to maintaining the visibility and remedial objectives of publishing the names and contraventions of persons who are found to have contravened the Code;
  - (xi) to have the matter disposed with as little cost, formality and delay as may be consistent with the requirements of fairness, the general intent of which should be that matters should be heard without legal representation, where possible and the parties involved participate directly with the Committee;
- (b) disputes are to be finalised, using whatever submissions are available, by the Ethics Committee if they are abandoned by the complainant;
  - (c) lapsed complaint should be finalised, if it is reasonable to do so, using whatever submissions are available, by the Ethics Committee.

#### **4.6 Declined Matters**

If:

- (a) a RC declines a matter, without on-referring it to the NEC; or
- (b) the NEC declines a matter; or
- (c) an REC declines a matter

a difference will be deemed to have arisen between RCSA and the complainant and either party may, within 28 days of notification of the

declining of the matter, refer the complaint or dispute notification to arbitration as provided in clause 15 of the Constitution.

#### **4.7 REC and NEC Determinations**

(a) The determination of a REC or the NEC on a complaint or dispute notification will be in the form of a recommendation as to the appropriate orders to be made supported by reasons that set out:

- (i) any findings on material questions of fact; and
- (ii) a reference to the evidence or other material on which the findings were based.

(b) The determination may include:

- (i) a recommendation for the imposition of sanctions of the type described at clause 2.8 (c) of the Constitution;
- (ii) a recommendation that a member do or refrain from doing an act or make a payment as may be considered:
  - 4.7.b.ii.1 just in the circumstances; and
  - 4.7.b.iii.2 becoming of the member or in the interests of the RCSA.

#### **4.8 Notification of Determinations**

(a) A REC or the NEC will release a copy of its determination to:

- (i) the parties;
- (ii) the RC, if the matter was referred by a RC; and
- (iii) the CEO.

(b) The CEO forthwith will notify the Board of the determination and forward to it a copy of the determination.

#### **4.9 Resolution and Enforcement**

(a) The Board may by resolution:

- (i) adopt the determination of the REC or the NEC;
- (ii) adopt the findings of the REC or the NEC, but make a different order for the imposition of sanctions or that a member do or refrain from doing an act or make a payment as may be considered:

- 4.9.a.ii.1 just in the circumstances; and

4.9.a.ii.2 to be becoming of the member or in the interests of the RCSA; and

4.9.a.ii.3 to be consistent with the findings of the REC or the NEC;

(iii) decline to adopt the determination of the REC or the NEC without adopting the findings of the REC or the NEC on the grounds that:

4.9.a.iii.1 the proceedings conducted by the REC or the NEC were not conducted as required by clause 4.4(a) of this Guideline;

4.9.a.iii.2 the determination was induced or affected by fraud or bad faith;

4.9.a.iii.3 the determination was otherwise contrary to law; or

4.9.a.iii.4 the determination is subject to appeal or other proceedings before a court of competent jurisdiction as hereinafter provided

(b) If the Board declines to adopt a recommendation of the REC or the NEC without adopting its findings, a difference will be deemed to have arisen between RCSA and its members and either the Board or any person who ought necessarily have been made a party to the complaint or dispute notification may, within 14 days of notification of the Board's declining the determination, refer the complaint or dispute notification to arbitration as provided in clause 15 of the Constitution. **RCSA will (subject to the Arbitrator making an alternative award as to costs, pay the reasonable costs incurred by the parties in the arbitration.**

(c) If the Board resolves to impose sanctions or to direct that a Member do or refrain from doing any thing or make any payment, the CEO must, within 7 days after the resolution is made, cause written notice to be given to the Member of the resolution, of the reasons given or adopted by the Board for having made that resolution and of the Member's right of appeal under Clause 4.10 of these Procedures.

(d) The resolution does not take effect:

(i) until the expiration of the period within which the Member is entitled to appeal against the resolution concerned, or

(ii) if within that period the Member exercises the right of appeal, unless and until the Board makes a resolution under clause 4.(11)(f) of these Procedures,

whichever is the later.

(e) If a Member fails to comply with a resolution of the Board that:

(i) adopts a recommendation of a REC, the NEC or an Arbitrator; or

(ii) adopts the findings of a REC the NEC, or an Arbitrator, but makes a different order for the imposition of sanctions or that a Member do or refrain from doing an act or make a payment as may be considered:

4.9.e.ii.1 just in the circumstances; and

4.9.e.ii.2 becoming of the member or in the interests of the RCSA; and

4.9.e.ii.3 consistent with the findings of the REC, the NEC or the Arbitrator;

and has not instituted any appeal as provided for in these Procedures, the Member may immediately be liable to censure, suspension or expulsion pursuant to clause 2.8 of the Constitution upon evidence of such failure being presented to the Board.

#### **4.10 Appeal**

(a) A party who is aggrieved by a resolution of the Board in respect of the determination of a complaint or dispute notification, other than a resolution that adopts the Award of an Arbitrator or that gives effect to the order of a court of competent jurisdiction, may appeal by giving to the CEO, within 14 days of being notified of the resolution, a written notice requiring the complaint or dispute notification to be referred to arbitration pursuant to clause 15 of the Constitution.

#### **4.11 Arbitrators' Awards**

(a) If a complaint or dispute notification is referred to arbitration under these Procedures, any Member who ought to have been made a necessary party to the complaint or dispute notification may be made a party to the arbitration on the application of a party to the arbitration or on their own application.

(b) An arbitration pursuant to these Procedures will be conducted in accordance with such rules as may be determined by agreement between the parties and, failing agreement, by the President for the time being of the Institute of Arbitrators and Mediators Australia.

(c) An Arbitrator's award will be in the form of a determination that complies with the requirements of clause 4.5(a) of these Procedures.

(d) An Arbitrator will provide a copy of the Arbitrator's award to the CEO.

(e) An Arbitrator's award will be binding on the parties, an Arbitrator may recommend, but may not impose sanctions of the type described at clause 2.8 (c) of the Constitution or make any award in the nature of such sanctions except with the agreement of the parties to the arbitration. For the avoidance of doubt an award of costs is not to be regarded as a sanction or an award in the nature of sanctions.

(f) If an Arbitrator's award contains a recommendation for the imposition of sanctions of the type described at clause 2.8 (c) of the Constitution the Board may by resolution adopt the recommendation.

(g) The Board must decline to pass a resolution adopting an Arbitrator's recommendation for the imposition of sanctions pending the outcome of any proceedings taken before a court of competent jurisdiction in order to review the Arbitrator's award.

#### **4.12 Costs**

(a) Except in so far as:

(i) a Member might be directed to make a payment in respect of another party's costs as becoming the Member or in the interests of the RCSA;

(ii) an Arbitrator conducting a declined matter under clause 4.6, might otherwise award;

(iii) RCSA might be required to bear the costs of a reference to arbitration pursuant to clause 4.(9)(b) of these Procedures;

(iv) an Arbitrator conducting an appeal under clause 4.10, might otherwise award; or

(v) a court of competent jurisdiction might otherwise award

the parties to any complaint or dispute notification or appeal under this Guideline will each bear their own costs of and incidental to the proceeding.

#### **4.13 Savings**

(a) Nothing in these Procedures shall prevent the parties to a complaint or dispute notification from agreeing upon any other process for the resolution of any difference between them provided:

(i) that such process satisfies the requirements of clause 4.5(a);

(ii) that upon their difference being resolved, the parties jointly notify the CEO that their difference has been resolved.

(b) Nothing in these Procedures shall oust the jurisdiction of any court of competent jurisdiction.