



## COMPLAINTS POLICY

### Introduction

This document presents the Association of Noise Consultants' (ANC) Complaints Policy. It is intended for all parties to a dispute: complainants, witnesses, Members and others involved in the operation of the policy. Supporting guidance on the implementation of the policy is provided in the appended Annexes.

The policy, and supporting guidance, is available on the ANC website. This document will be regularly reviewed to maintain currency with the law, the Associations Byelaws and best practice such that it continues to be effective for its purpose.

### Definitions

Complainant: The person or organisation raising the complaint

Respondent: The Member Company which is the subject of the complaint

Chairperson: The ANC Chairperson in office at the time the complaint commences

Membership Steering Committee: The ANC standing committee advising the Board on membership matters

Investigating Committee: The panel appointed by the Chairperson to review the complaint.

### 1. Feedback on member organisations

- 1.1 If you have an issue with one of our members that you would like to draw to our attention to then please use our [Feedback Procedure](#). Anyone is able to provide feedback about Member Companies (both positive and negative) which is reviewed by the Association's Membership Steering Committee and used to provide general guidance to the whole membership on improving ANC members' service. If appropriate, the Committee may decide that a complaint investigation is required.
- 1.2 If you feel that the Member in question is guilty of "improper conduct", complainants are first encouraged to make the complaint directly to the member organisation. This course can resolve what may have been an honest mistake or misunderstanding by either side. The Member being complained about may have their own procedure for handling complaints which will give a satisfactory outcome to all concerned.

### 2. Who can complain?

- 2.1 You can complain to the Association of Noise Consultants (ANC) if you are:
  - i) a direct client of the Member in question; or
  - ii) a professional officer employed by a Local Planning Authority involved in the review of a Member's work as part of the determination of a planning application; or
  - iii) another construction professional (e.g. architect, planning consultant); or
  - iv) another Member of the Association.

- 2.2 Complaints from parties not listed above will not normally be covered by the Complaints Policy. Members of the public affected by the work of an ANC Member would be expected to use the proper channels of complaint (e.g. the EHO, landlord, etc.).

### **3. What is covered by our Complaints Policy?**

- 3.1 To complain to the Association of Noise Consultants (ANC) you must think that there has been “improper conduct” by an acoustic consultancy which is a Member of the Association. The ANC has a Code of Ethics and a set of Rules & Byelaws which are clear, and any contravention of these could warrant investigation.
- 3.2 If there is no breach of the ANC Code of Ethics or Rules & Byelaws, or if the issue is considered too trivial, but the Member’s conduct has been below the standard that the ANC would expect of its members, the Chairperson can instigate the issue of a letter advising the Member as such, and if appropriate, advise the Member of what should have been done. Alternatively, at their discretion, the Chairperson can refer the matter to the Membership Steering Committee for peer review.
- 3.3 Improper conduct does not mean “negligence”. Making simple mistakes, being careless or unintentionally not doing something that should be done does not usually count as improper conduct. If you have suffered loss or damage as a result of the actions of a Member of the ANC, and you have not been able to reach an agreement with the Member through negotiation, the usual course would be to seek redress through other means, including the courts.

### **4. What is outside the scope of the Complaints Policy?**

- 4.1 You cannot complain to the Association of Noise Consultants (ANC) if:
- i) You are unhappy with the decision to grant planning permission for a project where a Member’s work / documentation has been submitted as part of the application. In this instance you should contact the relevant Local Planning Authority who have determined the outcome of the application.
  - ii) You do not have reasonably compelling evidence (such evidence might be copies of reports, correspondence, emails) that the Member is guilty of “improper conduct”.
  - iii) The complaint is outside of the [ANC Code of Ethics/Rules & Byelaws](#).
  - iv) The complaint is about a noise consultant who is not an ANC Member.
  - v) The complaint relates to disputes about the terms of contractual arrangements.
- 4.2 We cannot compel anyone to amend, withdraw or rewrite a report. If you require a review of work, then you should instruct another reputable consultancy (preferably another member of the ANC) to act for you.

### **5. Making a formal complaint**

- 5.1 If you have been unable to obtain a satisfactory outcome from any other route, and you believe that you fulfil all the criteria set out above, you can complete our complaints form [online here](#).
- 5.2 Upon receiving a complaint, the ANC will check that the complainant has (a) attempted to resolve the complaint directly with the company concerned (Respondent) and (b) followed the complaints handling procedure set out by the Respondent.

- 5.3 If the Complainant has begun legal proceedings against the Respondent such proceedings take precedence and no further action can be considered until the outcome of the court proceedings is known.
- 5.4 If there are no court proceedings but (a) and (b) above in 5.2 have not been followed, then the initial response to the Complainant should be to follow such procedures first. If the above action has been followed but direct resolution has failed and the complaints handling procedure set out by the Respondent has not resulted in a satisfactory solution, the Chairperson should then consider the merits of the complaint.
- 5.5 The Chairperson will tell you whether the Association considers that your complaint warrants an investigation.

## **6. Complaint investigation procedure**

- 6.1 Our complaint investigation procedure is an internal process and the ANC will advise you after it is complete whether it will take any further action or not. Additional information on procedural actions and timescales are provided in Annex A.
- 6.2 Our procedure relies on volunteers from our Membership who review the information provided by both parties. A typical investigation will take about 3 months but may be longer if further information is requested.

## **7. Degree of significance**

- 7.1 If the Investigating Committee believes that the Respondent has breached the Code, they shall give their opinion on the significance:
- i) Minor: warranting a formal written warning.
  - ii) Medium: not as far as a suspension but requiring a review of processes and training.
  - iii) Major: requiring the respondent to implement planned improvements (probably used in conjunction with suspension until the ANC is satisfied).
  - iv) Gross: likely to lead to expulsion from the ANC altogether.
- 7.2 If the Investigating Committee believes the Respondent has acted properly, it shall be stated whether or not it considers any action should be taken against the Complainant if they are a member of the ANC.

## **8. Potential disciplinary actions**

- 8.1 At the conclusion of the deliberations, the Investigating Committee may decide either to take no further action, or to recommend that the ANC Board impose one of the following sanctions:
- i) Formal letter; or
  - ii) written reprimand; or
  - iii) require improvement plan and implementation; and
  - iv) suspension (for a period to be decided by the Board); or
  - v) expulsion.

- 8.2 In the case of a reprimand, the Investigating Committee may also attach certain requirements, such as training, and compliance may be monitored. Failure to comply may result in a further sanction being imposed on the Respondent.
- 8.3 In the case of a suspension, the Investigating Committee will recommend to the ANC Board a suitable period for the suspension (punishment) or specific actions which must be taken before the suspension can be lifted (correction). This will automatically bar the Respondent from membership of the ANC PCT Registration Scheme for the duration of the suspension.
- 8.4 If the Investigating Committee recommends expulsion to the Board, then membership of the ANC will cease from the date the recommendation is ratified by the ANC Board.

## **9. Provision of feedback to both the Complainant and the Respondent**

- 9.1 The Chairperson of the ANC shall write to the Respondent's company, advising them of the decision and the action required. If appropriate, the Chairperson may require a written acknowledgement from the Respondent's company that actions required are being taken. A right of appeal will only exist in the event of new information being available.
- 9.2 The Chairperson of the ANC shall write to the Complainant stating whether or not the complaint has been upheld and if upheld that appropriate action has been taken in accordance with the complaints procedure. The complaints review process is an internal matter to the ANC and no information about the complaint review shall be made available to other parties.
- 9.3 The ANC Chairperson shall advise the Investigating Committee of the Chairperson/ANC Board's final decision. At this point the Investigating Committee shall delete/destroy the relevant documents as per section C.5 of Annex C.

## **10. Right of Appeal**

- 10.1 In the event that the Respondent believes new information has become available, and wishes to exercise the right of appeal, this should be done in writing to the President of the ANC within 28 days from the date of the written decision notice. When requesting that a right of appeal be granted the Respondent must provide appropriate evidence on which the President will base their decision which will be final and without appeal.
- 10.2 The President of the ANC has the power to revoke, vary or uphold the decision of the Investigating Committee. The President's decision is final and conclusive. There is no right of appeal by the person who made the complaint against the Member.

## **11. Mediation and conciliation**

- 11.1 If the ANC Chairperson considers that conciliation is appropriate to the complaint the ANC may offer both parties a conciliation service and retains the right to levy a charge to be paid by both parties for this service, which is to be carried out by the ANC Chairperson or in their absence the Vice Chairperson.
- 11.2 The conclusion of conciliation will be confirmed in writing to both parties. Recommendations arising from conciliation are not legally binding on the parties.

## COMPLAINTS POLICY: PROCEDURAL ANNEXES

### Introduction

This document is designed to assist those involved in the Association's complaints procedures to achieve a consistently high quality of process leading to sound decision making. It sets out the expectations of the process and procedures for the proposes of achieving clarity and transparency.

### Annex A – Key processes and timescales

- A.1 To obtain the most satisfactory outcome for the Complainant and Respondent (and the wider acoustics industry) the process needs to be thorough, fair, decisive and quick.
- A.2 To achieve this, the ANC Chairperson should ensure that, wherever possible, all parties involved follow the process and timescales set out below:

<p><u>Settling the Matter 'Amicably'</u></p> <p>Upon receipt of a complaint, the ANC will contact the Complainant by phone and/or email, to check that the Complainant has not started legal proceedings.</p> <p>Assuming they haven't, the ANC will check that the Complainant has taken all reasonable steps to resolve the matter. The ANC should help the Complainant set up a meaningful dialogue with the Respondent.</p> <p>If this is not possible or does not lead to the issue being resolved, then more formal dispute resolution should be considered. The ANC should also at this point inform the Respondent of receipt of the complaint.</p>	<p>As long as required but the target is 3 days.</p>
<p><u>Assess Validity of Complaint</u></p> <p>If the complaint cannot be resolved directly with the Respondent, the ANC Chairperson shall decide whether it is worthy of investigation.</p> <ul style="list-style-type: none"> <li>- If it is deemed not worthy, the Complainant will be notified (with reasons)</li> <li>- If it is deemed worthy, the Complainant will be told that the ANC will take the matter up on their behalf</li> <li>- If the ANC Chairperson is uncertain that there is a case worthy of investigation, the Chairperson may refer the decision to the ANC Board.</li> </ul>	<p>1 week to consider and if required an additional week to seek opinion from the Board</p>
<p><u>Obtain Respondent's response and Set up Investigating Committee</u></p> <p>The ANC Chairperson will decide which Clause(s) of the Code the complaint relates to and:</p> <ul style="list-style-type: none"> <li>- inform the Respondent of the charge against them and ask them to provide a written 'defence' within 2 weeks (or to request an extension of time to respond if this is not achievable)</li> <li>- set up an appropriate Investigating Committee, see Annex B (telling them which Clause in the Code it relates to).</li> </ul>	<p>2 weeks to respond plus 2 weeks to set up Committee</p>

<p><u>Investigation Process</u></p> <p>The Investigating Committee shall consider the case and report their findings and recommendations to the ANC Chairperson.</p> <p><i>If the committee feels there is insufficient information or evidence from either or both parties, or needs to obtain further clarification from the Complainant based on the response from the Respondent, the Investigating Committee can ask for an extension which the ANC Chairperson can grant in exceptional circumstances</i></p>	<p>2 weeks to consider plus any time required to obtain further details</p>
<p><u>Actions</u></p> <p>The ANC Chairperson discusses the Investigating Committee's findings with the rest of the ANC Board at the next scheduled board meeting, or sooner if this would result in an unacceptable delay.</p> <p>Assuming the Board agree with the report, the ANC Chairperson notifies both Complainant and Respondent of the outcome. The ANC Chairperson will also notify the Investigating Committee of the Board's decision.</p> <p><i>If the Board believe they have Good Reason to disagree with the Investigating Committee's findings, the Board and the Investigating Committee must resolve their differences as quickly as possible.</i></p>	<p>2 weeks, or to suit the Board meeting Schedule.</p>

## Annex B – Formation of the Committee

If the complaint is deemed to be worthy of investigation:

- B.1 The Chairperson shall invite three ANC members to form the Investigating Committee. All individuals shall abide by the rules for confidentiality and handling the complaint (refer to Annex C).
- B.2 The Chairperson of the Association shall appoint a Chairperson of the Investigating Committee.
- B.3 The members of the Investigating Committee shall be from the current members of the Association, at the Chairperson's discretion.
- B.4 The Chairperson of the Association shall not participate in the investigating committee's deliberations.

## Annex C – Rules for handling and confidentiality

- C.1 Individuals agreeing to serve on an Investigating Committee will be required to sign a confidentiality and impartiality statement and to indicate that they have no conflicts of interest. This will include declaring if they have previously served on an Investigating Committee concerning the same member company. Any individual who fails to sign such a statement or who acts (or has acted) in breach of the principles of confidentiality and impartiality will not be eligible to serve on an Investigating Committee and if already selected will be removed.
- C.2 The Investigating Committee shall hold all matters confidential relative to each complaint.
- C.3 The Chairperson and Association Secretariat shall hold all matters confidential relative to each complaint except in relation to reporting the outcome to the Board.

- C.4 On completion of any action in response to a complaint, all correspondence and papers shall be securely filed electronically by the Secretariat of the Association for safe keeping. The Secretariat shall be empowered to release any items only on receipt of a written request signed by both the Chairperson and Secretary of the Association in office at the time of the request.
- C.5 Members of an Investigating Committee will be required to delete all items relating to the complaint from their electronic filing systems and destroy any paper copies. An undertaking to this effect forms part of the confidentiality statement.

**Annex D – Duties of Member under investigation (Respondent)**

- D.1 Upon receipt of a written complaint, the Respondent will be sent written details of the complaint. The Respondent will be asked to respond within a certain time period (see Annex A). The Respondent may apply for a longer period but this will only be granted in exceptional circumstances.
- D.2 It is possible that the Respondent may feel that the complaint has been made in personal, offensive or vindictive terms or motivations, but must do everything they can to resist responding in kind. Their primary duty is to respond rationally, unemotionally, honestly and factually to the allegations made.
- D.3 Once the complaint has begun to go through the ANC Complaints procedure, the Respondent should not approach the complainant directly regarding the complaint unless it has been agreed with the ANC.
- D.4 The Respondent should cooperate at all stages, for instance to further requests for information. The Investigating Committee may have questions which they might like to put to the Respondent and, for more serious allegations; the Respondent may be called to attend an interview. The Respondent will be expected to cooperate fully.
- D.5 The Respondent shall abide by the decision of the Investigating Committee, as must the Complainant.

**Annex E – Duties of the members on the Investigating Committee**

- E.1 The members of the Investigating Committee shall act with integrity and fairness at all times.
- E.2 The Investigating Committee shall act with discretion in order to uphold the professional standing of the Association.
- E.3 The Investigating Committee shall carry out their responsibilities in accordance with the timescales set out in Section A.2.
- E.4 The Investigating Committee shall obtain from the Chairperson of the Association the details of the complaint(s), including the Respondent's written defence, as requested by the Chairperson.
- E.5 The Investigating Committee may request further information from either or both parties, or obtain further clarification from the Complainant based on the response from the Respondent.
- E.6 In exceptional circumstances only, the Investigating Committee can ask the Chairperson for an extension of time and, in accordance with Section D.4 Interviews of Respondent and Complainant, can also ask the Chairperson for permission to convene an interview with one or both parties.
- E.7 The Investigating Committee shall, where possible, attempt to achieve an agreed solution to the matter complained of by conciliation, advice and by using its good offices.

- E.8 The Investigating Committee is authorised to manage the complaint as it feels is appropriate provided that the Investigating Committee is unanimous in its decisions as to what is appropriate.
- E.9 The Investigating Committee in reaching its decisions shall not commit the Association or its Members in any respect and all correspondence shall be marked 'confidential, without engagement and without prejudice'.
- E.10 Should the Investigating Committee be unable to reach a conclusion, it shall report the fact to the Chairperson of the Association.
- E.11 The Investigating Committee shall not inform any party of the Investigating Committee's deliberations/outcomes, nor shall they initiate any disciplinary or warning action against a Member thought to have been at fault.
- E.12 The Investigating Committee shall report to the Chairperson of the Association concerning its deliberations and, where possible, the conclusion(s) reached, including any action(s) it may wish to recommend.
- E.13 No Investigating Committee shall be in existence for more than three months.

#### **Annex F – Respondents written submissions and their contents**

- F.1 The ANC does not have a standard form as they rarely cover all areas that need to be covered. However, items F.2 to F.7 should be regarded as a minimum requirement for the elements which will need to be covered in response to most types of complaint.
- F.2 Agree or disagree with the basic facts where they exist. This should be a statement of exactly what happened as a straightforward, unemotional account in simple language.
- F.3 Explain why you think the Complainant is:
  - i) Incorrect
  - ii) Partially correct
  - iii) Basically correct, but with mitigating circumstances or misunderstandings
  - iv) Correct and justified.
- F.4 Provide notes of any attempts made by the Complainant or Respondent to resolve the issue before the ANC complaints procedure was instigated.
- F.5 Copies of all evidence relating to the complaint should be included. This can mean items such as letters, emails, plans, drawings, photographs, bills or invoices. Only evidence that has a direct bearing on what is being complained about should be included.
- F.6 Try to resist emotional reactions to the complaint, tit-for-tat allegations and counter claims. The only evidence that the Investigating Committee will consider is that relating to the current complaint against the member.
- F.7 Finally, please be patient. The ANC and the Investigating Committee understand that the process will be stressful and will endeavour to have it resolved as soon as possible.

#### **Annex G – Interviews of Respondent and Complainant**

- G.1 It is expected that complaints will be able to be assessed on the basis of the written, photographic and other evidence presented and, if required, following written submission of answers to written questions presented by the Investigating Committee.
- G.2 In exceptional circumstances only, the Investigating Committee may convene interviews with the Respondent, the Complainant or both. Such exceptional circumstances would only be expected to occur in complicated cases where for



example written questions and answers would be overly time intensive or would be unlikely to provide clarity regarding the complaints.

- G.3 If the Investigating Committee considers that interviews are a necessity this would need to be ratified by the Chairperson and/or ANC secretariat.
- G.4 Wherever practicable as much of the Investigating Committees work as possible shall be conducted by e-mail and telephone/videoconference. Physical meetings may be necessary but should only take place when there is no viable alternative.

## **Annex H – Reporting by the Investigating Committee**

- H.1 Once they have reached their conclusions, the Investigating Committee Chairperson shall issue a written report of their findings to the ANC Chairperson. The report shall include consideration of the following:

H.2 Conclusion

- i) Did the Investigating Committee find that the Respondent had contravened the specified clause(s) of the Code? Did the Investigating Committee find the Respondent had contravened any other clause(s) of the Code?
- ii) If the Investigating Committee finds that the Respondent's behaviour did not contravene the Code, the Investigating Committee shall indicate whether, in their opinion and based on the evidence provided, the Complainant had in any way acted unreasonably in filing their complaint.

H.3 Degree of significance

- i) If the Investigating Committee believes that the Respondent has breached the Code, they shall give their opinion on the significance. Reference shall be made to the Complaints Policy, Section 7.

H.4 Reasoning

- i) The Investigating Committee shall summarise the reasons behind their decisions relating to the conclusion and, where the Investigating Committee believes that the Respondent has breached the Code, degree of significance. In simple terms they shall state the key part(s) of the dispute, including:
  - Why the Complainant believed the Code has been contravened by the Respondent.
  - The Investigating Committee's reason for agreeing/disagreeing with the Complainant (giving clear evidence for their decision).
  - The Investigating Committee's opinion on whether there were any mitigating circumstances for the Respondent's behaviour which would alter their judgment in terms of the significance of the offence.