

Guidance

Consumer complaints system

Using this guidance

Occupational associations need effective strategies to manage the risk that their members could harm consumers while providing services. Your consumer complaints system is part of your professional risk management strategies, and should guide your decision-making on what controls and mitigation activities are needed to reduce this risk.

This document details the requirements for this submodule and the information you need to provide in the Consumer complaints system [template](#).

When completing this submodule, we recommend that you also refer to:

- the materials for [Module 4 – Professional risk management strategies](#)
- our [Policy Statement on Complaints and Discipline Systems](#) (October 2020).

Understanding the requirements for this submodule

System functions and outcomes

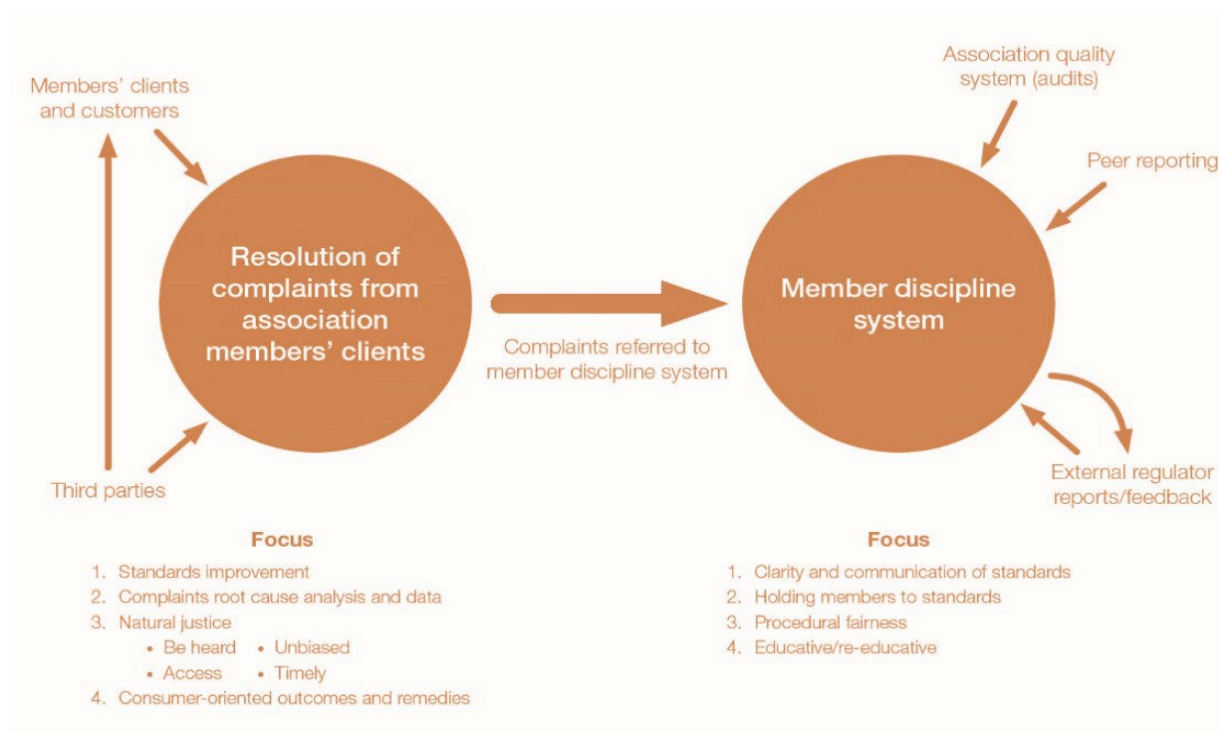
The aims of this submodule are to:

- encourage and support efficient and effective consumer complaints systems
- improve association governance of these systems
- ensure systems are integrated with professional risk management strategies
- ensure systems provide effective information to the association's professional risk management systems about changing community expectations and emerging risks
- improve professional standards by helping associations and their members identify the need for changes in standards and/or in practice to mitigate risk and reduce consumer harm
- encourage associations to develop measurable, improved consumer protection outcomes
- raise awareness of significant issues facing schemes, associations and members
- promote good practices to effectively manage risks associated with these systems and mitigate consumer harm.

In your application, you will need to describe what aspects of your processes relate to a consumer's ability to make a complaint and, if a complaint leads to a disciplinary sanction:

- what sanctions are available
- how they are applied
- how the complainant is informed of this.

Consumer complaints and disciplinary systems are interlinked, as the following diagram shows:



You will provide more information about your disciplinary system in [Submodule 4.3](#).

Our assessment of efficacy

We assess the efficacy of your consumer complaints system to help us consider the likely overall effectiveness of your professional risk management strategies and how you implement them.

Our assessment focuses on 3 questions:

1. Does the system address and reduce consumer harm?
2. Does the system improve occupational standards?
3. Is the system integrated enough with other required elements of your professional risk management strategies to reasonably assure consumer protection and improved occupational standards?

Legislative obligations

We ask for this information in line with the requirements of professional standards legislation. In the Professional Standards Act 1994 (NSW) (the Act), for example:

- sections 10 and 36 require associations to detail their professional risk management strategies for members and how they will be implemented
- section 37 requires associations to provide us with information on their risk management strategies if we request it.

The legislation does not require associations to have their own consumer complaints systems as part of their risk management strategies. However, an effective consumer complaints system is critically important. It is our policy that each association must have, or have access to, a consumer complaints system.

In the Australian Capital Territory, Northern Territory, South Australia, Tasmania or Victoria, we must consider a proposed scheme's provisions for making and determining complaints and enforcing disciplinary measures against association members before we can approve the scheme.



In Queensland, the Professional Standards Act 2004 (Qld), section 12 states that we must consider ‘the measures available to the occupational association under the scheme to discipline its members’. While New South Wales and Western Australia do not mandate this, we consider an association’s access to a consumer complaints system as part of its professional risk management strategies.

In all jurisdictions, associations can adopt the Occupational Associations (Complaints and Discipline) Code (the Model Code). This is included in professional standards legislation, such as in Schedule 1 of the Professional Standards Act 1994 (NSW). Section 38 of that Act allows organisations to adopt it.

Associations cannot add to, omit from or otherwise modify the Model Code without our approval. (In the ACT Act, a scheme may adopt the Model Code’s provisions with any changes we recommend.)

Under the Model Code:

- the Council may make a complaint to the association
- the association must notify the Council of each complaint it receives.

Completing the questions

This section further explains the information we ask for in the Consumer complaints system [template](#), and how we use it to assess your consumer complaint system.

Structure

Question 1 asks about your association’s current or proposed consumer complaints system. We ask for a range of documents to support your response. These documents could include your association’s policy or procedural documents about handling customer complaints. They must show how your association will apply the system to protect consumers and continuously improve.

The documents we ask for should establish an evidentiary framework that we can use to assess the scale, depth, and consistent application of the consumer complaints system. This will help us:

- understand the system and processes
- identify any gaps in it
- recommend appropriate actions to address those gaps.

Implementation

A clear implementation plan and supporting processes are vital to the effectiveness of your consumer complaints system.

Question 2 asks you to clearly identify and explain the implementation approach, detailing the resources you will use and the implementation timetable.

Other statutory or regulatory requirements

Question 3 helps us to better understand the statutory context that your association and its members operate in. This will ensure that your association has an effective regulatory relationship with us, alongside the provisions that other statutes require.



Governance, improvement and consumer protection outcomes

Questions 4 to 15 then ask about your consumer complaints system governance, how it is improved and how it delivers consumer protection outcomes.

In line with Module 4's requirements, the purpose of these questions is to show the dynamics of what makes your consumer complaints system operate effectively. By providing this information, you will show us the scale and quality of the governance, improvement and consumer protection outcomes that underpin your system.

Governance

A best practice consumer complaints system should:

- be easy for consumers to find and use – for example, placed on your website
- provide extra support to disadvantaged complainants
- handle complaints fairly, objectively and without bias
- meet community expectations and maintain public accountability.

Taking a principles-based approach, an effective and efficient consumer complaint system can best be described as:

- **data driven** – collecting, analysing, synthesising and reporting on complaints data to deliver critical benefits, such as identifying emerging trends to inform revisions to your strategies
- **risk integrated** – helping you and your members to identify and manage risks in the practice of the occupation
- **consumer responsive** – ensuring complainants are not adversely affected by making a complaint, and emphasising swift resolution and communication
- **root-cause responsive** – helping you and your members to understand, identify and remediate the root causes of poor practice and consumer harm
- **strategic** – informing strategies you may adopt to improve member conformance with professional standards, such as recommended changes in practice or professional standards to prevent consumer harm
- **educative** – informing changes to member practice and behaviour to reduce professional risk, together with systems to minimise the escalation of complaints into disputes
- **adequately resourced** – providing the necessary association resources to identify and progress improvements.

Improvement

Contemporary approaches to complaints handling emphasise the positive impact that feedback can have on continuous improvement and systems development. By analysing complaints data, associations can identify systemic issues and clarify the root causes of poor practices that lead to consumer harms and complaints.

We ask you to describe the practical measures your association uses (or will use) to show that your consumer complaints system is effective. These could include:

- data on complaints, including root causes of complaints
- information on continuous improvement over time
- measures of consumer sentiments and feedback.

You then need to state how each measure will show the effect of the complaints system.



This information is also linked to our annual reporting process. You can find out more about this in [Module 6 – Annual Professional Standards Report](#).

Related modules

We will assess your association's other professional risk management processes in the following modules or submodules:

- [1.3 – Enterprise risk management system](#)
- [2.2 – Insurance standards](#)
- [2.4 – Scheme compliance plan](#)
- [4.1 – Codes of ethics and practice](#)
- [4.3 – Disciplinary system](#)
- [6 – Annual Professional Standards Report](#).

Copyright and document control

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Next review	1 year after the application framework pilot program begins, then every 3 years
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Approved by	Chief Executive Officer, Professional Standards Councils

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1.0	PSC	18 June 2021	1 July 2021	This is new guidance

Disclaimer

This guidance applies only to an occupational association preparing a scheme for approval under professional standards legislation. It is not legal or other professional advice and should not be relied on as such. An occupational association should seek its own legal/professional advice to find out how the professional standards legislation and other relevant laws and regulations may apply to it. Go to www.legislation.nsw.gov.au to access NSW legislation.

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