

Information Pack for Someone Considering Lodging a Complaint

If you believe a member of ANZAP, in their capacity as a psychotherapist, supervisor, or trainer, has breached the ANZAP Code of Ethics, or otherwise done harm to you or someone you care about then this pack provides information about the ANZAP complaints process.

Information in this pack includes:

- Introduction to the Complaint Process
- Principles followed by ANZAP in relation to complaints
- Your rights and obligations in making a complaint
- The complaints form
- An authority to forward notification and access records
- A summary of the process

The information in this document is to inform you about the process of making a complaint, your rights and obligations as a complainant and to help you to make a complaint and submit it to the ANZAP Ethics Committee.

Introduction to the Complaint Process

One of the objectives of ANZAP (Objective 2.2 of the ANZAP constitution) is *to promote, encourage and develop the highest theoretical, practical and ethical standards in the practice of psychotherapy.*

The Ethics Committee of ANZAP is charged with the responsibility for maintaining the ethical standards applying in the code of ethics. Members by their membership of ANZAP are bound by the constitution of ANZAP and the codes resulting from that.

Clients and patients of members of ANZAP and relevant members of the public may lodge a complaint about any member of ANZAP or any committee of ANZAP where they believe that a breach of the code of conduct has occurred.

Complainants are encouraged to:

- Consider discussing the matter with the therapist or relevant person and to seek resolution with them in the first instance unless there are reasons why this does not seem safe or appropriate.
- Note that ANZAP is not a regulatory body and does not have the power to prevent a therapist from practising. Where a serious breach of the general ethical standards applying to all health and allied health practitioners has occurred, complainants are encouraged to consider contacting the relevant national registration body or the relevant state health compliance body in the first instance. Where the ANZAP ethics committee considers that a complaint should be referred to such a body, they are obligated to do so.
- The ethics committee can advise complainants of the appropriate relevant regulatory body with which a complaint can be lodged.

Where a person does not believe that they can resolve the matter with the therapist or relevant members, the ANZAP ethics committee will hear complaints about members in relation to the ANZAP code of ethics.

Complaint Process Principles

Ethics complaints necessarily require careful management to ensure sensitive and effective management of process to achieve a satisfactory outcome. ANZAP has documented procedures to provide a firm but flexible structure to guide the process and ensure that the following principles are applied:

- The Ethics Committee and related entities manage complaints by maintaining a neutral unbiased stance treating both the complainant and respondent with respect while firmly refusing to pre-judge or take sides in any dispute.
- ANZAP appoints independent panels to hear complaints and allows for both the respondent and complainant to appeal any finding.
- The principles of natural justice are scrupulously applied by ensuring that procedural fairness is 'centre forward' in the processes followed.

- Complaints can only be heard in relation to the Code of Ethics applying at the time of the alleged breach or breaches.
- Complaints can only be heard about current members of ANZAP. (However a member cannot avoid a complaint by resigning during the process. If a member resigns during the process, ANZAP may decide to proceed on the basis of an undisputed complaint and to proceed on the evidence provided if it considers that to do so is in the public interest.)
- ANZAP will not normally hear complaints older than 5 years. (However where the complaint is of a serious nature, then the Ethics Committee may decide to hear the complaint regardless of the time limitation.)
- Confidentiality is maintained so that the identities of a complainant and respondent are only revealed to committees and individuals on a 'need to know basis'.
- Respect for the integrity of process requires that the defined procedures are followed and only deviated from when absolutely necessary to meet one of the other principles referred to here, or as a result of a need to meet an unforeseen circumstance and then only to the degree necessary.
- As a matter of respect for the respondent to a complaint they will only be advised of a complaint if the Ethics Committee decides that there is a prima facie case to answer.
- Any material provided by a complainant in relation to a complaint must be made available to a respondent to a complaint to enable them to respond to the detail of the complaint.
- As a matter of respect for the complainant, they will be fully apprised of their rights under this process, including appeal rights.
- The procedures for dealing with complaints outline specific response times which will as far as possible be maintained. However, in order to take account of extenuating circumstances, long holiday periods and other factors that may impact on timeframes, the Ethics Committee may extend all specified timeframes as appropriate to ensure procedural fairness and efficient running of the process.

Complaint Limitations

The Ethics Committee is not able to:

- provide mediation between you and the respondent to a complaint or otherwise act as an intermediary;
- consider a concern about a therapist who was not a member of ANZAP at the time of the event(s) that gave rise to the concern;
- consider concerns about organisations (we can only deal with concerns about individual ANZAP members);
- become directly involved in the nature of the service being provided to a client/patient by a therapist;
- arrange refunds or compensation;

- give legal advice;
- force a therapist to apologise; or
- effect any changes to reports written for third parties (e.g., the Family Court).

ANZAP will not normally take action if information is provided anonymously. However if information given anonymously relates to serious and credible concerns about a member, we may investigate further.

If a complaint about the same matter is under consideration by another body (e.g. a regulatory body such as the Australian Health Practitioner Regulation Agency (AHPRA)), then ANZAP will normally hold any such complaint in abeyance pending the outcome of the other tribunal. It will be necessary for you to keep the ANZAP Ethics Committee up-to-date with such proceedings and the outcome.

Complainant Considerations

By submitting a formal complaint you will be setting in motion ANZAP's ethical processes and procedures, and you will be giving the Ethics Committee the power to examine your complaint.

We encourage you to get support from an appropriate person whom you can trust.

ANZAP is a member based organisation and does not have investigative powers. Accordingly it will be necessary for you to provide detailed information and where appropriate, evidence to support your complaint.

You will need to provide details of the complaint including:

- Who was involved;
- What led up to putting in this complaint;
- What happened;
- When the event(s) or breaches happened;
- Why it has caused concern;
- An indication of the section(s) of the code of ethics that you believe apply; and
- The outcome you are hoping for.

In order for us to consider your complaint you will need to provide a release for the therapist/respondent to be able to respond completely to the complaint, possibly revealing details of the therapeutic relationship where necessary. (The Ethics Committee will seek to minimise any such information to issues directly related to the complaint itself and will be instructing the respondent to limit any such discussion to matters directly relevant to the complaint.)

We may contact you before proceeding further to clarify any material presented and/or seek additional clarifying information.

Complainant Rights and Obligations

As the complainant you have certain rights as well as obligations.

Your rights include:

- The right to have the complaint taken seriously and to be given a fair and unbiased hearing.
- The right to present your complaint and provide evidence and justification for why an inquiry should proceed.
- The right to be informed of the requirements relating to presentation of a complaint and evidence, and to be given sufficient information and support to enable you to present your case.
- The right to be fully informed of the process to be followed in the hearing of a complaint.
- During any investigation or panel hearing of a complaint, you should be afforded a meaningful opportunity to present all of the evidence in support of your complaint.
- The right to have your complaint considered without undue delay.
- The right to appeal decisions.
- The right to have a support person present with you in any enquiry or to have that person represent you at any hearing provided that such a support person is not engaged in a professional contract as a lawyer.
- To know that the principles applying to ethics processes within ANZAP are those of restorative justice with the intent of repairing damage and educating members or otherwise correcting ethical breaches.

Your obligations include:

- The obligation to cooperate with ANZAP's ethical processes and committees to enable a prompt consideration of the matter.
- The obligation to be truthful and factual in your presentation of the complaint.
- The obligation to avoid contact with the respondent to a complaint and to immediately advise the ANZAP ethics committee of any breaches of that requirement by either yourself or the respondent.
- The obligation to advise the ANZAP Ethics Committee of any material matter affecting the complaint including actions and decisions of third-parties that may be hearing a complaint by you in relation to the same or similar matters in relation to the same respondent.

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ANZAP Ethics Complaint Form

1. Details of person who received the service (e.g. client/patient/student/supervisee/other)

Title	First Name	Surname	Date of Birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address:		Suburb	Post code
<input type="text"/>		<input type="text"/>	<input type="text"/>
Telephone (business hours)	(after hours)	Mobile	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Email Address			Preferred contact method:
<input type="text"/>			<input type="checkbox"/> Mobile
			<input type="checkbox"/> Other Phone
			<input type="checkbox"/> Email

2. Complainant information

There are situations where the person receiving the service is not in a position to make a complaint.

Are you making this complaint on behalf of another person?

Yes No (I am the person who received the service – then [proceed to Section 3](#))

Title	First Name	Surname	Date of Birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Address:		Suburb	Post code
<input type="text"/>		<input type="text"/>	<input type="text"/>
Telephone (business hours)	(after hours)	Mobile	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Email Address			Preferred contact method:
<input type="text"/>			<input type="checkbox"/> Mobile
			<input type="checkbox"/> Other Phone
			<input type="checkbox"/> Email

What is your relationship with the person receiving the service and why are you representing them

3. Details about the ANZAP member or service provider you are complaining about

Title	First Name	Surname
<input type="text"/>	<input type="text"/>	<input type="text"/>
Practice Name (where applicable)		
<input type="text"/>		
Address:	Suburb	Post code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Telephone (business hours)	Mobile	
<input type="text"/>	<input type="text"/>	
Email Address		
<input type="text"/>		
Nature of the service received:		
<hr/>		
<input type="checkbox"/>	Psychotherapy	
<input type="checkbox"/>	Supervision	
<input type="checkbox"/>	Training/Professional Seminar or Workshop	
<input type="checkbox"/>	Other (Please specify)	
<input type="text"/>		

4. Dates of Service and Time Limit

Dates when service was provided: from to

ANZAP can normally only hear complaints where the service was provided within the last 5 years. This is to ensure procedural fairness for the respondent; matters older than 5 years can be difficult to present defending evidence. ANZAP will consider matters older than 5 years where there are compelling reasons and/or the matter is serious. Do you have reasons why you consider a matter older than 5 years should be heard?

<input type="text"/>
<input type="text"/>
<input type="text"/>
<input type="text"/>

5. Attempts to resolve your complaint

Have you tried to resolve your complaint with the therapist or service provider?

Yes No

The ANZAP Ethics Committee will normally only hear complaints where attempts to resolve the matter with the therapist or service provider have been unsuccessful. Please tell us what happened when you attempted to resolve the matter with the therapist or service provider, or if you have not what your reasons for not attempting to do so are.

Have you lodged, or do you intend to lodge a complaint about this matter with any other body?

Yes No

If yes, please give details:

ANZAP will normally only hear matters if they are not being heard in another tribunal. Where the matter is being heard or is going to be heard in another tribunal, ANZAP will accept the complaint and place it in abeyance pending the outcome of that tribunal. It is the complainant's responsibility to keep the ANZAP Ethics Committee informed of the progress and outcome from any tribunal hearing.

Where in the opinion of the Ethics Committee the matter is serious and should be referred to a regulatory tribunal, ANZAP has an obligation to forward this complaint to the respective authorities.

6. Complaint Details

Please briefly describe your complaint below. Please attach additional information, relevant documents, letters, emails or other evidence that are relevant to your complaint. These will necessarily be provided to the respondent to allow them to respond to the complaint

Please include information about:

- Who was involved
- What led up to putting in this complaint
- What happened
- Why it has caused concern

(Continued on next page)

8. Desired outcome

What do you wish to achieve by making this complaint?

Acknowledgements in submitting this complaint

Please read the following carefully and acknowledge that you have read and agreed to them by ticking the box below. If you have any concerns about these acknowledgements, please contact the ANZAP Ethics Committee.

- In order for the ethics committee to effectively consider the matter and to allow the respondent to present a response it will be necessary for you to sign a release of information form relating to your service with the respondent. While this is not compulsory, if you do not do so it may prevent the respondent from presenting their position and under these circumstances the ethics committee would not be able to proceed. If you have any concerns about this aspect, please discuss with the ethics committee.
- In submitting this complaint, you are beginning the formal ANZAP ethics process. While you have the right to withdraw from the process at any time, ANZAP may have an ethical and/or legal obligation to pursue the matter in the interests of protecting the community or ANZAP from serious breaches of the ethics codes and standards of professional practice.
- Where the matters raised are considered to be serious in nature ANZAP may refer them to relevant regulatory authorities. This will be at the discretion of the ANZAP Ethics Committee.
- In order to maintain procedural fairness, the ANZAP Ethics Committee must provide the respondent with copies of all material pertaining to the complaint to enable them to respond. The ANZAP Ethics Committee cannot be provided with information that is not to be made available to the respondent.
- You should not provide a copy of this complaint to the respondent. ANZAP will do so once we have accepted the complaint and determined that the matter is to proceed.
- Once you have submitted this complaint, you should not have any contact with the respondent. You should report any contact with or by the respondent to the ANZAP Ethics Committee as soon as possible.

(Please Tick)

I acknowledge that I have read and agreed to the above points.

9. Declaration

Once you submit this complaint form, the ANZAP ethics committee will proceed to consider it in accordance with the "ANZAP - Guidelines and Procedures for Management of Ethical Complaints and Inquiries". The ethics committee will consider your complaint and if it considers that a 'prima facie' complaint exists will forward your name and copies of the details in sections 3 through 8 as well as any attached documents, reports and evidence to the respondent. The respondent member will be asked to make a response to the Ethics Committee or any established Ethics Inquiry Panel.

In the case of third party complaints, the client/patient who received the service will also be notified that the complaint has been lodged by you (except where you are the parent or guardian of the person receiving that service and they are aged under 16 years of age).

Personal information about you and the complainant will be treated in accordance with the Privacy Act 1988 (Cwlth), NSW Privacy and Personal Information Protection Act 1998 and the Health Records Information and Privacy Act 2002. Information will only be provided to those members and committees and any inquiry panels on a need to know basis in order to consider your complaint.

Please sign as appropriate below (note you must also sign the attached release form in order to enable the complaint to be heard:

- a) I am the person who received the service and I am lodging this complaint. I declare that the information provided in this complaint is true and accurate:**

Signed: Date:

- b) I have the consent of the person who received the service to make this complaint on their behalf as follows:**

I am the person who received the service
and give permission for to lodge this complaint on
my behalf.

Signed: Date:

- c) I do not have the consent of the person who received the service to make this complaint on their behalf but believe this complaint should be investigated because:**

Signed: Date:

- d) I am the parent or guardian of the child who received this service and my child is under the age of 16 years:**

Signed: Date:

Please forward this form and documents either by email to ethics@anzapweb.com or by mail to:

**ANZAP Ethics Committee
PO Box 4087
Homebush South NSW 2150**

10. AUTHORITY TO FORWARD NOTIFICATION AND ACCESS RECORDS

I understand that for the ANZAP Ethics Committee to consider my complaint, it is necessary that I authorise the ANZAP Ethics Committee, its advisors and any Ethics Inquiry Panels established to discuss my information, including where necessary my health records information held by the respondent to this matter. I understand that it is also necessary that the respondent be authorised to reveal relevant information in order to present a response to this complaint. I understand that the Ethics Committee of ANZAP will to its best endeavours seek to limit such information to those matters directly relevant to the complaint.

AUTHORITY TO FORWARD NOTIFICATION AND ACCESS RECORDS

I (Complainants full name) [redacted] (Date of Birth) [redacted]
of (Complainants Address) [redacted] formerly known as (Former name if changed) [redacted]

give the Ethics Committee of ANZAP, its advisers, the chair of the Ethics Committee, and any inquiry panels established by the Ethics Committee to discuss my complaint with the respondent to this complaint and provide them with details of the complaint.

(Respondent's Full Name) [redacted]
I further authorise (Respondent's practice address) [redacted]
of [redacted] to release to the ANZAP Ethics Committee, its advisers, the chair of the ANZAP Ethics Committee and any inquiry panels established by ANZAP all records, case notes and other material relating to the service provided to me. I have read the information relating to use of information within the complaint form and the privacy statement below.

Signed: [redacted] Date: [redacted]

Witnessed by (full name): [redacted]
Address of witness: [redacted]

Signature of Witness: [redacted] Date: [redacted]

PRIVACY STATEMENT

The Ethics Committee of ANZAP may collect personal and health information relating to you (or the person on whose behalf you are complaining) in its role as a complaint handling body. The Ethics Committee will also provide your information to the therapist, supervisor, or trainer who is the subject of the notification.

Any information that is given to the Ethics Committee is strictly confidential, and only the respondent and those persons investigating your complaint will have access to this information.

The Ethics Committee and any Inquiry Panel members will be required to hold the information in confidence.

The Ethics Committee may use information about you as follows:-

- for the investigation of notifications (complaints); and
- as evidence in formal hearings to help the Ethics Committee to fulfil the role set down in its complaints procedure.

Complainants and respondents are entitled to request access to information about them from the Ethics Committee

If you require access to your information please contact the Ethics Committee. You are not obliged to give the Ethics Committee information. However, if you choose not to provide relevant details the Ethics Committee may not be able to address your concerns adequately.

A Summary of the Complaint Process¹

ANZAP and its Ethics Committee take all complaints seriously and we will attempt to respond to you promptly and keep you up-to-date with our considerations and proceedings. When you submit a complaint the following processes will occur.

1. Initial Review

A member of the Ethics Committee will examine the complaint for completeness and to consider whether the matters are appropriately dealt with by ANZAP or whether the matter should be referred to a regulatory tribunal. You will be advised if we need further information or if the matter should be referred to a regulatory tribunal. ANZAP has the obligation and reserves the right to forward any serious matters directly to regulatory tribunals.

2. Determination of a 'Prima Facie Case'

After the initial review, the Ethics Committee will examine the evidence presented and make a determination whether there is sufficient reason or evidence to proceed. This is a "first-pass" consideration and does not make a determination about the rights or wrongs or the matter; it only considers the likelihood of being able to proceed. If we do not think there are sufficient grounds or evidence to proceed we will advise you accordingly. You will have a right to appeal any such decision in which case our reasoning will be examined by a member of a non-ANZAP ethics committee (or other suitable independent person) for a final decision.

3. Ethics Inquiry Panel

Where a 'prima facie' case is considered to exist, ANZAP will:

- establish an 'Ethics Inquiry Panel' to consider the matter. The panel will normally consist of three (3) people, two (2) of whom will normally be selected from other organisations (e.g. other therapy Associations).
- Both the complainant and respondent will be advised of the members of the panel and have rights to object to anyone they consider may be biased or otherwise unsuitable. (However the final decision about the members of a panel will be at the discretion of the Ethics Committee)
- Advise the respondent with details of the complaint and ask them to respond to it.
- If the respondent disagrees with the facts of the matter, the complainant will be provided with the details of this and allowed to make further submissions in relation to the facts disputed by the respondent.

The Ethics Inquiry Panel will examine the complaint and response and may request additional material from either party to the matter.

The Ethics Inquiry Panel may hold 'hearings' in which both the complainant and respondent may independently present their case and be asked questions by the panel. Witnesses and a support person are allowed, but this is not a court and legal professionals acting in their legal capacity are not allowed.

¹ Full details of our detailed complaints process may be requested from the ANZAP Ethics Committee

4. Determination

The Ethics Inquiry Panel will make a determination on a “balance of probability” basis. They will, where appropriate, apply sanctions or other recommendations in relation any breach found to be upheld.

Both the complainant and respondent will be advised of the findings and any sanctions or recommendations.

Either the complainant or respondent may appeal the findings on the basis of:

- Procedural unfairness in the hearing of a complaint.
- The merits of the case are unreasonable (e.g. that the findings are unreasonable on the basis of the evidence before the EIP).
- That the sanctions or actions required are out of proportion to the impacts of the ethical breach.

Where an appeal is made an appeal process will be considered and where appropriate applied. Details of the appeal process will be provided at that time.