

# A GUIDE TO AUSIMM MEMBERS' OBLIGATIONS UNDER THE CODE OF ETHICS AND THE ASSOCIATED COMPLAINTS PROCESS

## CODES, COMPLIANCE AND AUSIMM MEMBER OBLIGATIONS

The AusIMM expects and promotes the highest professional and ethical standards of its members across all areas of professional practice through a strong focus on professional ethics and best practice implementation of professional codes.

Under clauses 8.3 and 9.2 of the AusIMM By-Laws, all AusIMM members are bound by the AusIMM Code of Ethics and, when acting in certain capacities as a mining industry professional, are also bound by the JORC Code and the VALMIN Code in addition to any other Board approved codes, regulations or directives. These codes serve to protect communities, members and the profession, and provide professional reporting and valuation systems that give the community and particularly financial markets confidence in our sector.

On admission, members commit to the principles set out in the Code of Ethics and reconfirm that commitment each year when renewing their membership subscription.

All members should familiarise themselves with the Code of Ethics and any other codes relevant to their profession, as members have an obligation to ensure that the codes are properly observed in order to retain and build on the trust and positive reputation that we have as a collective of industry professionals.

### AusIMM Code of Ethics

The AusIMM Code of Ethics outlines member obligations regarding:

- the safety, health and welfare of the community
- equity and non-discriminatory practices
- honour, integrity and dignity of the profession
- professional competence
- fairness in dealings
- responsibility towards the client or employer
- truth and objectivity in exercising duties

- commitment to professional development
- compliance with relevant government legislation and rules of relevant securities exchanges.

The Code of Ethics is enforced through the AusIMM complaints process, which is established under clause 9 of the AusIMM By-Laws.

Adhering to the Code of Ethics demonstrates a commitment by each member that they will use their professional knowledge and expertise appropriately and in line with certain basic principles. The Code provides reassurance for the community and ensures continuing public trust in the profession.

The [AusIMM Code of Ethics](#) is published alongside the [AusIMM By-Laws](#).

### JORC Code

The Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves (The JORC Code) sets out minimum standards for Public Reporting of Exploration Results, Mineral Resources and Ore Reserves. Any AusIMM member working as a Competent Person under the JORC Code is bound by the Code. Allegations of AusIMM members failing to properly apply the JORC Code are investigated and assessed under the complaints process outlined in the AusIMM Professional Conduct Regulations.

The JORC Code can be accessed via the [JORC website](#).

### VALMIN Code

The Code for Valuation of Mineral and Petroleum Assets and Securities for Independent Expert Reports (The VALMIN Code) sets out minimum requirements for the technical assessment and valuation of mineral and petroleum assets and securities for Independent Expert Reports.

Any AusIMM member working as an Independent Expert under the VALMIN Code is bound by the Code. Allegations of AusIMM members failing to properly apply the VALMIN Code are investigated and assessed under the complaints process outlined in the AusIMM Professional Conduct Regulations.

The VALMIN Code can be accessed via the [VALMIN website](#).

## COMPLAINTS

The complaints process ensures that members are held accountable for any conduct that breaches the Code of Ethics, By-Laws or professional code obligations and are appropriately sanctioned to uphold the integrity of the profession, of AusIMM and (when relevant) the informed market.

The AusIMM Professional Conduct Regulations are enabled under By-Law 9 and provide for the establishment of a Professional Conduct Committee and Ethics Committee responsible for the investigation and determination of complaint matters.

### AusIMM Professional Conduct Committee

The AusIMM Professional Conduct Committee (PCC) is responsible for processing and assessing complaints which it deems are breaches of AusIMM members' obligations.

Membership of the PCC will comprise a minimum of six Honorary Fellow or Fellow members. The AusIMM Board will appoint all members of the PCC and the Chair for a term of up to three years.

### AusIMM Ethics Committee

The Ethics Committee has responsibility for processing and assessing those complaints alleging infringements of the Code of Ethics, By-Laws or professional code obligations as referred by the PCC or any appeals against PCC decisions brought before it.

Membership of the Ethics Committee will comprise a minimum of six Honorary Fellow or Fellow members. The AusIMM Board will appoint all members of the Ethics Committee for a term of up to three years.

### The AusIMM Complaints Process

Any member, individual or organisation may lodge a complaint in respect of the actions of a member of the AusIMM in respect to the Code of Ethics, By-Laws or other relevant professional codes.

Only complaints made against a current AusIMM member (including a Company Member) will be considered.

#### *How to lodge a complaint*

All complaints must be made in writing and include the following information:

- details of the complainant
- details of the member (person(s)/companies) about whom the complaint is being made
- details of the circumstances of the alleged breach (dates, times, etc)
- documentation in support of the allegations
- the details of any grounds for perceived conflict of interest between the complainant and respondent to the complaint
- a clear identification of the relevant codes and clauses alleged to have been breached
- a signed 'Notice of Complaint' form.

Complaints should be addressed to the Chief Executive Officer on a signed and dated 'Notice of Complaint', which can be downloaded [here](#) and submitted via email to [compliance@ausimm.com.au](mailto:compliance@ausimm.com.au)

Complaints may also be lodged by post to: CEO, The AusIMM, PO Box 660, Carlton South Vic 3053, Australia; or by facsimile (+61 3 9662 3534).

#### *Receipt, acknowledgment and assessment*

Receipt of the complaint will be acknowledged by AusIMM Services. The complaint will then be referred to the chair of the Professional Conduct Committee for preliminary review.

If the complaint is considered to fall beyond the scope of the AusIMM complaints process this will be advised to the complainant.

If the complaint is within the scope of the AusIMM complaints process, the respondent will be notified of the grounds of the complaint, and invited to respond.

Where a complaint alleges a Code violation (JORC or VALMIN), the Professional Conduct Committee may seek a confidential opinion on the validity of the complaint from a senior AusIMM member with specific experience in the subject of the complaint.

A complaints process is normally suspended pending the outcome of any related legal proceedings.

#### *Notification and consideration*

The Professional Conduct Committee will then review information from the complainant, respondent and independent experts (where appropriate) and determine either of the following:

- that the complaint does not have substance, in which case the complaint will be dismissed and all parties notified, or
- that the complaint does have substance, in which case the matter will be progressed.

Once the complaint is substantiated, the Professional Conduct Committee may:

- recommend settlement by alternative dispute procedures for matters of a commercial nature
- refer to the relevant authorities/judicial processes if the alleged breach is suspected to be unlawful
- deal with the complaint and resolve the matter if no significant breach of ethics is suspected<sup>1</sup>
- refer the complaint to the Ethics Committee if a significant breach of ethics is suspected.

### Minor breach (Professional Conduct Committee)

In investigating a minor breach(es), the Professional Conduct Committee may:

- seek advice from the Board, CEO, regulators, securities exchanges, independent experts and other relevant third parties
- seek professional advice about the matters raised in the complaint

1. The Professional Conduct Committee is empowered to finalise and make recommendations in respect of an alleged ethics breach if the subject of the complaint is deemed trivial, malicious or without substance.

- seek additional information relating to the complaint from the complainant and/or the respondent
- make use of relevant information available in the public domain (for example company records, Public Reports, court documents)
- redefine or expand a complaint if this is considered necessary to uphold professional standards.

### **Penalties**

If non-compliance is established, the Professional Conduct Committee may impose a penalty, which may include:

- a caution/reprimand/formal warning
- direction for re-training
- mediation
- counselling.

The Professional Conduct Committee may also require the respondent to take actions to redress the breach.

Membership suspension or expulsion may not be imposed by the Professional Conduct Committee.

A statement of reasons for the decision will be provided to the complainant and the respondent.

### **Appeals**

Any party to the complaint may appeal the decision of the Professional Conduct Committee to the Ethics Committee. An appeal must be lodged in writing with the CEO within 30 days of the date of the outcome advice.

In relation to an appeal against the decision of the Professional Conduct Committee, the Ethics Committee may uphold or vary the determination(s). The Ethics Committee may refer a matter back to the Professional Conduct Committee for further investigation.

### **Significant breach (Ethics Committee)**

In cases where a complaint is deemed to have substance and involves a suspected significant breach of the Code of Ethics, By-Laws, regulations or any professional code adopted by the Board, the matter will be referred to the Ethics Committee.

The member will be notified that the matter has been referred to the Ethics Committee for consideration, including the grounds of the complaint and the process being followed and will invite the respondent to provide any further written response to the matters raised.

Additionally, the Ethics Committee may:

- seek professional advice
- seek advice from the Board, CEO, regulators, securities exchanges, independent experts and other relevant parties
- make use of relevant information available in the public domain (for example company records, Public Reports)
- redefine or expand a complaint if deemed necessary to uphold professional standards.

At conclusion of its investigation, the Ethics Committee must either dismiss a complaint (detailed grounds are detailed in the AusIMM Professional Conduct Regulations) or determine there has been a significant breach of the respondent's obligations under the Code of Ethics.

### **Penalties**

If non-compliance is established, the Ethics Committee may impose sanctions that it determines are appropriate to the circumstances including a reprimand, formal warning, mediation and/or counseling. The Ethics Committee may also recommend the suspension of membership or expulsion from membership and the public release of the findings against the respondent.

Penalties of suspension, expulsion or publication are referred to the AusIMM Board for consideration and approval prior to the penalty being applied and the member's name being removed from the register for the period of suspension, or permanently in the case of expulsion.

A statement of reasons for the decision will be provided to the complainant and the respondent.

### **Appeals**

Ethics Committee decisions can be appealed by any party to the complaint. Appeals must be lodged in writing with the CEO within 30 days of the date of the outcome advice and will be determined by an independent third party appointed by the Board. This determination is final with no further avenue of appeal available.

### **Conflict of interest**

Members of the Professional Conduct Committee and Ethics Committee with a conflict of interest in relation to a complaint must declare their interest and absent themselves from participating in deliberations relating to the complaint.

### **Duration / timeframe for resolution**

The Professional Conduct Committee and Ethics Committee will endeavour to consider and respond to complaints as quickly as possible. Some complaints may take many months to consider, depending on the need to:

- gather evidence
- seek independent expert or specialist opinion
- consider complex matters of compliance with the Code of Ethics and other professional codes
- allow respondents reasonable time to understand and comment on the findings in the investigation
- allow the AusIMM Board to consider and endorse Professional Conduct and Ethics Committee recommendations (where relevant).

In situations where timely public rectification is a priority (such as non-compliance of public reports in relation to JORC), the complaint should also be made directly to the relevant regulatory bodies (eg the Australian Securities Exchange (ASX) or Australian Securities and Investments Commission).

### **Complaints involving JORC/VALMIN and other regulatory bodies**

The AusIMM Professional Conduct Committee and Ethics Committees are able to deal with complaints relating to the conduct and work of an AusIMM member under the JORC and VALMIN Codes.

Breaches should be addressed to the AusIMM in the following situations:

- technical rectification – there has been a failure to report in accordance with the JORC Code due to a technical or procedural error on the part of the member
- the named ‘Competent Person’ is not considered qualified to perform that role
- ethical misconduct – there has been a failure to report in accordance with the JORC Code that appears deliberately misleading, intentionally fraudulent or incompetent on the part of the member.

However, the AusIMM professional conduct process is not able to require that a company rectifies problems with Public Reports released by a company that has relied on an AusIMM member’s work under the JORC or VALMIN Code.

Where a public report does not appear to be in accordance with the JORC Code, and timely public rectification is a priority, the complaint should also be made to the ASX.

The relevant securities exchange or market regulator (eg the ASX) is in the best position to address and rectify an inaccurate or non-complying Public Report and is empowered to ask questions of the company and instruct the company to provide additional information.

Information regarding the ASX complaints process is available from the ASX website.

In some cases, making a complaint to both the AusIMM and the ASX may be appropriate, particularly if shortcomings in the professional performance of an AusIMM member in the production of a Public Report is alleged.

## LEGAL REPRESENTATION

The complaints process involves judgement by peers and is not strictly a legal process. However, the parties to a complaint may choose to engage qualified legal representation to assist them with any hearing or appeal.

In the majority of complaints cases legal advice and representation is not sought by parties to the complaint. The choice regarding whether to seek legal advice and/or representation is up to the individual member.

## LEGAL STATUS

The Code of Ethics does not have the force of the law; however, it is possible that a complaints investigation and findings may be used in subsequent legal proceedings. To date, the complaints process has not been used in this way.

AusIMM would not provide information about a complaints process unless the parties to the complaint agreed or AusIMM was legally obliged to present that information.

## CONFIDENTIALITY

All deliberation of the Professional Conduct Committee, the Ethics Committee and an independent third party appointed to consider an appeal against an Ethics Committee determination shall be confidential, excluding the need to advise others when considered necessary to uphold professional standards and protect the community. An annual Compliance Report detailing the activity of the Professional Conduct and Ethics Committees is published in the AusIMM Bulletin. The report contains information on the number of complaints received, the subject matter (in broad terms) and outcomes.