



HUMAN GENETICS SOCIETY OF AUSTRALASIA

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Policy

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Background

Genetic counsellors who are Members of the Human Genetics Society of Australasia (MHGSA) are tertiary-qualified health professionals who have applied and been deemed eligible to undertake Certification through the [HGSA Board of Censors \(BoC\) for Genetic Counselling](#).

Genetic Counsellors who are Fellows of the Human Genetics Society of Australasia (FHGSA) are tertiary-qualified health professionals who have completed specialist practice training requirements in genetics and counselling, and are certified by the [HGSA Board of Censors for Genetic Counselling](#).

The Complaints Management Process provides a framework for the Human Genetics Society of Australasia (HGSA) to receive, oversee, manage and resolve complaints against MHGSA or FHGSA Genetic Counsellors. The PCCC cannot manage complaints regarding individuals who refer to themselves as genetic counsellors who they are not participating in the certification program under the [HGSA Board of Censors for Genetic Counselling](#); however, in the event of receiving such a complaint, the PCCC can provide advice about alternative appropriate complaint pathways and bodies.

The Complaints Management Process comprises:

1. Complaints Management Policy
2. Complaints Management Procedure.

The Professional Concerns and Complaints Committee (PCCC) monitors and improves practice standards of genetic counsellors for the safety of clients/patients (the 'public') and genetic counsellors. The PCCC is committed to ensuring that genetic counsellors adhere to the highest standards of ethical and professional conduct.

Ethical and/or professional misconduct occurs when an MHGSA or FHGSA Genetic Counsellor acts outside the values, roles and responsibilities set out in the following documents:

1. [Code of Ethics for Genetic Counsellors](#)
2. [Scope of Practice for Genetic Counsellors](#)
3. [Competency Standards for Genetic Counsellors Policy](#)
4. [Practitioner Certification for Genetic Counsellors Policy](#)
5. [Continuing Professional Development for Genetic Counsellors Policy](#).

These professional standards identify the fundamental ethical and professional commitments of genetic counsellors.

HGSA Professional Concerns and Complaints Management Policy

Purpose

The purpose of the HGSA Professional Concerns and Complaints Management for Genetic Counsellors Policy is to ensure that there is a fair process of determining complaints against MHGSA or FHGSA Genetic Counsellors of a breach of professional standards. It guarantees that there is a proactive process in place to protect the public through maintenance of a high standard of ethical and competent conduct by genetic counsellors.

Scope

This Policy relates to complaints made against genetic counsellors who are MHGSA or FHGSA Genetic Counsellors. If a person makes a complaint about unethical and/or unprofessional practice of a genetic counsellor who is not associated with the HGSA, the PCCC can suggest alternative ways of dealing with the complaint.

If a complaint involves a breach of criminal law, the PCCC may refer the complaint to the appropriate authorities. The PCCC may consider the nature of any criminal proceedings underway in any court of law against any MHGSA or FHGSA Genetic Counsellor and consider suspending their participation in the HGSA genetic counselling regulatory program until there is resolution of those criminal proceedings.

If a complaint involves a civil dispute over fees, the terms of a contract of engagement or other business matters, the PCCC will not deal with the complaint until the civil proceedings between the parties are complete.

Policy statements

Genetic counsellors are called upon to account for their practice in the event of a complaint or investigation regarding unethical or unprofessional conduct.

The ethical and professional standards that the HGSA expects of its genetic counsellors are set out in detail in the following documents:

1. [Accreditation for Masters of Genetic Counselling Programs Policy](#)

2. [Code of Ethics for Genetic Counsellors](#)
3. [Scope of Practice for Genetic Counsellors](#)
4. [Competency Standards for Genetic Counsellors Policy](#)
5. [Practitioner Certification for Genetic Counsellors Policy](#)
6. [Continuing Professional Development for Genetic Counsellors Policy](#).

Types of complaints

1. Breach against the [Code of Ethics](#), [Scope of Practice](#) or [Competency Standards](#)
2. Non-compliance with [mandatory declarations](#) in relation to the [Code of Ethics](#) and [Competency Standards](#)
3. Non-compliance with the [Continuing Professional Development Policy](#).

Definitions

Australasian Society of Genetic Counsellors (ASGC)

A special interest group of the Human Genetics Society of Australasia (HGSA), formed in 1993, comprising individuals who practise genetic counselling, or who have a qualification or professional interest in the discipline of genetic counselling.

Appeal Committee

HGSA Council may establish an Appeal Committee to investigate decisions made by the Professional Concerns and Complaints Committee. The Appeal Committee shall be appointed by the HGSA Executive under the HGSA By-Laws Pursuant to Clause 81 of the HGSA Constitution.

Complainant

A person who makes a complaint against a MHGSA/FHGSA Genetic Counsellor.

Complaints Management Process

The Policy and Procedure that guides the HGSA to receive and respond to complaints about the unethical or unprofessional practice of genetic counsellors.

Complaints Management Procedure

The operational guideline to be followed by the Complaints Officer and [Professional Concerns and Complaints Committee](#) and the HGSA Council to oversee, manage and complete the processing of complaints against MHGSA/FHGSA Genetic Counsellors.

Complaints Officer

An FHGSA Genetic Counsellor with at least five years of experience post-certification who is responsible for receiving and managing complaints under the Complaints Management Procedure. The Complaints Officer is also the Chairperson of the [Professional Concerns and Complaints Committee](#). The role and duties of the Complaints Officer are set out in the Complaints Management Procedure.

Confidentiality

When information is entrusted in confidence, either spoken or written. Confidentiality is based on the idea of creation of personal identity, the principle of privacy and trust between client and professional.

Dismissal of complaint

The [PCCC](#) may dismiss or take no action in relation to a complaint when the complaint is:

- frivolous or vexatious
- lacks substance or credibility
- not made in good faith
- made for a mischievous purpose
- made recklessly or maliciously
- not within the HGSA's jurisdiction
- not in the public interest, or
- has been dealt with by another entity.

Enforceable sanctions

Sanctions prescribed by the [PCCC](#) that the Respondent is required to carry out, such as additional Continuing Professional Development and/or receipt of mandatory supervision and mentoring.

FHGSA Genetic Counsellor

Fellow of the Human Genetics Society of Australasia (FHGSA) Genetic Counsellors are tertiary-qualified health professionals who have completed specialist practice training requirements in genetics and counselling, and are certified by the HGSA Board of Censors for Genetic Counselling.

Formal warning

May occur where a genetic counsellor's professional performance or ethical conduct is significantly unsatisfactory, although the situation is either not serious enough to justify dismissal, or the genetic counsellor's actions are considered to be serious, but out of character.

MHGSA Genetic Counsellor

Member of the Human Genetics Society of Australasia (MHGSA) Genetic Counsellors are tertiary-qualified health professionals who have been granted Board Eligible status to undertake Certification through the [HGSA Board of Censors \(BoC\) for Genetic Counselling](#).

Mediation and conciliation

The Complaints Officer may determine that the complaint is suitable for referral to a mediation process in an attempt to resolve the complaint before convening the [Professional Concerns and Complaints Committee \(PCCC\)](#). The Complaints Officer's decision on whether to refer the complaint to mediation or to the PCCC is final and is entirely at the discretion of the Complaints Officer holding the vested power of the PCCC.

Natural justice

A process that is characterised by the Complainant and the Respondent having the right to a fair hearing that is overseen and managed by people free of conflicts of interest, and where there is an opportunity for each person to present their side of the story using evidence and factual information.

Preliminary resolution

Where the complaint is able to be resolved at mediation or by some other course of action that is underpinned by natural justice principles, prior to entering into the formal Complaints Management Process.

Privacy rights

In the context of genetic counselling, privacy rights involve the affirmation of confidentiality and freedom of choice. These privacy rights may not always be absolute.

Professional Concerns and Complaints Committee (PCCC)

The [Professional Concerns and Complaints Committee \(PCCC\)](#) determines formal complaints about the practice or conduct of HGSA Genetic Counsellors.

Respondent

A genetic counsellor about whom a complaint has been made to the Complaints Officer in relation to their conduct as a genetic counsellor.

Complaints Management Procedure

Purpose

The purpose of the Complaints Management Procedure is to provide a systematic framework in which to receive and effectively assess and respond to complaints about alleged ethical and/or professional misconduct of genetic counsellors.

Scope and limitations

The [PCCC](#) can only respond to complaints about genetic counsellors who are MHGSA or FHGSA Genetic Counsellors, both at the time the complaint is received and at the time the incident was alleged to have occurred.

If a person makes a complaint about unethical and/or unprofessional practice of a genetic counsellor who is not an MHGSA or FHGSA Genetic Counsellor, the [PCCC](#) can suggest alternative ways of dealing with the complaint. These include referral of the complainant to the Health Complaints Commissioner, the Australian Competition and Consumer Commissioner or the Patient/Consumer Liaison Officer at the genetic counsellor's place of employment.

The [PCCC](#) will generally not re-hear matters which have already been determined by another relevant body, such as a court of law or a health complaints commission.

Where another body has made a finding in relation to the conduct of a MHGSA or FHGSA Genetic Counsellor, and that information is in the public domain or the HGSA is otherwise advised of the outcome by that body, the [PCCC](#) will assess the finding and may choose to act on such information as it deems appropriate.

Depending on the relevance of the conduct and finding to the safety of the public and/or the integrity of the genetic counselling profession, the [PCCC](#) may make a recommendation including enforceable sanctions, suspension or termination of an MHGSA or FHGSA Genetic Counsellor certification and/or registration status.

Exemptions

Ineligibility to act

Should a complaint be received that falls within the scope of the Complaints Management Policy where the individual is formally engaged in the coordination, assessment or determination of complaints, that individual will recuse themselves in the process of current and future complaints until that complaint is dealt

with. An appropriate delegate will be appointed to replace them as necessary.

Roles and responsibilities

Who can make a complaint?

A person may make a complaint to the Complaints Officer about the unethical and/or unprofessional conduct of a genetic counsellor if:

- the person has personal knowledge of the alleged unethical and/or unprofessional behaviour of the genetic counsellor, or
- the person is a close relative or guardian of a Complainant or otherwise authorised person and:
 - (a) the Complainant does not have capacity to make the complaint (because, for example, they are a minor or have a mental illness), and
 - (b) the Complaints Officer is reasonably satisfied that the Complainant has agreed to the complaint being made.

Another member of the HGSA (HGSA Complainant) may submit a complaint to the Complaints Officer about the conduct of a genetic counsellor if:

- the HGSA Complainant becomes aware of the alleged unethical and/or unprofessional behaviour, and
- the HGSA Complainant is not a member of the [PCCC](#).

The Complaints Officer/Chairperson of the [PCCC](#) or the Chair's delegated representative has absolute discretion to determine whether or not a complaint should be accepted from a person who is not the Complainant.

When can people make a complaint?

A person may make a complaint in relation to the unethical and/or unprofessional behaviour and conduct of a MHGSA or FHGSA Genetic Counsellor within two calendar years of the date on which the event that is the subject of the complaint occurred.

The Complaints Officer/Chairperson of the [PCCC](#) or the Chair's delegated representative has absolute discretion to determine whether or not a complaint should be accepted after the two-year period has expired. In making that determination, the Chair of the [PCCC](#) or the Chair's delegated representative may take into account extenuating circumstances including whether the potential Complainant has been unable to make the complaint due to serious illness.

What are the responsibilities of Complainants?

Complainants must cooperate with the Complaints Officer, the [PCCC](#) and the HGSA Council who oversee and administer the Complaints Management Process.

Complainants must provide the Complaints Officer and the [PCCC](#) with complete, accurate and honest information in relation to the complaint and comply with the time limits and procedural requirements set out in the Complaints Management Procedure.

What are the rights and responsibilities of Respondents?

Respondents must cooperate with Complaints Officer, the [PCCC](#) and the HGSA Council who oversee and administer the Complaints Management Process.

The Code of Ethics for Genetic Counsellors requires that MHGSA or FHGSA Genetic Counsellors cooperate

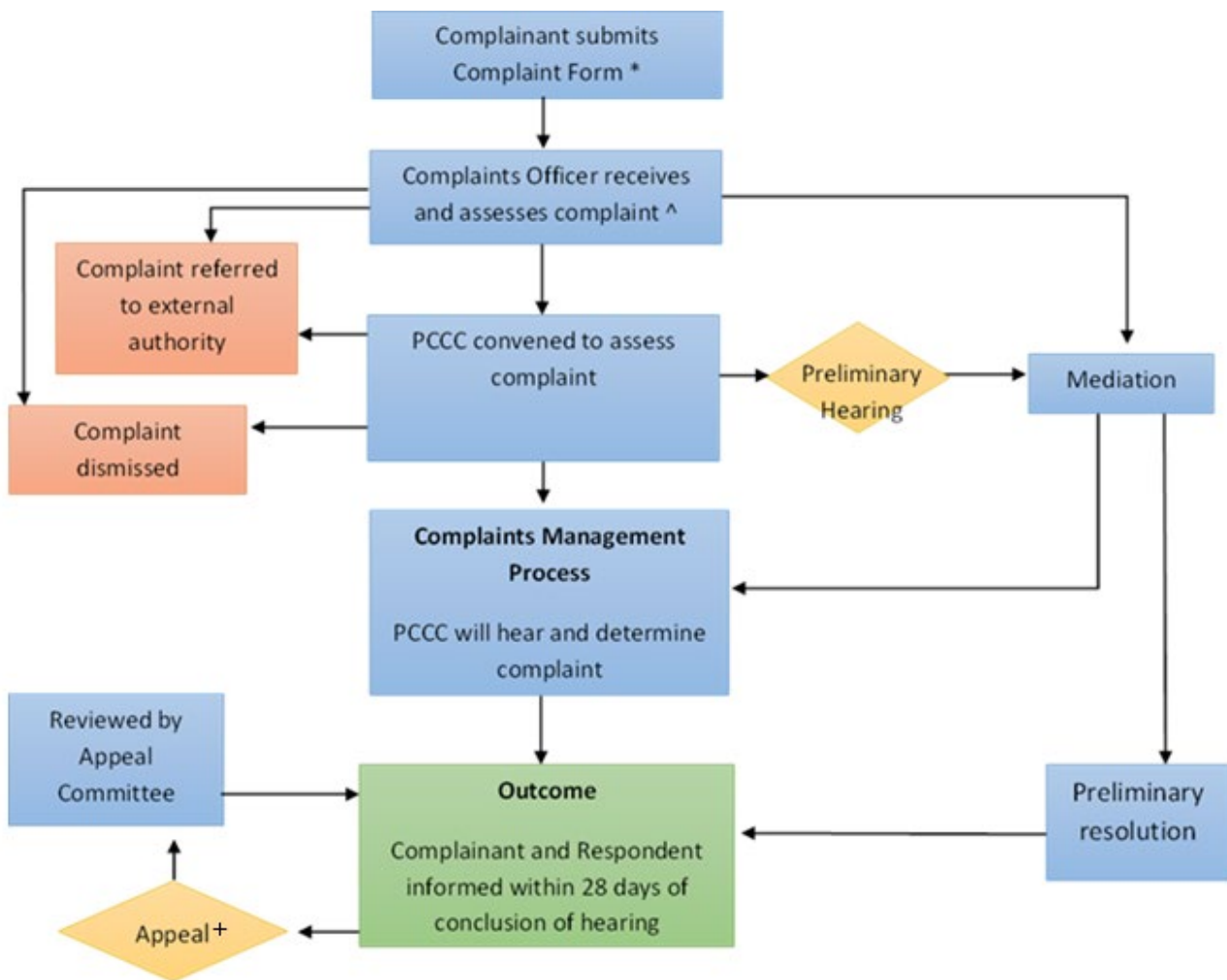
with the Complaints Officer, the [PCCC](#) and the HGSA Council in relation to both investigations about themselves and other members.

Respondents must comply with any penalty, which is imposed as a result of the Complaints Management Process and should comply with the time limits and procedural requirements set out in this Policy and operational guideline.

Respondents have the right of appeal as outlined in Complaints Management Procedure Stage Four – Appeal, later in this document. The Appeal Committee shall be appointed by the HGSA Executive under the HGSA By-Laws Pursuant to Clause 81 of the HGSA Constitution.

Process and Stages of Complaints Management

The process and stages of managing a complaint are summarised in the figure below:



*Within 2 calendar years of alleged incident
 ^ Within 15 working days of receipt of Complaint Form
 + Within 20 working days of outcome

Complaints Management Procedure

Both the Complainant and the Respondent will be informed in writing of the outcome of the Complaints Management Process within 28 working days of the conclusion.

Stage One – Making a complaint

Who do you make a complaint to?

A person who wishes to make a complaint to the [PCCC](#) about the unethical and/or unprofessional conduct and/or incompetent practice of a genetic counsellor can make a complaint to either:

- (a) the Genetic Counsellors Complaints Officer, or
- (b) HGSA Council via the HGSA Secretariat (if for some reason it is not appropriate to make the complaint to the Complaints Officer).

Format of Complaints

All complaints under the Complaints Management Process should be made by completing the [Complaints Form which is available on the PCCC page of the HGSA website](#), or from the HGSA Secretariat.

The Complaints Officer/Chairperson of the [PCCC](#) or the Chair's delegated representative has absolute discretion to determine whether or not a complaint should be accepted if it is not in the format of the Complaints Form.

Withdrawing a complaint

A Complainant may withdraw a complaint at any time by written notice to the Complaints Officer.

The Complaints Officer will consider the request to withdraw the complaint and determine, with absolute discretion, whether or not the complaint should proceed for determination through the Complaints Management Procedure.

The Complaints Officer may consider in making such a determination how far the complaint has progressed through the process and whether the Respondent has requested that the determination of the complaint proceed.

Stage Two – The Complaints Officer receives and reviews the complaint

The Complaints Officer receives and reviews complaints made in relation to the conduct of a genetic counsellor.

The Complaints Officer has absolute discretion to determine whether or not the matter raised in the complaint is one that can be effectively responded to through the Complaints Management Process. The Complaints Management Process is intended to deal with allegations of ethical misconduct and malpractice.

If the Complaints Officer determines that a complaint will not proceed through the Complaints Management Process, a Complainant may apply to have that decision reviewed through the HGSA Appeal Committee, except where the Complaints Officer has deemed that the matter is vexatious or frivolous.

If the matter which is the subject of the complaint is being investigated by the Police or another agency, or is the subject of a proceeding in any court of law, the Complaints Management Process will be deferred until the completion of that other investigation or proceeding.

Within 15 working days of receiving the complaint, the Complaints Officer must:

- (a) inform the Complainant whether the complaint can proceed through the Complaints Management Process, and
- (b) inform the Respondent of the complaint.

This may include gathering further information if deemed appropriate, prudent, relevant or necessary to the subject or the circumstances of the complaint.

The Respondent may reply to the complaint. Their response must be provided to the Complaints Officer within 20 working days of receiving notification of the complaint from the Complaints Officer.

Upon receipt of all the required information, the Complaints Officer will convene the [PCCC](#) (according to the [Terms of Reference for the Professional Concerns and Complaints Committee](#)) to make an assessment whether:

1. further information is required that is appropriate, prudent, relevant or necessary to the subject or the circumstances of the complaint, or
2. the complaint will be:
 - (a) dismissed, if the PCCC determines (in its absolute discretion) that the complaint has no merit, or
 - (b) managed through a preliminary hearing process if this course of action is agreed to by the Complainant and the Respondent, or
 - (c) managed through the formal Complaints Management Process, or
 - (d) referred to an external authority e.g. law enforcement, and notify the Complainant and the Respondent.

Stage Three – Preliminary resolutions (where appropriate/agreed)

There may be instances where the Complaints Officer refers the complaint to mediation. The Complaints Officer will speak with the Complainant and the Respondent to arrange a suitable process. Both the Complainant and the Respondent must be willing to engage in mediation. If either party refuses, then the complaint will be referred to the [PCCC](#).

If the complaint can be resolved during the mediation process, then the terms of the agreed resolution are to be written down and signed by the Complainant, the Respondent and the Mediator. The Australian Mediation Association will appoint the Mediator. The HGSA have an allocated budget item to cover mediation costs as part of the Complaints Management Process.

A copy of the agreed resolution will be provided to the [PCCC](#) with a summary of the complaint. It will also be sent to the HGSA Council who will keep the summary as a record only. The HGSA Council are not required to make a determination on the matter as the complaint is taken to have been resolved.

If resolution cannot be reached and the complaint is not resolved during the mediation process, then the Mediator will notify the Complaints Officer that the complaint could not be resolved. The complaint will be referred to the [PCCC](#).

Stage Four – Hearing

In the event that the Complaints Officer in consultation with the PCCC have determined that the complaint should be referred for investigation or heard before the PCCC the purpose is to:

- (a) if appropriate, investigate the facts and circumstances in relation to the complaint

- (b) allow the Complainant and the Respondent to present their position
- (c) seek further information from the parties and assess that information, and
- (d) reach a determination in relation to the complaint.

Both the Complainant and the Respondent may attend the hearing in person or via telephone/video link and may have a support person present. The PCCC may determine in its absolute discretion whether a support person can attend a hearing and what role the support person may have in the hearing process. The support person cannot be a legal representative and must not act as an advocate for the Complainant or Respondent, unless the PCCC (in its absolute discretion) decides otherwise.

Submissions to the PCCC should be made in person during the hearing. The PCCC may determine (in its absolute discretion) whether to accept any written submissions. The hearing is informal, and the parties are not bound by the rules of evidence. The proceedings of the hearing will be recorded and a document with a summary of the hearing prepared.

The PCCC will hear and determine the complaint. The PCCC is able to make determination of the procedure in relation to the hearing. If the PCCC determines that the Respondent has failed to act in accordance with the Code of Ethics or Practice Competencies, it may impose a penalty on the Respondent.

Stage Five – Appeal

The Complainant or the Respondent may appeal the decision of the PCCC but only on any of the following grounds:

- (a) the hearing was not conducted in accordance with the Complaints Management Policy and Procedure
- (b) the PCCC did not afford a party natural justice
- (c) the penalty is deemed inappropriate.

That appeal must be made in writing by the Complainant or the Respondent to the Complaints Officer within 20 working days of receiving the written determination of the PCCC.

The Complaints Officer on behalf of the PCCC must refer the matter to the HGSA Council who will consider the establishment of an Appeal Committee to investigate the PCCC decisions. The HGSA Council Appeal Committee will be appointed by the Executive of the Society according to the By-Laws pursuant to clause 81 of the Constitution. The Appeal Committee shall meet to hear Appeals against decisions made during the Complaints Management Procedure according to the process outlined in Clauses 10-14 of the Appeal Committee By-Laws in the [HGSA Constitution](#).

Stage Six – Outcome

The Complainant and the Respondent will be informed in writing of the final determination from the Complaints Management Process and the reasons for the determination.

1. If the complaint is resolved during the mediation process, then the terms of the agreed resolution are to be written down by the Mediator and the Complaints Officer and signed by the Complainant and the Respondent.
2. If the complaint is resolved through the hearing process the PCCC will inform the Complainant, the Respondent and the HGSA Council of the outcome.
3. If the complaint is resolved through the Appeal Committee process, the Appeal Committee will inform the Complainant, the Respondent, and the HGSA Council.

The final determination will either be the outcome of the [PCCC](#) determination or the Appeal Committee's determination, whichever is applicable. The PCCC or the Appeal Committee may determine that:

- (a) the complaint has not been substantiated and that the complaint is dismissed
- (b) the complaint has been substantiated but the Respondent is not affected.

In that circumstance, the [PCCC](#) or the Appeal Committee may determine any penalty which is appropriate. Such other penalties may include:

- imposing conditions of practice (such as mandatory supervision or additional continuing professional development as part of the certification requirements)
- issuing a formal reprimand or warning

If the complaint has been substantiated and the Respondent is affected, this may include suspending accreditation. The [PCCC](#) or the Appeal Committee may determine that a penalty be imposed including that the Respondent's registration (as published on the [HGSA website](#)) be suspended or terminated.

The Complaints Officer will ensure that a written record of the final determination is filed appropriately and confidentially in the Complaints Register administered by the PCCC, and that the PCCC and HGSA Council receive a copy. The Chair of the Board of Censors will also be notified.

Ensuring integrity of the Complaints Management Procedure

The [PCCC](#) is committed to ensuring that the Complaints Management Procedure provides an effective response to complaints about unethical and unprofessional behaviour and conduct while ensuring that both Complainants and Respondents are dealt with honestly and fairly.

There are a number of ways in which the PCCC ensures the integrity of the Complaints Management Procedure.

Natural Justice

The Complaints Management Procedure is not a legal procedure; however, the rules of natural justice apply to the process to ensure that the decision-making procedure is fair. Procedural fairness in the Complaints Management Procedure is ensured by:

- (i) giving both the Complainant and the Respondent Genetic Counsellor a fair hearing and an opportunity to present their side of the issue
- (ii) ensuring that the [PCCC](#) and others who have a role in the decision-making process are free of an interest in the outcome or a biased mind, and
- (iii) requiring that the decision be based on evidence and facts.

Confidentiality and Privacy

The [PCCC](#) is absolute about ensuring that both the Complainant's and the Respondent's rights to privacy are protected. The PCCC will maintain the confidentiality of the Complaints Management Procedure unless otherwise required by law. However, the determination of the PCCC may require that Outcomes of the Complaints Management Procedure be disclosed to relevant parties, for example where conditions of practice are imposed, a formal reprimand or warning is issued, or applying a Suspension or Termination of Registration (as published on the [HGSA website](#)).

All Complainants, Respondents and HGSA members or other individuals involved in the Complaints Management Procedure should:

- (i) keep the personal information of Complainants and Respondents confidential. Personal information can only be used for purposes directly related to the Complaints Management Procedure.
- (ii) sign a Confidentiality Agreement before beginning the Complaints Management Process or before becoming a member of one of the panels. Under that confidentiality agreement those people agree to keep confidential all information about persons involved in the Complaints Management Process.

Conflicts of Interest

The HGSA paid staff, HGSA members who are HGSA Office Bearers and MHGSA or FHGSA Genetic Counsellors who have any role in the administration or implementation of the Complaint Management Procedure should:

- (i) declare any relationship or association that they have had with either of the parties involved with a complaint
- (ii) declare if they have any personal knowledge of the complaint
- (iii) declare any other interest that they may have in the outcome of the Complaint Management Procedure.

The PCCC may ensure that conflicts of interest are minimised by undertaking measures such as performing background checks on individuals or asking individuals to give a declaration of private interests.

Record Keeping

To ensure the privacy of all people who participate in the Complaints Management Process, the PCCC will use a coding system to record personal details. That coding system will be used on all documents that are used during the Process. All documents, files and records to do with the Complaints Management Procedure will be stored securely and retained for seven years, following which they will be destroyed.

Notices

Notices, documents and information in relation to the Complaints Management Procedure will be sent to both the Complainant and the Respondent by email. The PCCC may send certain notices by certified mail.

Roles and Responsibilities

Who is responsible for the Complaints Management Process?

The HGSA Council has ultimate responsibility for ensuring appropriate standards of ethical and professional behaviour of MHGSA or FHGSA Genetic Counsellors and for ensuring that the Genetic Counsellors Complaints Management Process effectively responds to complaints about unethical and unprofessional behaviour of genetic counsellors.

The PCCC, through the Complaints Officer, reports to the HGSA President on the status and nature of complaints. The HGSA President reports de-identified data to the HGSA Council about the status and nature of complaints.

The Complaints Management Procedure is administered by members who are appointed by the HGSA Council to carry out various roles and duties including the:

- (i) Complaints Officer
- (ii) PCCC members

(iii) Appeal Committee.

Complaints Officer

The Complaints Officer is responsible for receiving complaints and administering complaints, including Chairing the [PCCC](#) to ensure the Complaints Management Process is completed as guided by the Complaints Management Policy and Procedure. The Complaints Officer is responsible for communicating the final determination to all parties.

Appeal Committee

The Appeal Committee formally manages and makes a final determination for complaints that have been through the Complaints Management Process managed by the [PCCC](#) but the final determination was appealed by the Complainant or the Respondent on specific (valid/defined) grounds. The HGSA Council Appeal Committee will be appointed by the Executive of the Society according to the By-Laws pursuant to clause 81 of the Constitution. The Appeal Committee shall meet to hear Appeals against decisions made during the Complaints Management Procedure according to the process outlined in Clauses 10-14 of the Appeal Committee By-Laws in the [HGSA Constitution](#).