

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV LIMITED



Professional Conduct Policy 2020

API Document
APIV Document

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Introduction

The Professional Conduct Policy (**Policy**) provides a Complainant the opportunity to bring to the attention of the Australian Property Institute Limited (**API**) circumstances which may give rise to a finding of Professional Misconduct against an API Member or an Australian Property Institute Valuers Limited (**APIV**) Member. Similarly, this Policy provides the Chief Executive Officer an opportunity to undertake a Professional Review and/or Disciplinary Assessment into the conduct of a Member.

Prior to raising a Professional Review and/or undertaking a Disciplinary Assessment, it is expected that the Member be given an opportunity to address the conduct which is of concern.

Once a Professional Review has been raised with the API or a Disciplinary Assessment is initiated by the API, the API appointed Professional Conduct Officer will undertake a preliminary assessment in the first instance, followed by a substantive investigation into the conduct of the Member.

The Professional Conduct Officer will maintain communication with all parties and will remain impartial throughout the process. A Professional Conduct Panel will be formed in accordance with the Professional Conduct Committee Charter, to consider and hear a particular matter. The Professional Conduct Panel will consider all information provided by the Professional Conduct Officer and will make a determination whether there is evidence to establish a finding of Professional Misconduct against a Member.

The API has no authority or Jurisdiction to:

- determine negligence;
- assess the accuracy of a valuation;
- investigate or determine the outcome of a dispute, or difference of opinion between a Complainant and a Member as to the assessed Market Value, Market Rent or any other International Valuation Standards basis of value;
- request an amendment to be made to the report;
- order a Member to provide a refund of fees or reimbursement of professional fees to a Complainant;
- award any form of compensation to any parties subject to a Professional Review;
- investigate a Professional Review raised where legal avenues of redress should be or are being pursued; and
- overturn any decision made by courts, tribunals, other associations or regulator bodies when investigating a Professional Review.

If the alleged Professional Misconduct or the Member who is subject to a Professional Review and/or Disciplinary Assessment, is the subject to current proceedings before a court, tribunal, state licensing body, or other bodies, the API investigation will be suspended pending the outcome of those proceedings and any appeal of those proceedings.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1 The purpose of this Policy is to provide:
- (a) a Complainant the opportunity to raise issues of concern about the conduct of a Member;
 - (b) the CEO the opportunity to undertake a Professional review and/or Disciplinary Assessment of the conduct of a Member;
 - (c) guidelines and procedures for the handling of a Professional Review raised and/or undertaking of a Disciplinary Assessment;
 - (d) for the appointment of a Professional Conduct Officer to manage and to investigate any Professional Review raised with the API;
 - (e) for the appointment of a Professional Conduct Officer to manage and to investigate any Disciplinary Assessment initiated by the API;
 - (f) for the formation and operation of a Professional Conduct Panel to consider a Professional Review raised and/or the undertaking of a Disciplinary Assessment against a Member, and where appropriate make a finding of Professional Misconduct and determine the appropriate sanction(s) to be imposed; and
 - (g) protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1 The definitions below have been included in this Policy for the interpretation and understanding of certain stated terms.
- 2.2 Where a defined term is included in this Policy it is identified as a capitalised term.

Active Disciplinary Assessment	A Disciplinary Assessment that is not a Closed Disciplinary Assessment or is suspended under this Policy.
Active Professional Review	A Professional Review that is not a Closed Professional Review or is suspended under this Policy.
API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).

APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in the APIV Scheme.
APIV Scheme	The professional standards scheme established under professional standards legislation administered by the APIV.
Appeals Tribunal Panel	A panel established under the Appeals Tribunal Policy to hear an appeal by the Member.
Appeals Tribunal Policy	An API policy which sets the guidelines and procedures for the formation and operation of an Appeals Tribunal Panel to hear appeals.
Chief Executive Officer	An individual appointed by the API Board to manage the overall operations and resources of the API and APIV.
Closed Disciplinary Assessment	A Disciplinary Assessment for which a decision has been made by the Professional Conduct Panel for the Disciplinary Assessment to be closed.
Closed Professional Review	A Professional Review for which a decision has been made by the Professional Conduct Panel for the Professional Review to be closed.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by a Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Former Member(s)	An individual who does not hold a current membership with the API and/or APIV.
Market Value	The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.
Market Rent	The estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each added acted knowledgeably, prudently and without compulsion.
Member	A current or former API and/or APIV Member.
Notice of Prima Facie Findings of Professional Misconduct	A formal written notice prepared by the Professional Conduct Panel detailing their prima facie finding(s).

Panel Report	A report prepared by the Professional Conduct Panel containing the decision of the Professional Conduct Panel on a Professional Review and/or Disciplinary Assessment.
Procedural Fairness	The elements of affording natural justice to a Member described within section 17 of this Policy.
Professional Conduct Committee	Individuals appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	An individual appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or the undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of a Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of a Member described within section 3 of this Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.
Response Submission Form	A form prescribed by the API completed in full by the Member who is the subject of a Professional Review and/or Disciplinary Assessment.

3. Professional Member Obligations

3.1 A Member must, at all times, observe and comply with the following as applicable to their membership, any certifications held, and the professional services undertaken by a Member:

- (a) the API Constitution.
- (b) the APIV Constitution;
- (c) any policies set by the API and/or APIV;
- (d) any rules and/or codes set by the API and/or APIV;

- (e) any valuation standards or valuation protocol or valuation and property guidelines, prepared and published or adopted by the API and/or APIV;
- (f) carrying out their professional services ethically, with honesty, competence, in good faith without personal bias and without detrimentally impacting the good name and reputation of the API; and
- (g) carrying out of their engagement/professional dealings, with respect, with clients, other Members, the API and APIV and its staff.

4. Application of this Policy to Former Member(s)

- 4.1 The Professional Conduct Officer may investigate a Professional Review raised against a Former Member, if the alleged Professional Misconduct occurred while the Former Member was a Member.
- 4.2 The API may undertake a Disciplinary Assessment against a Former Member, if the alleged Professional Misconduct occurred while the Former Member was a Member.
- 4.3 A Professional Conduct Panel may consider a Professional Review and/or Disciplinary Assessment made against a Former Member and make a determination under this Policy, if the alleged Professional Misconduct occurred while the Former Member was a Member.
- 4.4 If a finding of Professional Misconduct is established against a Former Member, the Professional Conduct Officer may not be able to enforce sanction(s) against the Former Member.

5. Raising a Professional Review

- 5.1 A Complainant who is of the opinion that a Member (including a Former Member) has engaged in Professional Misconduct, may raise a Professional Review into the conduct of a Member to the Professional Conduct Officer.
- 5.2 The Complainant must lodge the required Professional Review Form, completed in full.
- 5.3 The Professional Conduct Officer will not commence a preliminary assessment until a completed Professional Review Form is lodged by the Complainant.
- 5.4 If the Complainant partially completes the Professional Review Form, the Professional Conduct Officer may, by written notice given to the Complainant, request the Complainant to lodge a completed Professional Review Form and all supporting documentation they wish to rely on.
- 5.5 The Professional Conduct Officer will provide the Complainant ten (10) business days to respond to the notice served under section 5.4.

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- 5.6 If at the expiry of the ten (10) business days under section 5.5, the Complainant has not complied with the notice served, the Professional Conduct Officer will take no further action with respect to the incomplete Professional Review.

6. Acknowledging receipt of a Professional Review

- 6.1 The Professional Conduct Officer will confirm receipt of a Professional Review raised as soon as practicable.

7. Undertaking a Disciplinary Assessment

- 7.1 The Professional Conduct Officer may:
- (a) raise additional issues of concern with the Chief Executive Officer in relation to the conduct of a Member, which has not been identified by the Complainant when raising a Professional Review; or
 - (b) raise other issues of concern in relation to the conduct of a Member, either identified by the Professional Conduct Officer or brought to the attention of the Professional Conduct Officer.
- 7.2 The Chief Executive Officer may, independently or upon review of the information under section 7.1, formally request the Professional Conduct Officer undertake a Disciplinary Assessment of the conduct of a Member. A Disciplinary Assessment Form completed by the Chief Executive Officer will constitute a formal request under section 7.2 of this Policy. A Disciplinary Assessment will be managed in accordance with this Policy by the Professional Conduct Officer.

8. Preliminary assessment of a Professional Review by the Professional Conduct Officer

- 8.1 Upon receipt of a completed Professional Review Form and all supporting evidence which the Complainant wishes to rely on, the Professional Conduct Officer will undertake a preliminary assessment into the conduct of a Member.
- The Professional Conduct Officer will:
- (a) refer the Professional Review to the Professional Conduct Panel for dismissal; or
 - (b) progress the Professional Review pursuant to section 9 of this Policy.
- 8.2 The Professional Review may be referred to the Professional Conduct Panel for dismissal if:

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- (a) the Professional Review is made later than twelve (12) months from the date of the conduct which is the subject of the Professional Review;
 - (b) the Complainant does not agree, in writing, that their identity can be revealed to the Member;
 - (c) the Professional Review relates to the conduct that is the subject of a Closed Professional Review or an Active Professional Review under this Policy;
 - (d) the Professional Review is misconceived and/or made without reasonable grounds to substantiate the Complainant's allegation(s);
 - (e) the Professional Review relates solely to a dispute or difference of opinion as to the assessment of the Market Value, Market Rent or any other International Valuation Standards basis of value; or
 - (f) the Professional Review does not fall within the jurisdiction of the API.
- 8.3 If a Professional Review is referred to a Professional Conduct Panel under section 8.2(a), the Professional Conduct Panel may dismiss the Professional Review.
- 8.4 If section 8.4 applies, the Professional Conduct Officer will provide the Complainant a copy of the dismissal notice prepared by the Professional Conduct Panel as soon as practicable.
- 8.5 The dismissal notice prepared by the Professional Conduct Panel will include the:
- (a) name of the Complainant;
 - (b) name of the Member;
 - (c) timeline of events;
 - (d) Complainant's allegation(s); and
 - (e) reason(s) for the dismissal.

9. Notification of a Professional Review and/or Disciplinary Assessment to the Member

- 9.1 Upon completing a preliminary assessment, if the Professional Review is not dismissed by the Professional Conduct Panel, the Professional Conduct Officer will provide written notice of the Professional Review to the Member.
- 9.2 Upon receipt of a Disciplinary Assessment Form under section 7.3, the Professional Conduct Officer will provide written notice of a Disciplinary Assessment to the Member.
- 9.3 The notice will provide the following to the Member;

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- (f) a copy of the Professional Review Form and/or Disciplinary Assessment Form and supporting documentation provided by the Complainant and/or the API;
 - (g) the Member's right to respond; and
 - (h) a copy of a Response Submission Form with written notice specifying an expiry date of not less than twenty (20) business days from the date in which the notice is provided to the Member.
- 9.4 The Professional Conduct Officer may grant an extension of the expiry date provided in the notice under section 9.3(c), where reasonably required.
- 9.5 If at the expiry of the notice period under section 9.3(c) or any extension granted under section 9.4, the Member fails to provide a Response Submission Form, the Professional Conduct Officer will undertake a substantive investigation into the Professional Review and/or Disciplinary Assessment, and prepare and submit a report to the Professional Conduct Panel in the absence of a response from the Member.

10. Substantive Investigation of a Professional Review and/or Disciplinary Assessment

- 10.1 The Professional Conduct Officer will undertake a substantive investigation of a Professional Review and/or Disciplinary Assessment upon receipt of a completed Response Submission Form.
- 10.2 The Professional Conduct Officer will act with honesty, integrity and impartiality when investigating and making recommendations in relation to a Professional Review and/or Disciplinary Assessment.
- 10.3 The Professional Conduct Officer may, by written notice given to the Complainant, require the Complainant to do any of the following:
- (a) to provide further information about the Professional Review raised;
 - (b) to clarify details in the Professional Review Form or supporting documentation;
 - (c) to verify the details of the Professional Review, or any further information, by statutory declaration.
- 10.4 The Professional Conduct Officer will provide the Complainant ten (10) business days to respond to the notice served under section 10.3.
- 10.5 If at the expiry of the ten (10) business days under section 10.4, the Complainant has not complied with the notice served, the Professional Conduct Officer is not prevented from proceeding with the substantive investigation of a Professional Review.
- 10.6 The Professional Conduct Officer may seek advice from a third party when assessing the Professional Review and/or Disciplinary Assessment.

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- 10.7 The Professional Conduct Officer may by written notice to a third party, request the third party:
- (a) to attend before the Professional Conduct Officer, at a reasonable time and place specified in the notice, to answer any questions; or
 - (b) to provide to the Professional Conduct Officer, at a reasonable time and place specified in the notice, a document or thing in the person's custody or under the person's control.
- 10.8 Where a third party who receives a notice under section 10.7, does not comply with the notice, the Professional Conduct Officer is not prevented from proceeding with the substantive investigation of a Professional Review and/or a Disciplinary Assessment.
- 10.9 At the completion of the substantive investigation, the Professional Conduct Officer will prepare and submit a report to the chairperson or to the deputy chairperson of the Professional Conduct Committee, who will then form a Professional Conduct Panel in accordance with the Professional Conduct Committee Charter.
- 10.10 The report prepared for the Professional Conduct Panel will include:
- (a) the name and details of the Complainant where a Professional Review has been raised;
 - (b) the details of the API where a Disciplinary Assessment has been raised;
 - (c) the name and details of the Member who is the subject of a Professional Review and/or Disciplinary Assessment;
 - (d) a timeline of events;
 - (e) the considerations of the Complainant where a Professional Review has been raised;
 - (f) the considerations of the API where a Disciplinary Assessment has been raised;
 - (g) the considerations of the Member who is the subject of a Professional Review and/or Disciplinary Assessment; and
 - (h) any recommendations.
- 10.11 In addition to the report under section 10.10, the Professional Conduct Officer will provide to the Professional Conduct Panel:
- (a) the Professional Review Form and/or Disciplinary Assessment Form and any supporting documentation submitted by the Complainant and/or the API; and
 - (b) the Response Submission Form and any supporting documentation submitted by the Member.

11. Prima Facie Finding of Professional Misconduct by the Professional Conduct Panel

- 11.1 The Professional Conduct Panel must meet at a mutually suitable time and date, either in person or via telecommunication to consider the merits of a

Professional Review and/or a Disciplinary Assessment. At the Professional Conduct Panel meeting:

- (a) the Professional Conduct Panel will consider and deliberate the facts and circumstances surrounding the allegation(s) and any responses provided; and
- (b) the Professional Conduct Panel will make a determination whether:
 - (i) the evidence submitted by the Complainant and/or the API establishes a prima facie finding of Professional Misconduct; or
 - (ii) the evidence submitted by the Complainant and/or the API does not establish a prima facie finding of Professional Misconduct.

11.2 The Professional Conduct Committee Panel may decide that further information or clarification is required from either party, at which the Professional Conduct Committee Panel will instruct the Professional Conduct Officer to seek such information and/or clarification before proceeding.

11.3 If further information and/or clarification is sought in accordance with section 11.2 of this Policy, the Professional Conduct Committee Panel will re-schedule a meeting once the information and/or clarification is received and the Professional Conduct Committee Panel are satisfied with such information and/or clarification.

11.4 Where the Professional Conduct Panel has determined a prima facie finding of Professional Misconduct under section 11.1(b)(i), the Professional Conduct Panel will direct the Professional Conduct Officer to provide written Notice of Prima Facie Findings of Professional Misconduct to the Member.

11.5 The Notice under section 11.4 will include:

- (a) the facts and circumstances forming the basis for the allegation(s);
- (b) the allegation(s) made by the Complainant and/or the API against the Member;
- (c) the findings of the Professional Conduct Panel;
- (d) the reason(s) for laying a charge against the Member; and
- (e) a date, not less than ten (10) business days after the date the Notice is given, where the Member may:
 - (i) elect to provide written representations contesting the facts and circumstances forming the basis for the findings; or
 - (ii) elect to appear in person or via telecommunication before the Professional Conduct Panel.

11.6 The Member must provide their response under section 11.5(e) to the Professional Conduct Officer.

11.7 Where the Professional Conduct Panel has determined there is no prima facie finding of Professional Misconduct under section 11.1(b)(ii), the Professional Conduct Panel will dismiss the Professional Review and/or the Disciplinary Assessment and prepare a report outlining its finding(s) and reason(s). The Professional Conduct Panel will direct the Professional

Conduct Officer to provide a copy of the report to the Complainant and/or the Chief Executive Officer and the Member.

12. Notice of Hearing

- 12.1 If the Member has elected to provide written representations under section 11.5(e)(i), the Professional Conduct Officer will provide written notice of not less than fifteen (15) business days to the Member to submit their written representations to the Professional Conduct Panel.
- 12.2 If the Member has elected to appear before the Professional Conduct Panel under section 11.5(e)(ii), the Professional Conduct Officer will provide written notice to the Member advising the:
- (a) date, not less than fifteen (15) business days from the date the Member elected to appear before the Professional Conduct Panel;
 - (b) time of hearing;
 - (c) place of hearing; and
 - (d) the Member's right to appear, give evidence and/or to be represented at the hearing.
- 12.3 The Professional Conduct Officer will provide written notice to the Professional Conduct Panel that a hearing has been scheduled advising the:
- (a) date;
 - (b) time; and
 - (c) place of hearing.
- 12.4 Where the Member retains legal representation to act on their behalf, the Member must provide the Professional Conduct Officer notice of such legal representation within ten (10) business days of receiving a notice pursuant to sections 12.1 and 12.2 of this Policy.
- 12.5 Where section 12.4 applies, the Professional Conduct Officer will acknowledge the Member's notice and advise the Professional Conduct Panel of such notice as soon as practicable.
- 12.6 The Professional Conduct Officer will notify the Complainant and/or the Chief Executive Officer that a hearing before the Professional Conduct Panel has been scheduled.

13. Hearings before the Professional Conduct Panel

- 13.1 At a hearing, the Professional Conduct Panel may:
- (a) find the Member is guilty of Professional Misconduct and impose any one or more, or none, of the sanctions under section 14; or

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- (b) find the Member is not guilty of Professional Misconduct and dismiss the Professional Review and/or the Disciplinary Assessment.
- 13.2 Any hearing held by the Professional Conduct Panel is conducted in the absence of the public.
- 13.3 If the Member fails to attend before the Professional Conduct Panel in accordance with a notice provided to the Member under section 12, the Professional Conduct Panel may hear the proceedings in the absence of the Member.
- 13.4 At a hearing before the Professional Conduct Panel the Professional Conduct Officer will:
- (a) present the details of the Professional Review and/or Disciplinary Assessment;
 - (b) present the allegation(s) and evidence submitted by the Complainant and/or the API;
 - (c) present the prima facie findings of the Professional Conduct Panel and reason(s) for laying a charge on the Member;
 - (d) provide the Member an opportunity to call or give evidence, if applicable;
 - (e) provide the Member an opportunity to examine or cross-examine witnesses, if applicable; and
 - (f) provide the Member an opportunity to make submissions to the Professional Conduct Panel.
- 13.5 The Professional Conduct Panel may appoint a person(s) with appropriate qualifications and experience to assist with the hearing, where necessary.
- 13.6 Any person(s) appointed by the Professional Conduct Panel under section 13.5 will act impartially and will make a declaration that they do not have a conflict of interest in the subject matter of the hearing.
- 13.7 A person will be deemed to have a conflict of interest in any of the following circumstances:
- (a) the person is or has been connected in any business, entity, firm, corporation or department with the Complainant or the Member;
 - (b) the person has or has had an existing commercial or personal relationship with the Complainant or the Member; or
 - (c) the person is or has been in any way involved in the circumstances giving rise to a Professional Review and/or a Disciplinary Assessment.
- 13.8 Any Member may:
- (a) appear personally; or
 - (b) retain legal representation to act on the Member's behalf.
- 13.9 If there is an additional document(s) that either the Professional Conduct Panel or the Member seeks to admit into evidence, the additional document must not be considered at the hearing unless:
- (a) the documents have been made available to the Member and the Professional Conduct Panel, within a reasonable time prior to the hearing; or

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- (b) the Member and the Professional Conduct Panel have agreed at the hearing that the documents may be admitted into evidence.
- 13.10 The reasonable timeframe for the admission of additional documentation under section 13.9, will be at the discretion of the Professional Conduct Panel.
- 13.11 The Professional Conduct Panel may adjourn the hearing, if necessary, to allow sufficient time for all parties to consider the additional documentation sought to be admitted into evidence.
- 13.12 The Professional Conduct Panel must ensure that minutes of the hearing are taken and properly recorded.
- 13.13 At the conclusion of the hearing, the Professional Conduct Panel will prepare a Panel Report.
- 13.14 The Panel Report under section 13.13 will include:
- (a) the details of the parties subject to the Professional Review and/or Disciplinary Assessment;
 - (b) the prima facie findings and reason(s) of the Professional Conduct Panel for laying a charge against the Member;
 - (c) the hearing details, including the day, time and place;
 - (d) the findings of the Professional Conduct Panel;
 - (e) the reason(s) for a finding of Professional Misconduct against the Member;
 - (f) outline of any sanction(s) imposed on the Member; and
 - (g) notification of the Member's right of appeal pursuant to section 16.
- 13.15 The Member may request a copy of the minutes of the hearing from the Professional Conduct Panel.
- 13.16 The Complainant may request a copy of the minutes of the hearing from the Professional Conduct Panel.
- 13.17 Pursuant to section 13.16, where a request is made by the Complainant, the API will prescribe an administrative fee for provision of the minutes. Upon payment of the fee, the Professional Conduct Officer will provide the Complainant a copy of the minutes.
- 13.18 The Professional Conduct Panel will provide the Professional Conduct Officer a copy of the minutes within five (5) business days of the hearing taking place.
- 13.19 The Professional Conduct Officer will provide a copy of the Panel Report to the Complainant, Chief Executive Officer and the Member.

14. Sanction(s)

- 14.1 If the Professional Conduct Panel finds the Member is guilty of Professional Misconduct, the Professional Conduct Panel may impose any one or more, or none, of the following sanctions against the Member:
- (a) censure the Member;
 - (b) counsel the Member;

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- (c) order the Member to give an undertaking to abstain from particular conduct;
 - (d) order the Member to give an apology for particular conduct;
 - (e) order the Member to undertake such other education or compliance program(s) as the Professional Conduct Panel thinks fit;
 - (f) publish the findings of the Professional Review on the API website in its entirety or in redacted form;
 - (g) place the Member on formal warning and record the warning on the Member's membership file;
 - (h) order the Member to pay the API or APIV a penalty of an amount no more than \$5,000;
 - (i) order the Member to pay the costs of processing the Professional Review and/or Disciplinary Assessment;
 - (j) refer the matter to the API Board with a recommendation that the API or APIV undertake a Disciplinary Assessment against the Member;
 - (k) refer the matter to the API Board with a recommendation to suspend or remove the Member from membership of any API Board, committee, panel or group of the API and/or APIV;
 - (l) refer the matter to the API Board with a recommendation to instruct the Member to remove them self from any API Board, committee, panel or group as a representative of the API;
 - (m) refer the matter to the API Board with a recommendation to suspend the Member's API and/or APIV membership, for a period and on such terms or conditions as the Professional Conduct Panel thinks fit;
 - (n) where the Member is already subject to a suspension order under 14.1(k) continue that suspension for a period, and on such terms or conditions as the Professional Conduct Panel thinks fit; or
 - (o) refer the matter to the API Board with a recommendation to refer the matter to any relevant statutory investigative or law enforcement authority.
- 14.2 The Professional Conduct Committee Panel may only impose sanction(s) against a Member once with respect to a Professional Review and/or Disciplinary Assessment.
- 14.3 Before imposing sanction(s) against a Member the Professional Conduct Panel shall have regard to the following:
- (a) any penalty already imposed on the Member as a result of external proceedings brought against the Member in relation to the same facts and circumstances giving rise to the Professional Review and/or Disciplinary Assessment before the Professional Conduct Panel;
 - (b) the seriousness of the breach;
 - (c) whether the breach can be easily remedied or rectified;
 - (d) whether the Member has remedied or rectified their conduct;
 - (e) whether the Member has expressed contrition;

- (f) whether the breach represents repeated conduct;
- (g) the age, physical or mental health, or special infirmity of the Member;
- (h) the degree of reckless intention or negligence of the Member;
- (i) the extent to which the breach has affected the parties subject to the Professional Review;
- (j) the extent the breach has harmed or has the potential to harm the reputation of the API and/or APIV;
- (k) whether an educative approach would be more appropriate than a punitive approach;
- (l) whether the findings are in the public interest and would withstand public scrutiny; and
- (m) whether the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal action.

14.4 The Professional Conduct Panel will instruct the Professional Conduct Officer to advise the Complainant in writing the details of any decision and/or sanction(s) imposed against the Member under sections 13 and 14 of this Policy.

15. Enforcement of Sanction(s)

15.1 All sanction(s) imposed against the Member under this Policy will be enforced and implemented by the Professional Conduct Officer.

15.2 All sanction(s) imposed against the Member under this Policy will not be enforced until one (1) day after the expiry date of the Member's right of appeal provided under section 16.2 of this Policy.

16. Right of Appeal

16.1 A Member may apply to the Appeals Tribunal Committee for a review of the sanction(s) imposed against the Member by the Professional Conduct Panel or should they believe a lack of procedural fairness has been afforded and followed.

16.2 A Member may exercise their right of appeal within fifteen (15) business days of receipt of the notice of decision of the Professional Conduct Panel.

16.3 A Complainant does not have a right of appeal with regards to a decision of the Professional Conduct Panel.

16.4 The API Board shall establish the Appeals Tribunal Panel to hear an appeal by the Member pursuant to the Appeals Tribunal Policy.

17. Procedural Fairness

- 17.1 A Complainant and Member must be afforded the requisite natural justice whereby the rules of Procedural Fairness are followed.
- 17.2 The rules of Procedural Fairness include:
- (a) managing any issue(s) of concern through a transparent process;
 - (b) creating and maintaining a respectful environment for all parties involved;
 - (c) ensuring there is neutrality carried throughout the process via a lack of bias towards all parties involved;
 - (d) ensuring all issue(s) of concern raised or identified are reviewed and investigated;
 - (e) ensuring the Member is aware of the issue(s) of concern raised and/or identified;
 - (f) ensuring the Member has the opportunity to respond to any issue(s) of concern raised and/or identified;
 - (g) ensuring that a hearing, whether oral or written, takes place where appropriate;
 - (h) ensuring proper reason(s) are provided with respect to the evidence submitted, in support of any decision made; and
 - (i) ensuring parties are notified throughout the process.

18. Notification to the APIV

- 18.1 If the Member is an APIV Member, or is eligible to be an APIV Member, the Professional Conduct Officer will notify the APIV in writing of any Active Professional Review and/or Active Disciplinary Assessment against the Member.

19. Suspension of a Professional Review and/or Disciplinary Assessment

- 19.1 The Professional Conduct Officer will suspend a Professional Review and/or a Disciplinary Assessment when:
- (a) the conduct complained about is subject to current proceedings before a court, tribunal, state licensing body or similar; or
 - (b) the Member is subject to current proceedings before a court, tribunal, state licensing body or similar.
- 19.2 A Professional Review and/or a Disciplinary Assessment may be suspended for a maximum of twelve (12) months.
- 19.3 The Professional Conduct Officer will notify the Complainant and/or the Chief Executive Officer and/or the Member that the Professional Review and/or a Disciplinary Assessment has been suspended and specify the expiry date of the suspension.
- 19.4 If at the expiry date of the suspension period pursuant to section 19.3, there has been no resolution by a body referred to under section 19.1, the

Professional Review and/or a Disciplinary Assessment will be a Closed Professional Review and/or a Disciplinary Assessment.

- 19.5 The Professional Conduct Officer will notify the Complainant and/or the Chief Executive Officer and/or Member if a Professional Review and/or a Disciplinary Assessment is a Closed Professional Review and/or a Disciplinary Assessment pursuant to section 19.4 of this Policy.
- 19.6 The Complainant may notify the Professional Conduct Officer upon the conclusion of external proceedings with a copy of the outcome, and the Professional Conduct Officer may re-open the Professional Review and/or a Disciplinary Assessment.
- 19.7 This section applies to any Professional Review suspended, including a Professional Review suspended pursuant to a prior policy of the API with respect to the handling of allegation(s) and findings of Professional Misconduct.

20. Withdrawal of a Professional Review

- 20.1 A Professional Review may be withdrawn by a Complainant.
- 20.2 Withdrawal of a Professional Review must be in writing to the Professional Conduct Officer.
- 20.3 If a Professional Review is withdrawn, the Professional Conduct Officer will confirm in writing to the Complainant and/or Member of the withdrawal.
- 20.4 Following the confirmation of the withdrawal, the Professional Review will be a Closed Professional Review.
- 20.5 The withdrawal of a Professional Review against a Member does not prevent the API from undertaking a Disciplinary Assessment against the same Member.

21. Recording and Reporting of a Professional Review and/or a Disciplinary Assessment

- 21.1 The Professional Conduct Officer will make and keep a record of any Professional Review raised and/or a Disciplinary Assessment managed under this Policy and will keep a copy of all decisions of the Professional Conduct Panel and Appeals Tribunal Panel.
- 21.2 The Professional Conduct Officer will have the discretion, subject to the direction by the API Board, to decide what is contained on the register in relation to each Professional Review and/or Disciplinary Assessment.
- 21.3 The Professional Conduct Officer will report every Professional Review and/or Disciplinary Assessment to the Professional Standards Council as required by a scheme registered under the Professional Standards legislation in a State or Territory.

22. Confidentiality

- 22.1 This section 22 applies to:

-
- (a) a Complainant;
 - (b) a Member;
 - (c) the Professional Conduct Officer;
 - (d) the Chief Executive Officer;
 - (e) members of the Professional Conduct Committee, including the Professional Conduct Panel;
 - (f) members of the Appeals Tribunal, including the Appeals Tribunal Panel;
 - (g) staff and contractors employed by the API; and
 - (h) any third party involved in the processing of the Professional Review and/or Disciplinary Assessment as stipulated in the Policy.

22.2 Any information in relation to the proceeding, inquiry or other matter pending or contemplated which has arisen out of the Professional Review and/or Disciplinary Assessment process, must not be disclosed by any person listed under section 22.1, except to any of the following:

- (i) any court, tribunal or other person acting judicially;
- (j) a regulatory authority or authority of any State or Territory, or the Commonwealth;
- (k) an Australia legal practitioner for the purposes of legal representation;
- (l) a police officer of any State or Territory or the Commonwealth if the relevant person believes, on reasonable grounds, that the information relates to an offence that may have been committed by a Member;
- (m) a client or former client of the Member, if the information related to that client or former client;
- (n) as otherwise permitted by this Policy; or
- (o) any other person as permitted in writing by the Member.

22.3 The Professional Conduct Officer may not disclose any information with respect to the details of any Active and/or Closed Professional Review and/or Disciplinary Assessment if:

- (a) the information may expose the Professional Conduct Officer or any other officer of the API to liability for civil damages;
- (b) the information would or could prejudice, impede or in any other manner adversely affect the investigation of a Professional Review and/or Disciplinary Assessment; or
- (c) would deny procedural fairness to the Member.

23. Appointment of the Professional Conduct Officer

23.1 The API Board will appoint a person to manage, investigate and respond to any Professional Review raised and/or a Disciplinary Assessment relating

to Professional Misconduct. The person appointed under section 23.1 will take the role as the Professional Conduct Officer.

23.2 The Professional Conduct Officer will:

- (d) assist members of the public with enquiries relating to the procedures and process when raising a Professional Review with the API;
- (e) maintain communication with the Complainant, the Member, the Chief Executive Officer and the Professional Conduct Panel; and
- (f) undertake tasks as stipulated under this Policy throughout the Professional Review and/or Disciplinary Assessment process.

23.3 The conduct of the Professional Conduct Officer will be subject to the terms and conditions of their employment, as agreed in writing with the API Board from time to time.

24. Powers of the Professional Conduct Officer

24.1 The Professional Conduct Officer may act in accordance with this Policy.

24.2 The Professional Conduct Officer may:

- (a) make any inquiries they consider necessary for the purposes of managing a Professional Review raised; and/or
- (b) make any inquiries they consider necessary for the purposes of managing a Disciplinary Assessment.

25. Vacancy in the position of the Professional Conduct Officer

25.1 If a casual vacancy occurs in the position of the Professional Conduct Officer, the API Board shall appoint any other appropriate person to undertake the role of the Professional Conduct Officer.

25.2 The person appointed under section 25.1 will undertake the role as acting Professional Conduct Officer in accordance with this Policy.

26. Review of the Policy

26.1 This Policy will be reviewed annually to ensure continued relevance to the operations of the API.

26.2 This review will include consultation with the API Board.

26.3 Amendments to this Policy must be approved by the API Board.

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV LIMITED



Professional Conduct Committee Charter 2020

API Document

APIV Document

Reference: Professional Conduct Committee Charter

Effective: August 2020

Review: August 2021

Owner: API Board

**NOTE: effective date subject
to ACCC authorisation**

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Introduction

The Professional Conduct Committee Charter (**this Charter**) outlines the roles and responsibilities of Professional Conduct Committee members when processing a Professional Review and/or a Disciplinary Assessment in accordance with the Professional Conduct Policy.

The Australian Property Institute Limited (**API**) Board, is responsible for the establishment and appointment of the Professional Conduct Committee.

Once a Professional Review has been raised with the API or a Disciplinary Assessment is initiated by the API, the API appointed Professional Conduct Officer will undertake a preliminary assessment in the first instance, followed by a substantive investigation into the conduct of the Member.

A Professional Conduct Panel will be formed in accordance with the Professional Conduct Committee Charter, to consider and hear a particular matter. The Professional Conduct Panel will consider all information provided by the Professional Conduct Officer and will make a determination whether there is evidence to establish a finding of Professional Misconduct against a Member.

The API has no authority or Jurisdiction to:

- determine negligence;
- assess the accuracy of a valuation;
- investigate or determine the outcome of a dispute, or difference of opinion between a Complainant and a Member as to the assessed Market Value, Market Rent or any other International Valuation Standards basis of value;
- request an amendment to be made to the report;
- order a Member to provide a refund of fees or reimbursement of professional fees to a Complainant;
- award any form of compensation to any parties subject to a Professional Review;
- investigate a Professional Review raised where legal avenues of redress should be or are being pursued; and
- overturn any decision made by courts, tribunals, other associations or regulator bodies when investigating a Professional Review.

If the alleged Professional Misconduct or the Member who is subject to a Professional Review and/or Disciplinary Assessment, is the subject to current proceedings before a court, tribunal, state licensing body, or other bodies, the API investigation will be suspended pending the outcome of those proceedings and any appeal of those proceedings.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Policy is to provide:
- (a) for the formation and operation of a Professional Conduct Panel to consider a Professional Review raised and/or the undertaking of a Disciplinary Assessment against a Member;
 - (b) guidelines and procedures for the handling of a Professional Review raised and/or undertaking of a Disciplinary Assessment; and
 - (c) protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

2.1. The definitions below have been included in this Policy for the interpretation and understanding of certain stated terms.

2.2. Where a defined term is included in this Policy it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
Appeal	A Member who may raise an Appeal in accordance with sections 5 and 6 of the Appeals Tribunal Policy.
Chief Executive Officer	An individual appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by a Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Member	A current or former API and/or APIV Member.
Procedural Fairness	The elements of affording natural justice to a Member described within section 17 of this Policy.
Professional Conduct Committee	Individuals appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.

Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	An individual appointed by the API Board to manage, investigate, and respond to a Professional Review raised and/or the undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of a Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of a Member described within section 3 of this Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.

3. Composition of the Professional Conduct Committee

- 3.1. The Professional Conduct Committee will comprise of a chairperson and a deputy chairperson and a minimum of two (2) Professional Conduct Committee members per state, in addition to the chairperson and deputy chairperson.

4. Appointment of Professional Conduct Committee members

- 4.1. The API Board shall appoint the Professional Conduct Committee members.
- 4.2. The Chief Executive Officer may recommend the appointment of the Professional Conduct Committee members to the API Board, following the consultation of:
- (a) the chairperson;
 - (b) the deputy chairperson;
 - (c) state chairperson(s); and/or
 - (d) any other person(s).
- 4.3. The Professional Conduct Committee members must be eligible to sit on the Professional Conduct Committee.
- 4.4. An eligible Professional Conduct Committee member will:
- (a) be a current financial, voting API Member;
 - (b) be an API Member for a minimum of five (5) years prior to their appointment; and

-
- (c) not be or have been subject to a finding of Professional Misconduct by the API or similar bodies in the ten (10) years prior to appointment.
- 4.5 The eligibility criteria listed in section 4.4 of this Charter does not prevent the API Board from appointing a person(s) who is not an API Member as a member of the Professional Conduct Committee.
- 4.6 If the API Board appoints a person(s) who is not an API Member as a member of the Professional Conduct Committee, the API Board must ensure a majority of Professional Conduct Committee members are current financial, voting API Members.

5. Term of Office

- 5.1. A Professional Conduct Committee member shall be appointed to the Professional Conduct Committee for a minimum of two (2) years.

6. Vacation of Office

- 6.1. The API Board will formally remove a member from the Professional Conduct Committee, by written notification, if the office of that member becomes vacant.
- 6.2. The office of a Professional Conduct Committee member becomes vacant if:
- (a) the member formally resigns;
 - (b) the member is a retired API Member;
 - (c) the member is no longer eligible under clause 4.4 of this Charter;
 - (d) the member declares bankruptcy/insolvency;
 - (e) the member is permanently incapable of performing their duties under the Professional Conduct Policy and this Charter; and/or
 - (f) the API Board, with the recommendation of the chairperson and/or deputy chairperson, are of the opinion the member is not a fit and proper person for the role as Professional Conduct Committee member.

7. Role of the Professional Conduct Committee

- 7.1. The Professional Conduct Committee will meet on a case by case basis to deliberate on a Professional Review and/or a Disciplinary Assessment against a Member to:
- (a) determine whether the evidence submitted, substantiates a prima facie finding of Professional Misconduct;
 - (b) determine whether a charge should be laid on a Member;
 - (c) hear a Professional Review and/or a Disciplinary Assessment and determine whether the evidence and response(s) substantiate a finding of Professional Misconduct;
 - (d) determine whether any one, or more, or none of the sanction(s) should be imposed on the Member who is the subject of a Professional Review and/or a Disciplinary Assessment; and

-
- (e) recommend to the API Board, policies and procedures for dealing with matters concerning Member professional conduct and referrals to the Professional Conduct Committee.

8. Quorum of a Professional Conduct Panel

- 8.1. The quorum of a Professional Conduct Panel will comprise of;
 - (a) the chairperson and two (2) eligible Professional Conduct Committee members; or
 - (b) the deputy chairperson and two (2) eligible Professional Conduct Committee members; or
 - (c) the deputy chairperson acting in an administrative capacity as chairperson and three (3) eligible Professional Conduct Committee members if there is a perceived conflict of interest; or
 - (d) the acting deputy chairperson and two (2) eligible Professional Conduct Committee members.
- 8.2. Where the deputy chairperson identifies a real conflict of interest, the deputy chairperson may appoint an acting deputy chairperson for the consideration and determination of a particular matter. The acting deputy chairperson will act in the same capacity as the deputy chairperson.
- 8.3. All determinations and decisions to be made by the Professional Conduct Committee shall be decided by a majority of the votes of eligible members present and voting.
- 8.4. To be an eligible Professional Conduct Panel member, the member must:
 - (a) not reside in the same state as the Member who is the subject of a Professional Review and/or a Disciplinary Assessment; and
 - (b) disclose the member does not have a real or perceived conflict of interest with any party subject to the matter at hand.

9. Meetings

- 9.1. The Professional Conduct Panel will meet at a mutually suitable time on a case by case basis.
- 9.2. Any one or more representative(s) of the API may sit in on the meeting in an administrative capacity only.
- 9.3. Meetings may take place:
 - (a) in person;
 - (b) via teleconference; or
 - (c) via videoconference.
- 9.4. The chairperson or deputy chairperson will maintain minutes of the meeting.
- 9.5. The meeting minutes will be provided to the Professional Conduct Officer to maintain proper records of the matter.

-
- 9.6. The Professional Conduct Panel will consider whether the rules of Procedural Fairness have been followed when processing a Professional Review and/or Disciplinary Assessment.

10. Reporting

- 10.1. The chairperson and deputy chairperson of the Professional Conduct Committee will report the following to the API Board in the months of March, June, September & December, annually:
- (a) number of Professional Reviews considered by the Committee;
 - (b) number of Disciplinary Assessments considered by the Committee;
 - (c) number of determinations resulting in a dismissal of the matter;
 - (d) number of determinations resulting in a finding of Professional Misconduct;
 - (e) common themes and trends;
 - (f) any educational learnings taken from matters considered; and
 - (g) possible improvements for process and procedure.

11. Remuneration of Professional Conduct Committee members

- 11.1. The members of the Professional Conduct Committee shall be paid such remuneration, allowances and expenses as may from time to time be approved by the API Board.

12. Confidentiality

- 12.1. The Professional Conduct Committee members are obliged to adhere to section 22 of the API Professional Conduct Policy.

13. Conflicts of Interest

- 13.1. A Professional Conduct Committee member will not be eligible to participate in a Professional Review and/or Disciplinary Assessment as a Panel member, where the member has a real or perceived conflict of interest.
- 13.2. A Professional Conduct Committee member will have a perceived conflict of interest where the Professional Conduct Committee member resides in the same state as the Member who is the subject of a Professional Review and/or Disciplinary Assessment.
- 13.3. A Professional Conduct Committee member will have a real conflict of interest where the Professional Conduct Committee member:
- (a) is or has been connected in any business entity, firm, corporation or department with the Complainant or the Member;
 - (b) has or has had an existing commercial or personal relationship with the Complainant or the Member; or

-
- (c) is or has been in any way involved in the circumstances giving rise to the Professional Review.

14. Indemnity of Professional Conduct Committee members

- 14.1. A member appointed to the Professional Conduct Committee is indemnified as an insured person pursuant to API's Association Liability Policy Schedule.
- 14.2. Pursuant to section 14.1, a Professional Conduct Committee member is only covered when acting in their capacity as a Professional Conduct Committee member.
- 14.3. Actions or conduct outside of the Professional Conduct Policy and this Charter may not be covered by API's Association Liability Policy Schedule.

15. Review of Charter

- 15.1. This Charter will be reviewed annually to ensure continued relevance to the operations of the API.
- 15.2. This review will include consultation with the API Board.
- 15.3. Amendments to this Charter must be approved by the API Board.

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APIV LIMITED



Professional Review Form 2020

API Document

APIV Document

**NOTE: effective date subject to
ACCC authorisation**

Reference: Professional Review Form

Effective: August 2020

Review: August 2021

Owner: API Board

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Introduction

The Professional Conduct Policy (**Policy**) provides the Complainant the opportunity to bring to the attention of the Australian Property Institute Limited (**API**) circumstances which may give rise to a finding of Professional Misconduct against an API Member or an Australian Property Institute Valuers Limited (**APIV**) Member. Similarly, this Policy provides the Chief Executive Officer an opportunity to undertake a Disciplinary Assessment into the conduct of a Member.

Prior to raising a Professional Review and/or undertaking a Disciplinary Assessment, it is expected that the Member be given an opportunity to address the conduct which is of concern.

A Professional Review may be raised by an individual or entity against the Member, by completing the Professional Review Form (**Form**).

Once a Professional Review has been raised with the API or a Disciplinary Assessment is initiated by the API, the API appointed Professional Conduct Officer will undertake a preliminary assessment in the first instance, followed by a substantive investigation into the conduct of the Member. The Member will have the opportunity to respond if the matter progresses to the substantive investigation stage.

The Professional Conduct Officer will maintain communication with all parties and will remain impartial throughout the process. A Professional Conduct Panel will be formed in accordance with the Professional Conduct Committee Charter, to consider and hear a particular matter. The Professional Conduct Panel will consider all information provided by the Professional Conduct Officer and will make a determination whether there is evidence to establish a finding of Professional Misconduct against a Member.

The API has no authority or Jurisdiction to:

- determine negligence;
- assess the accuracy of a valuation;
- investigate or determine the outcome of a dispute, or difference of opinion between a Complainant and a Member as to the assessed Market Value, Market Rent or any other International Valuation Standards basis of value;
- request an amendment to be made to the report;
- order a Member to provide a refund of fees or reimbursement of professional fees to a Complainant;
- award any form of compensation to any parties subject to a Professional Review;
- investigate a Professional Review raised where legal avenues of redress should be or are being pursued; and
- overturn any decision made by courts, tribunals, other associations or regulator bodies when investigating a Professional Review.

If the alleged Professional Misconduct or the Member who is subject to a Professional Review and/or Disciplinary Assessment, is the subject to current proceedings before a court, tribunal, state licensing body, or other bodies, the API investigation will be suspended pending the outcome of those proceedings and any appeal of those proceedings.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Form is to provide:
- (a) a Complainant the opportunity to raise issues of concern about the conduct of a Member;
 - (b) administrative uniformity in handling the Professional Review raised;
 - (c) reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (d) protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Form for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Form it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in the APIV Scheme.
APIV Scheme	The professional standards scheme established under professional standards legislation administered by the APIV.
Chief Executive Officer	An individual appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by a Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Market Value	The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.

Market Rent	The estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.
Member	A current or former API and/or APIV Member.
Professional Conduct Committee	Individuals appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	An individual appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or the undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Conduct Policy	An API Policy which sets out the guidelines and procedures for handling and managing any Professional Review and/or Disciplinary Assessment.
Professional Misconduct	The conduct of a Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of a Member described within section 3 of the Professional Conduct Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.

3. Information details of the Complainant and Member

3.1. In the matter of a Professional Review raised by

3.2 Details of the Complainant	
Name	
Company	
Address	
Contact Number	
Email Address	

concerning

3.3 Details of the Member	
Name	
Company	
Address	
Contact Number	
Email Address	

4. Early resolution

4.1 Have you discussed/addressed this matter with the Member who is the subject of the Professional Review?

No Yes

If No, why not?

If Yes, when and what was the result?

5. Your allegation(s) against the Member

- 5.1. For the API to assess and consider the Professional Review raised by you, you must identify the category(ies) which you believe the Member has breached.
- 5.2. You must provide an explanation why you allege the Member is in breach of the category. If you are referring to a document, please ensure you provide the relevant rule or section, page number and paragraph where appropriate.

5.3 Categories	5.4 Explanation of how the Member is in breach
<input type="checkbox"/> valuation figure	
<input type="checkbox"/> service provided	
<input type="checkbox"/> competency	
<input type="checkbox"/> ethical duties	
<input type="checkbox"/> conflict of interest	
<input type="checkbox"/> personal bias	
<input type="checkbox"/> adversely affect the reputation of the API	
<input type="checkbox"/> plagiarism	
<input type="checkbox"/> valuation process	
<input type="checkbox"/> unsupervised student or provisional member	
<input type="checkbox"/> failure to disclose departure from accepted industry practice	
<input type="checkbox"/> fraudulent & dishonest behaviour	
<input type="checkbox"/> defamation	
<input type="checkbox"/> non-compliance with Professional Member Obligations	
<input type="checkbox"/> other	

6. Professional Review details

6.1. Please provide the timeline of events for the Professional Review raised by you.

6.2 Timeline of events

6.3 How the event has affected you?

6.4 What outcome are you seeking?

7. Supporting evidence

- 7.1. Supporting evidence is crucial to the Professional Review raised by you. For the API to properly consider the Professional Review raised by you, you must ensure you provide all relevant evidence in support of the allegation(s) raised by you against the Member.
- 7.2. Examples of supporting evidence include, but are not limited to:
- (a) Any correspondence (including emails) relating to this matter;
 - (b) Instructions provided;
 - (c) Retainer agreements;
 - (d) Valuation report(s); and
 - (e) Any other relevant documentation to support your allegation(s).

8. Acknowledgement

- 8.1. By completing and returning this Form, I acknowledge all information on this form is true and correct, and I have read, understood and accepted the privacy statement and collection notice contained on the following page.
- 8.2. Pursuant to the API Professional Conduct Policy, I acknowledge and agree to:
- (a) The completion of this Form to the satisfaction of the Professional Conduct Officer;
 - (b) The API dismissing the complaint, if upon review the Professional Review, it is found to relate solely to a quantum issue, or not within the jurisdiction of the API;
 - (c) The API suspending the Professional Review, if the conduct raised of the Member subject to the Professional Review is subject to current proceedings before a Court or State licensing body pending the outcome of those proceedings and any appeal of those proceedings;
 - (d) The API does not have authority to request a Member to amend a valuation, refund fees and/or provide any form of monetary compensation to the Complainant;
 - (e) My obligations of confidentiality pursuant to section 22 of the Professional Conduct Policy;
 - (f) The API disclosing your identity, as the Complainant, to the Member; and
 - (g) The API providing a copy of this Form, all evidence submitted to the API or correspondence which the API is inadvertently or not carbon copied into, and any direct correspondence between the API and the Complainant, to the Member, the Professional Conduct Panel and any other third party as permitted under the Professional Conduct Policy.

Signature of the Complainant	
Name of the Complainant	
Date	

9. Return Details

9.1. You must return the completed Form to the below details:

To	The Professional Conduct Officer
Email	professionalconduct@api.org.au
Post	Level 3 60 York Street DEAKIN ACT 2600
Queries	1800 111 274 or professionalconduct@api.org.au

10. Privacy statement and collection notice

- 10.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 10.2. If you do not provide us with the information or any additional information we request, we may not be able to proceed with the investigation of your complaint.
- 10.3. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 10.4. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

11. Review of the Form

- 11.1. This Form will be reviewed annually to ensure continued relevance to the operations of the API.
- 11.2. This review will include consultation with the API Board.
- 11.3. Amendments to this Form must be approved by the API Board.

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APIV LIMITED



Disciplinary Assessment Form 2020

API Document

APIV Document

Reference: Disciplinary Assessment Form

Effective: August 2020

Review: August 2021

Owner: API Board

**NOTE: effective date subject to
ACCC authorisation**

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Introduction

The Professional Conduct Policy (**Policy**) provides the Complainant the opportunity to bring to the attention of the Australian Property Institute Limited (**API**) circumstances which may give rise to a finding of Professional Misconduct against an API Member or an Australian Property Institute Valuers Limited (**APIV**) Member. Similarly, this Policy provides the Chief Executive Officer an opportunity to undertake a Disciplinary Assessment into the conduct of a Member.

Prior to raising a Professional Review and/or undertaking a Disciplinary Assessment, it is expected that the Member be given an opportunity to address the conduct which is of concern.

A Disciplinary Assessment may be raised by the Chief Executive Officer against the Member, by completing the Disciplinary Assessment Form (**Form**).

Once a Professional Review has been raised with the API or a Disciplinary Assessment is initiated by the API, the API appointed Professional Conduct Officer will undertake a preliminary assessment in the first instance, followed by a substantive investigation into the conduct of the Member. The Member will have the opportunity to respond if the matter progresses to the substantive investigation stage.

The Professional Conduct Officer will maintain communication with all parties and will remain impartial throughout the process. A Professional Conduct Panel will be formed in accordance with the Professional Conduct Committee Charter, to consider and hear a particular matter. The Professional Conduct Panel will consider all information provided by the Professional Conduct Officer and will make a determination whether there is evidence to establish a finding of Professional Misconduct against a Member.

The API has no authority or Jurisdiction to:

- determine negligence;
- assess the accuracy of a valuation;
- investigate or determine the outcome of a dispute, or difference of opinion between a Complainant and a Member as to the assessed Market Value, Market Rent or any other International Valuation Standards basis of value;
- request an amendment to be made to the report;
- order a Member to provide a refund of fees or reimbursement of professional fees to a Complainant;
- award any form of compensation to any parties subject to a Professional Review;
- investigate a Professional Review raised where legal avenues of redress should be or are being pursued; and
- overturn any decision made by courts, tribunals, other associations or regulator bodies when investigating a Professional Review.

If the alleged Professional Misconduct or the Member who is subject to a Professional Review and/or Disciplinary Assessment, is the subject to current proceedings before a court, tribunal, state licensing body, or other bodies, the API investigation will be suspended pending the outcome of those proceedings and any appeal of those proceedings.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Form is to provide:
- (a) the CEO the opportunity to undertake a Disciplinary Assessment of the conduct of a Member;
 - (b) administrative uniformity in handling and initiating a Disciplinary Assessment;
 - (c) reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (d) protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Form for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Form it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in the APIV Scheme.
APIV Scheme	The professional standards scheme established under professional standards legislation administered by the APIV.
Chief Executive Officer	An individual appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by a Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Market Value	The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length

	transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.
Market Rent	The estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each added acted knowledgeably, prudently and without compulsion.
Member	A current or former API and/or APIV Member.
Professional Conduct Committee	Individuals appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	An individual appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or the undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Conduct Policy	An API Policy which sets out the guidelines and procedures for handling and managing any Professional Review and/or Disciplinary Assessment.
Professional Misconduct	The conduct of a Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of a Member described within section 3 of the Professional Conduct Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.

3. Information details of the API and Member

3.1. In the matter of a Disciplinary Assessment to be undertaken by

3.2 Details of the API	
Name	Chief Executive Officer
Company	Australian Property Institute
Address	Level 3, 60 York Street, Sydney NSW 2000
Contact Number	1800 111 274
Email Address	professionalconduct@api.org.au

concerning

3.3 Details of the Member	
Name	
Company	
Address	
Contact Number	
Email Address	

4. Make Good

- 4.1. Pursuant to the Professional Conduct Policy, it is expected that a Member is provided an opportunity to address the conduct which is of concern.

4.2 Has the Member who is the subject of the Disciplinary Assessment been made aware of the alleged misconduct?	
<input type="checkbox"/> No <input type="checkbox"/> Yes	
If No, why not?	

4.3 If Yes, has the Member had the opportunity to make good either the whole or partial alleged misconduct prior to undertaking a Disciplinary Assessment against the Member?	
<input type="checkbox"/> No <input type="checkbox"/> Yes	
If No, why not?	

5. The allegation(s) made by the API against the Member

- 5.1. Pursuant to the Professional Conduct Policy, the API has the opportunity to undertake a Disciplinary Assessment into the conduct of a Member. The API alleges a breach of the category(ies) below.
- 5.2. The API must provide an explanation of how the Member is in breach and refer to a document, rule or section, page number or paragraph, where appropriate.

5.3 Categories	5.4 Explanation of how the Member is in breach
<input type="checkbox"/> valuation figure	
<input type="checkbox"/> service provided	
<input type="checkbox"/> competency	
<input type="checkbox"/> ethical duties	
<input type="checkbox"/> conflict of interest	
<input type="checkbox"/> personal bias	
<input type="checkbox"/> adversely affect the reputation of the API	
<input type="checkbox"/> plagiarism	
<input type="checkbox"/> valuation process	
<input type="checkbox"/> unsupervised student or provisional member	
<input type="checkbox"/> failure to disclose departure from accepted industry practice	
<input type="checkbox"/> fraudulent & dishonest behaviour	
<input type="checkbox"/> defamation	
<input type="checkbox"/> non-compliance with Professional Member Obligations	
<input type="checkbox"/> other	

6. Disciplinary Assessment details

- 6.1. Please provide the timeline of events for the Disciplinary Assessment initiated by the API.

6.2 Timeline of events

6.3 How the event has affected you?

6.4 What outcome are you seeking?

7. Supporting evidence

- 7.1. The API must provide all relevant evidence in support of its allegation(S) against the Member.
- 7.2. Examples of supporting evidence include, but are not limited to:
- (a) Any correspondence (including emails) relating to this matter;
 - (b) Instructions provided;
 - (c) Retainer agreements;
 - (d) Valuation report(s); and
 - (e) Any other relevant documentation to support your allegation(s).

8. Acknowledgement

- 8.1. By completing and returning this Form, I, on behalf of the API Board, acknowledge all information on this form is true and correct, and I have read, understood and accepted the privacy statement and collection notice contained on the following page.
- 8.2. Pursuant to the API Professional Conduct Policy, I acknowledge and agree to the following:
- (a) The completion of this Form;
 - (b) The API suspending the complaint, if the issue(s) of concern of the Member who is the subject of a Disciplinary Assessment is subject to current proceedings before a Court or State licensing body pending the outcome of those proceedings and any appeal of those proceedings;
 - (c) The dismissal of this Disciplinary Assessment by the Professional Conduct Panel if the allegation(s) made are not substantiated by the evidence submitted;
 - (d) The disclosure of the API's identity to the Member, in accordance with the Professional Conduct Policy; and
 - (e) The API providing a copy of this Form and all supporting documentation to the Member and the Professional Conduct Panel, in accordance with the Professional Conduct Policy.

Signature of the API	
Representative of the API	[Name], Chief Executive Officer
Date	

9. Return details

9.1. You must return the completed Form to the below details:

To The Professional Conduct Officer
Email professionalconduct@api.org.au
Post Level 3
60 York Street
DEAKIN ACT 2600
Queries 1800 111 274 or professionalconduct@api.org.au

10. Privacy statement and collection notice

- 10.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 10.2. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 10.3. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

11. Review of the Form

- 11.1. This Form will be reviewed annually to ensure continued relevance to the operations of the API.
- 11.2. This review will include consultation with the API Board.
- 11.3. Amendments to this Form must be approved by the API Board.

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV LIMITED



Response Submission Form 2020

API Document

APIV Document

Reference: Response Submission Form

Effective: August 2020

Review: August 2021

Owner: API Board

**NOTE: effective date subject to
ACCC authorisation**

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Introduction

The Professional Conduct Policy (**Policy**) provides the Complainant the opportunity to bring to the attention of the Australian Property Institute Limited (**API**) circumstances which may give rise to a finding of Professional Misconduct against an API Member or an Australian Property Institute Valuers Limited (**APIV**) Member. Similarly, this Policy provides the Chief Executive Officer an opportunity to undertake a Disciplinary Assessment into the conduct of a Member.

Prior to raising a Professional Review and/or undertaking a Disciplinary Assessment, it is expected that the Member be given an opportunity to address the conduct which is of concern.

Once a Professional Review has been raised with the API or a Disciplinary Assessment is initiated by the API, the API appointed Professional Conduct Officer will undertake a preliminary assessment in the first instance, followed by a substantive investigation into the conduct of the Member. The Member will have the opportunity to respond if the matter progresses to the substantive investigation stage by completing a Response Submission Form (**Form**).

The Professional Conduct Officer will maintain communication with all parties and will remain impartial throughout the process. A Professional Conduct Panel will be formed in accordance with the Professional Conduct Committee Charter, to consider and hear a particular matter. The Professional Conduct Panel will consider all information provided by the Professional Conduct Officer and will make a determination whether there is evidence to establish a finding of Professional Misconduct against a Member.

The API has no authority or Jurisdiction to:

- determine negligence;
- assess the accuracy of a valuation;
- investigate or determine the outcome of a dispute, or difference of opinion between a Complainant and a Member as to the assessed Market Value, Market Rent or any other International Valuation Standards basis of value;
- request an amendment to be made to the report;
- order a Member to provide a refund of fees or reimbursement of professional fees to a Complainant;
- award any form of compensation to any parties subject to a Professional Review;
- investigate a Professional Review raised where legal avenues of redress should be or are being pursued; and
- overturn any decision made by courts, tribunals, other associations or regulator bodies when investigating a Professional Review.

If the alleged Professional Misconduct or the Member who is subject to a Professional Review and/or Disciplinary Assessment, is the subject to current proceedings before a court, tribunal, state licensing body, or other bodies, the API investigation will be suspended pending the outcome of those proceedings and any appeal of those proceedings.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Form is to:
- (a) Ensure the Member is aware of the issue(s) of concern raised and/or identified;
 - (b) Ensure the Member has the opportunity to respond to any issue(s) of concern raised and/or identified;
 - (c) Provide administrative uniformity in handling Professional Review and/or Disciplinary Assessment matters;
 - (d) Maintain reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (e) Provide protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Form for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Form it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in the APIV Scheme.
APIV Scheme	The professional standards scheme established under professional standards legislation administered by the APIV.
Chief Executive Officer	An individual appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by a Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Market Value	The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper

	marketing and where the parties had each acted knowledgeably, prudently and without compulsion.
Market Rent	The estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each added acted knowledgeably, prudently and without compulsion.
Member	A current or former API and/or APIV Member.
Professional Conduct Committee	Individuals appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	An individual appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or the undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Conduct Policy	An API Policy which sets out the guidelines and procedures for handling and managing any Professional Review and/or Disciplinary Assessment.
Professional Misconduct	The conduct of a Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of a Member described within section 3 of the Professional Conduct Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.
Response Submission Form	A form prescribed by the API completed in full by the Member who is the subject of a Professional Review and/or Disciplinary Assessment.

3. Information details of the Complainant and/or API and Member

In the matter of a Professional Review raised by

3.1 Details of the Complainant	
Name	
Company	
Address	
Contact Number	
Email Address	

and a Disciplinary Assessment undertaken by

3.2 Details of the API (applicable where there is a Disciplinary Assessment initiated)	
Name	
Company	
Address	
Contact Number	
Email Address	

Tables 3.1 and 3.2 will be pre-populated by the Member – 3.3 will be completed by the Member

concerning

3.3 Details of the Member	
Name	
Company	
Address	
Contact Number	
Email Address	

4. APIV declaration

4.1 Are you an APIV Member?

- No
- Yes

4.2 If No, do you hold RPV or CPV?

- No
- Yes

4.3 If Yes, are you a current practising valuer in real property?

- No
- Yes

4.4 If Yes, you will be eligible to be a participant in the APIV Scheme or hold a current exemption. Please confirm if you have made contact with our APIV team, and if not, why?

5. Early resolution

5.1 Has the Complainant or the API tried to discuss/address this matter with you?	
<input type="checkbox"/> No <input type="checkbox"/> Yes	
If Yes, when and what was the result?	

6. The allegation(s) made by the Complainant against you

- 6.1. Pursuant to the Professional Conduct Policy, the API has the opportunity to undertake a Disciplinary Assessment into your conduct. The API alleges a breach of the category(ies) below.
- 6.2. Please provide an explanation why you believe you are not in breach of the category(ies) below. If you are referring to a document, please ensure you provide the relevant rules and sections, page numbers and paragraphs where appropriate.

6.3 Categories	6.4 Explanation of how you are not in breach
<input type="checkbox"/> valuation figure	
<input type="checkbox"/> service provided	
<input type="checkbox"/> competency	
<input type="checkbox"/> ethical duties	
<input type="checkbox"/> conflict of interest	
<input type="checkbox"/> personal bias	
<input type="checkbox"/> adversely affect the reputation of the API	
<input type="checkbox"/> plagiarism	
<input type="checkbox"/> valuation process	
<input type="checkbox"/> unsupervised student or provisional member	
<input type="checkbox"/> failure to disclose departure from accepted industry practice	
<input type="checkbox"/> fraudulent & dishonest behaviour	
<input type="checkbox"/> defamation	
<input type="checkbox"/> non-compliance with Professional Member Obligations	
<input type="checkbox"/> other	

7. The allegation(s) made by the API against you

- 7.1. Pursuant to the Professional Conduct Policy, the API has the opportunity to undertake a Disciplinary Assessment into your conduct. The API alleges a breach of the category(ies) below.
- 7.2. Please provide an explanation why you believe you are not in breach of the category(ies) below. If you are referring to a document, please ensure you provide the relevant rules and sections, page numbers and paragraphs where appropriate.

7.3 Categories	7.4 Explanation of how you are not in breach
<input type="checkbox"/> valuation figure	
<input type="checkbox"/> service provided	
<input type="checkbox"/> competency	
<input type="checkbox"/> ethical duties	
<input type="checkbox"/> conflict of interest	
<input type="checkbox"/> personal bias	
<input type="checkbox"/> adversely affect the reputation of the API	
<input type="checkbox"/> plagiarism	
<input type="checkbox"/> valuation process	
<input type="checkbox"/> unsupervised student or provisional member	
<input type="checkbox"/> failure to disclose departure from accepted industry practice	
<input type="checkbox"/> fraudulent & dishonest behaviour	
<input type="checkbox"/> defamation	
<input type="checkbox"/> non-compliance with Professional Member Obligations	
<input type="checkbox"/> other	

8.4 How the event has affected you?

8.5 What outcome are you seeking?

9. Supporting evidence

- 9.1. Supporting evidence is crucial to your response. Please ensure you provide all evidence which you believe will support your argument.
- 9.2. Examples of supporting evidence include, but are not limited to:
- (a) Any correspondence (including emails) relating to this matter;
 - (b) Instructions provided;
 - (c) Retainer agreements;
 - (d) Valuation report(s); and
 - (e) Any other relevant documentation to support your allegation(s).

10. Acknowledgement

- 10.1. By completing and returning this Form, I acknowledge all information on this form is true and correct, and I have read, understood and accepted the privacy statement and collection notice contained on the following page.
- 10.2. Pursuant to the API Professional Conduct Policy, I acknowledge and agree to the following:
- (a) The completion of this Form to the satisfaction of the Professional Conduct Officer;
 - (b) The API suspending the Professional Review and/or Disciplinary Assessment, if I or the issue(s) of concern raised is subject to current proceedings before a Court or State licensing body pending the outcome of those proceedings and any appeal of those proceedings;
 - (c) Any supporting evidence submitted to the API one (1) day after the notice expiry date, without reasonable cause or an extension granted by the Professional Conduct Officer, may not be considered by the Professional Conduct Panel;
 - (d) The API disclosing your identity, as the Member, in accordance with the Professional Conduct Policy; and
 - (e) The API providing a copy of this Form and all supporting documentation submitted to the API, in accordance with the Professional Conduct Policy.

Signature of Member	
Name of Member	
API Member Number	
Date	

11. Return Details

11.1. You must return the completed Form to the below details:

To	The Professional Conduct Officer
Email	professionalconduct@api.org.au
Post	Level 3 60 York Street DEAKIN ACT 2600
Queries	1800 111 274 or professionalconduct@api.org.au

12. Privacy statement and collection notice

- 12.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 12.2. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 12.3. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

13. Review of the Form

- 13.1. This Form will be reviewed annually to ensure continued relevance to the operations of the API.
- 13.2. This review will include consultation with the API Board.
- 13.3. Amendments to this Form must be approved by the API Board.

API THE AUSTRALIAN
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APIV LIMITED



Appeals Tribunal Policy 2020

API Document

APIV Document

Reference: Appeals Tribunal Policy

Effective: August 2020

Review: August 2021

Owner: API Board

**NOTE: effective date subject
to ACCC authorisation**

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Introduction

The Appeals Tribunal Policy (**Policy**) provides a Member who is the subject of an adverse finding of Professional Misconduct, to exercise their right of appeal with the Appeals Tribunal Committee by completing an Appeal Form (**Form**). Such a Member will be known as the Appellant. The Australian Property Institute Limited (**API**) Board chairperson is responsible for the establishment and appointment of the Appeals Tribunal Panel (**Panel**).

The Appellant may raise an Appeal because they do not agree with the sanction(s) imposed by the Professional Conduct Panel and/or because they believe the rules of procedural fairness were not afforded to the Appellant.

Once an Appeal has been raised with the Professional Conduct Officer by the Appellant, a Panel will be formed by the API Board chairperson. The Appellant will be required to provide Appeal Written Representations (**Representations**) as to the grounds in which they wish to raise an Appeal as part of preparing and submitting an Appeal Book (**Book**).

Upon receipt of the Book, each Panel member will meet to deliberate and consider the evidence put forward to the Panel prior to attending the Appeal hearing.

At the Appeal hearing, the Appellant will have the opportunity to voice their argument in support of their Representations of why the Appellant raised an Appeal.

The Panel will then reconvene post the Appeal hearing and deliberate and determine whether:

- The Appeal be dismissed; or
- The Appeal be upheld.

In determining the outcome above, the Panel will decide whether:

- The finding of the Professional Conduct Panel be upheld in its entirety;
- The finding of the Professional Conduct Panel be upheld with an order that any one or more sanction(s) be varied; or
- The finding of the Professional Conduct Panel be set aside with an order for the matter to be re-reviewed, re-investigated and re-heard by a newly appointed Professional Conduct Panel if the rules of Procedural Fairness were not followed.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Policy is to provide:
- (a) a Member the opportunity to dispute the sanction(s) imposed against the Member by the Professional Conduct Panel;
 - (b) a Member the opportunity to raise an issue of concern with respect to a lack of Procedural Fairness afforded during the Professional Review and/or Disciplinary Assessment process;
 - (c) guidelines and procedures for the handling of any Appeal raised by a Member;
 - (d) for the appointment, formation and operation of an Appeals Tribunal Panel to consider any Appeal raised by a Member, and where appropriate:
 - (i) dismiss the Appeal; or
 - (ii) uphold the Appeal.
 - (e) protection to the consumer, the community and the reputation of the professional property industry; and
 - (f) protection to a Member where Procedural Fairness was not afforded to the Member.

2. Definitions

- 2.1. The definitions below have been included in this Policy for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Policy it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in a scheme administered by the APIV.
Appeal	A Member who may raise an Appeal in accordance with sections 5 and 6 of this Policy.
Appeal Book	A book which an Appellant must provide to the Professional Conduct Officer as described within section 4 of this Policy.
Appeal Form	A form prescribed by the API completed by the Appellant.

Appeal Written Representation Form	A form prescribed by the API completed by the Appellant.
Appeals Tribunal	A tribunal established under the Appeals Tribunal Policy to hear an appeal raised by the Member.
Appeals Tribunal Policy	An API policy which sets the guidelines and procedures for the formation and operation of an Appeals Tribunal to hear appeals regarding decisions of the Professional Conduct Panel.
Chief Executive Officer	A person appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by an API/APIV Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Former Member(s)	An individual who does not hold a current membership with the API and/or APIV.
Member	A current or former API and/or APIV Member who is the subject of a Professional Review and/or Disciplinary Assessment.
Procedural Fairness	The elements of affording natural justice to a Member described within section 10 of this Policy.
Professional Conduct Committee	The persons appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	A person appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of an API and/or APIV Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of an API and/or APIV Member described within section 3 of this Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a

	Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.
Response Submission Form	A form prescribed by the API completed in full by the Member who is the subject of a Professional Review and/or Disciplinary Assessment.

3. Professional Member Obligations

- 3.1. A Member must, at all times, observe and comply with the following as applicable to their membership, any certifications held, and the professional services undertaken by a Member:
- (a) the API Constitution;
 - (b) the APIV Constitution;
 - (c) any policies set by the API and/or APIV;
 - (d) any rules and/or codes set by the API and/or APIV;
 - (e) any valuation standards or valuation protocol or valuation and property guidelines, prepared and published or adopted by the API and/or APIV;
 - (f) carrying out their professional services ethically, with honesty, competence, in good faith without personal bias and without detrimentally impacting the good name and reputation of the API; and
 - (g) carrying out of respectful engagement/professional dealings with clients, other Members, the API and APIV and its staff.

4. Application of this Policy to Former Member(s)

- 4.1. The Appeals Tribunal Panel may investigate a Professional Review raised and/or Disciplinary Assessment undertaken against a Former Member, if the alleged Professional Misconduct occurred while the Former Member was a Member.
- 4.2. The Appeals Tribunal Panel may consider a Professional Review and/or Disciplinary Assessment made against a Former Member and make a determination under this Policy, if the alleged Professional Misconduct occurred while the Former Member was a Member.
- 4.3. If a finding of Professional Misconduct is established against a Former Member, the Professional Conduct Officer may not be able to enforce sanction(s) against the Former Member in accordance with the Professional Conduct Policy.

5. Right of Appeal

- 5.1. A Member may apply to the Appeals Tribunal Committee for a review of:
- (a) the sanction(s) imposed by the Professional Conduct Panel; or
 - (b) the lack of Procedural Fairness afforded during the handling and management of the Professional Review and/or Disciplinary Assessment.

-
- 5.2. A Complainant does not have a right of appeal with regards to a decision of the Professional Conduct Panel.

6. Raising an Appeal

- 6.1. A Member may raise an Appeal in accordance with section 5 of this Policy, within fifteen (15) business days of receipt of the notice of decision of the Professional Conduct Panel.
- 6.2. A Member under section 6.1 will be known as the Appellant.
- 6.3. The Appellant must lodge an Appeal Form, completed in full with all supporting evidence to the Professional Conduct Officer in writing.
- 6.4. The Professional Conduct Officer will confirm receipt of the Appeal Form as soon as practicable.
- 6.5. The Professional Conduct Officer will notify the Complainant that an Appeal was raised by the Member as soon as practicable.

7. Notification to the Appeal Tribunal Committee

- 7.1. Upon receipt of a completed Appeal Form, the Professional Conduct Officer will provide written notice to the Appeal Tribunal Committee chairperson as soon as practicable.
- 7.2. The Appeals Tribunal chairperson will form an Appeal Tribunal Panel in accordance with section 13 of this Policy, within ten (10) business days of receipt of notice under section 7.1 of this Policy.

8. Notice of an Appeal Hearing

- 8.1. Upon confirmation from the Appeal Tribunal Committee chairperson that an Appeals Tribunal Panel has been formed, the Professional Conduct Officer will provide an Appeal Hearing Notice to the:
- (a) Appeals Tribunal Panel;
 - (b) Appellant; and
 - (c) Professional Conduct Panel.
- 8.2. An Appeal Hearing Notice will include:
- (a) Appellant details;
 - (b) Complainant details;
 - (c) Professional Conduct Panel details;
 - (d) Appeal Tribunal Committee Panel details;
 - (e) a date no less than forty (40) business days from the date the Professional Conduct Officer confirms receipt of the Appeal Form;
 - (f) time of hearing;
 - (g) place of hearing;
 - (h) grounds and reasons for raising the Appeal; and
 - (i) Appellant obligation to prepare and distribute an Appeal Book prior to an Appeal Hearing.
- 8.3. The Appellant must provide one (1) electronic copy of the Appeal Book to the Professional Conduct Officer via email, within fifteen (15) business days from the date the Professional Conduct Officer confirms receipt of the Appeal Form.

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- 8.4. The Appellant must provide one (1) hard copy of the Appeal Book to the Professional Conduct Officer via express post within twenty (20) business days from the date the Professional Conduct Officer confirms receipt of the Appeal Form.
 - 8.5. The Appeal Book must include:
 - (a) Professional Review Form and/or Disciplinary Assessment Form;
 - (b) Response Submission Form;
 - (c) Professional Conduct Officer Report;
 - (d) Professional Conduct Panel Report;
 - (e) Appeal Form;
 - (f) Appeal Written Representations;
 - (g) All supporting evidence relied on by all parties; and
 - (h) All supporting evidence the Appellant wishes to rely on marked separately from the original supporting evidence.
 - 8.6. The Professional Conduct Officer will circulate the Appeal Book to each Panel member electronically within twenty-five (25) business days from the date the Professional Conduct Officer confirms receipt of the Appeal Form.
 - 8.7. The Professional Conduct Officer will send the Appeal Book to each Panel member via registered post within thirty (30) business days from the date the Professional Conduct Officer confirms receipt of the Appeal Form.

9. Appeal Hearing before the Appeals Tribunal Panel

- 9.1. The Appeal Tribunal Committee Panel must meet prior to the Appeal hearing date in accordance with section 19 of this Policy.
- 9.2. At an Appeal hearing, the Appeals Tribunal Panel may determine:
 - (a) the finding of the Professional Conduct Panel be upheld in its entirety;
 - (b) the finding of the Professional Conduct Panel be upheld with an order that any one or more sanction(s) be varied; or
 - (c) the finding of the Professional Conduct Panel be set aside with an order for the matter to be re-reviewed, investigated and heard by a newly appointed Professional Conduct Panel under the grounds of a lack of Procedural Fairness afforded.
- 9.3. Any hearing held by the Appeals Tribunal Panel is conducted in the absence of the public.
- 9.4. If the Appellant fails to attend before the Appeals Tribunal Panel in accordance with a notice provided to the Appellant under section 8, the Appeals Tribunal Panel may hear the proceedings in the absence of the Appellant.
- 9.5. At a hearing before the Appeals Tribunal Panel the Professional Conduct Officer will:
 - (a) present the details of the Professional Review and/or Disciplinary Assessment;
 - (b) present the allegation(s) and evidence submitted by the Complainant and/or the API;
 - (c) present the prima facie findings of the Professional Conduct Panel and reason(s) for laying a charge on the Appellant;

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- (d) present the findings of the Professional Conduct Panel and reason(s) and any sanction(s) imposed on the Appellant;
 - (e) provide the Appellant an opportunity to call or give evidence;
 - (f) provide the Appellant an opportunity to examine or cross-examine witnesses, if applicable; and
 - (g) provide the Appellant an opportunity to make submissions to the Appeals Tribunal Panel.
- 9.6. The Appeals Tribunal Panel may appoint a person(s) with appropriate qualifications and experience to assist with the hearing, where necessary.
- 9.7. Any person(s) appointed by the Appeals Tribunal Panel under section 9.6 will act impartially and will make a declaration that they do not have a conflict of interest in the subject matter of the hearing.
- 9.8. A person will be deemed to have a conflict of interest in any of the following circumstances:
- (a) the person is or has been connected in any business, entity, firm, corporation or department with the Complainant or the Appellant;
 - (b) the person has or has had an existing commercial or personal relationship with the Complainant or the Appellant; or
 - (c) the person is or has been in any way involved in the circumstances giving rise to a Professional Review and/or a Disciplinary Assessment.
- 9.9. Any Appellant may:
- (a) appear personally;
 - (b) retain legal representation to act on the Appellant's behalf.
- 9.10. If there is any additional document(s) that either the Appeals Tribunal Panel or the Appellant seeks to admit into evidence, the additional document must not be considered at the hearing unless:
- (a) the documents have been made available to the Appellant and the Appeals Tribunal Panel, within a reasonable time prior to the hearing; or
 - (b) the Appellant and the Appeals Tribunal Panel have agreed at the hearing that the documents may be admitted into evidence.
- 9.11. The reasonable timeframe for the admission of additional documentation under section 9.10, will be at the discretion of the Appeals Tribunal Panel.
- 9.12. The Appeals Tribunal Panel may adjourn the hearing, if necessary, to allow sufficient time for all parties to consider the additional documentation sought to be admitted into evidence.
- 9.13. The Appeals Tribunal Panel must ensure that minutes of the hearing are taken.
- 9.14. The Appellant may request a copy of the minutes of the hearing from the Appeals Tribunal Panel.
- 9.15. The Appeals Tribunal Panel will provide a copy of the minutes to the Professional Conduct Officer within five (5) business days of the hearing.
- 9.16. The Appeals Tribunal Panel must meet post the Appeal hearing date in accordance with section 19 of this Policy.
- 9.17. Within fifty-five (55) business days from the date the Professional Conduct Officer confirms receipt of the Appeal Form, the Appeal Tribunal Panel will provide the Professional Conduct Officer a copy of their determination report.

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- 9.18. The Professional Conduct Officer will provide a copy of the Appeals Tribunal Panel determination report to the Appellant, Professional Conduct Panel and Chief Executive Officer as soon as practicable.
 - 9.19. The Professional Conduct Officer will provide written notice of the findings of the Appeals Tribunal Panel to the Complainant.

10. Procedural Fairness

- 10.1. An Appellant must be afforded the requisite natural justice whereby the rules of Procedural Fairness are followed.
- 10.2. The rules of Procedural Fairness include:
 - (a) managing any issue(s) of concern through a transparent process;
 - (b) creating and maintaining a respectful environment for all parties involved;
 - (c) ensuring there is neutrality carried throughout the process via a lack of bias towards all parties involved;
 - (d) ensuring all issue(s) of concern raised or identified are reviewed and investigated;
 - (e) ensuring the Member is aware of the issue(s) of concern raised and/or identified;
 - (f) ensuring the Member has the opportunity to respond to any issue(s) of concern raised and/or identified;
 - (g) ensuring that a hearing, whether oral or written, takes place where appropriate;
 - (h) ensuring reason(s) are provided with respect to the evidence submitted, in support of any decision made; and
 - (i) ensuring parties are notified throughout the process.

11. Finding of the Professional Conduct Panel set aside

- 11.1. If a finding is made pursuant to section 9.2(c) of this Policy, the Appeals Tribunal Committee chairperson will instruct either the Professional Conduct Officer or any third party the chairperson deems a fit and proper person to initiate and undertake an API internal review and investigation into the matter.
- 11.2. The Professional Conduct Officer or the third party must report back to the API Board with their findings and recommendations.
- 11.3. Any internal disciplinary action(s) taken will be at the discretion of the API Board.

12. Costs for processing an Appeal

- 12.1. The API will bear any administrative costs associated with processing the Appeal if the Appeal is upheld.
- 12.2. The Appellant will bear any administrative costs associated with processing the Appeal if the Appeal is dismissed.
- 12.3. Costs under section 12.1 do not include any costs associated with the Appellant raising an Appeal or submitting an Appeal Book to the Professional Conduct Officer.

12.4. If section 12.2 applies, the API will invoice the Appellant the requisite costs payable.

13. Composition of the Appeals Tribunal Committee

- 13.1. The Appeals Tribunal Committee will comprise of:
- (a) Directors of the API Board;
 - (b) Members of the Professional Standards Steering Committee; and
 - (c) Members of the Professional Conduct Committee.

14. Appointment of the Appeals Tribunal Committee

- 14.1. The members of the Appeals Tribunal Committee will be appointed in accordance with:
- (a) The API Board Charter;
 - (b) Standards Steering Committee Charter; and
 - (c) Professional Conduct Committee Charter.

15. Formation of Appeals Tribunal Panel

- 15.1. The API Board chairperson will form the Appeals Tribunal Panel comprising of three (3) individuals from the Appeals Tribunal Committee.
- 15.2. The Appeals Tribunal Panel will comprise of:
- (a) one director of the API Board;
 - (b) one member of the Professional Conduct Committee; and
 - (c) one member of the Standards Steering Committee.
- 15.3. The API Board representative stated in section 15.2(a) may be either:
- (a) the API Board chairperson; or
 - (b) any other director of the API Board.
- 15.4. The API Board chairperson must appoint an independent legal adviser who will sit on the Panel in an administrative capacity with no voting or decision rights.
- 15.5. The API Board chairperson must not appoint a member of the Professional Conduct Committee who sat on the Professional Conduct Panel to consider and determine the outcome of the Professional Review and/or Disciplinary Assessment.
- 15.6. The API Board chairperson must appoint a minimum of one (1) Panel member who holds an APIV membership, where the Appellant is an APIV Member.
- 15.7. The Appeals Tribunal Panel members must be eligible to sit on the Appeals Tribunal Panel.
- 15.8. An eligible Appeals Tribunal Panel member will:
- (a) be a current financial, voting API Member;
 - (b) be an API Member for a minimum of five (5) years prior to their appointment; and
 - (c) not be or have been subject to a finding of Professional Misconduct by the API or similar bodies in the ten (10) years prior to appointment.

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- 15.9. The eligibility criteria listed in section 15.8 of this Policy does not prevent the API Board chairperson from appointing one (1) person who is not an API Member as a member of the Appeals Tribunal Panel.

16. Term of Office

- 16.1. A member of the Appeals Tribunal shall be appointed to the Appeals Tribunal for a minimum of two (2) years.

17. Vacation of Office

- 17.1. The API Board will formally remove a member from the Appeals Tribunal Committee, by written notification, if the office of that member becomes vacant.
- 17.2. The office of an Appeals Tribunal Committee member becomes vacant if:
- (a) the member formally resigns;
 - (b) the member is a retired API Member;
 - (c) is no longer an appointed Board Director, Standards Steering Committee member or Professional Conduct Committee member;
 - (d) the member is no longer eligible under clause 8.7 of this Policy;
 - (e) the member declares bankruptcy/insolvency;
 - (f) the member is permanently incapable of performing his/her duties under this Policy; and/or
 - (g) the API Board is of the opinion the member is not a fit and proper person for the role as Appeals Tribunal member.

18. Role of the Appeals Tribunal Panel

- 18.1. The Appeals Tribunal Panel will meet on a case by case basis to deliberate on an Appeal raised by a Member to determine:
- (a) whether the rules of procedural fairness were followed;
 - (b) whether there is sufficient evidence to uphold the Appeal;
 - (c) whether the decision made by the Professional Conduct Panel should be set aside;
 - (d) whether the matter be reheard by a newly formed Professional Conduct Panel;
 - (e) whether the decision made by the Professional Conduct Panel should be upheld in its entirety; and
 - (f) whether the decision made by the Professional Conduct Panel should be upheld with any one or more sanction(s) varied.

19. Power of the Appeals Tribunal Panel

- 19.1. The powers of the Appeals Tribunal Panel members are as stipulated in this Policy.

20. Quorum of the Appeals Tribunal Panel

- 20.1. The quorum of the Appeals Tribunal Panel will comprise of three (3) members as stated under section 15.2 of this Policy.
- 20.2. All determinations made by the Appeals Tribunal Panel shall be decided by a majority of the votes of eligible members present and voting.
- 20.3. To be an eligible Appeals Tribunal Panel member, the member must:
- (a) disclose the member does not have a real or perceived conflict of interest in accordance with section 24; and
 - (b) disclose the member has had no direct or indirect involvement in the decision made by the Professional Conduct Panel.

21. Meetings

- 21.1. The Appeals Tribunal Panel will meet at a mutually suitable time on a case by case basis:
- (a) prior to an Appeal hearing within thirty-five (35) from the date the Professional Conduct Officer confirms receipt of the Appeal Form; and
 - (b) post an Appeal hearing within forty-five (45) from the date the Professional Conduct Officer confirms receipt of the Appeal Form.
- 21.2. Any one or more representative(s) of the API may sit in on any meeting in an administrative capacity only.
- 21.3. Meetings may take place:
- (a) in person;
 - (b) via teleconference; or
 - (c) via videoconference.
- 21.4. The chairperson will maintain minutes of any meeting.
- 21.5. A copy of the meeting minutes will be provided to the Professional Conduct Officer within five (5) business days of the meeting, to maintain proper records of the matter.

22. Remuneration of Appeals Tribunal Committee members

- 22.1. The members of the Appeals Tribunal Committee members shall be paid such remuneration, allowances and expenses as may from time to time be approved by the API Board.

23. Confidentiality

- 23.1. The Appeals Tribunal Committee members are obliged to adhere to section 22 of the API Professional Conduct Policy.

24. Conflicts of Interest

- 24.1. An Appeals Tribunal Committee member will not be eligible to participate in an Appeal, where the member has a real conflict of interest.
- 24.2. An Appeals Tribunal Committee member may not be eligible to participate in an Appeal where the member has a perceived conflict of interest.
- 24.3. An Appeals Tribunal Committee member will have a perceived conflict of interest where the Appeals Tribunal Committee member resides in the same state as the Member who raised an Appeal.
- 24.4. An Appellant may provide written confirmation of consent for an Appeals Tribunal Committee member to sit as a Panel member with a perceived conflict of interest.
- 24.5. An Appeals Tribunal Committee member will have a real conflict of interest where the Appeals Tribunal Committee member:
- (a) is or has been connected in any business entity, firm, corporation or department with the Complainant or the Appellant;
 - (b) has or has had an existing commercial or personal relationship with the Complainant or the Appellant; or
 - (c) is or has been in any way involved in the circumstances giving rise to the Professional Review and/or Disciplinary Assessment.
- 24.6. An independent legal adviser will not be eligible for appointment where the adviser has a real conflict of interest.

25. Indemnity of Appeals Tribunal Committee members

- 25.1. A member appointed to the Appeals Tribunal Committee is indemnified as an insured person pursuant to API's Association Liability Policy Schedule.
- 25.2. Pursuant to section 25.1, an Appeals Tribunal Committee member is only covered when acting in their capacity as an Appeals Tribunal Committee member.
- 25.3. Actions or conduct outside of this Policy may not be covered by API's Association Liability Policy Schedule.

26. Review of the Policy

- 26.1. This Policy will be reviewed annually to ensure continued relevance to the operations of the API.
- 26.2. This review will include consultation with the API Board.
- 26.3. Amendments to this Policy must be approved by the API Board.

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV LIMITED



Appeal Form 2020

API Document

APIV Document

Reference: Appeal Form
Effective: August 2020
Review: August 2021
Owner: API Board

**NOTE: effective date subject to
ACCC authorisation**

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Introduction

The Appeals Tribunal Policy (**Policy**) provides a Member who is the subject of an adverse finding of Professional Misconduct, to exercise their right of appeal with the Appeals Tribunal by completing an Appeal Form (**Form**). Such a Member will be known as the Appellant. The Australian Property Institute Limited (**API**) Board chairperson is responsible for the establishment and appointment of the Appeals Tribunal Panel (**Panel**).

The Appellant may raise an Appeal because they do not agree with the sanction(s) imposed by the Professional Conduct Panel and/or because the rules of procedural fairness were not afforded to the Appellant.

Once an Appeal has been raised with the Professional Conduct Officer by the Appellant, a Panel will be formed by the API Board chairperson. The Appellant will be required to provide Appeal Written Representations (**Representations**) as to the grounds in which they wish to raise an Appeal as part of preparing and submitting an Appeal Book (**Book**).

Upon receipt of the Book, each Panel member will meet to deliberate and consider the evidence put forward to the Panel prior to attending the Appeal hearing.

At the Appeal hearing, the Appellant will have the opportunity to voice their argument in support of their Representations of why the Appellant raised an Appeal.

The Panel will then reconvene post the Appeal hearing and deliberate and determine whether:

- The Appeal be dismissed; or
- The Appeal be upheld.

In determining the outcome above, the Panel will decide whether:

- The finding of the Professional Conduct Panel be upheld in its entirety;
- The finding of the Professional Conduct Panel be upheld with an order that any one or more sanction(s) be varied; or
- The finding of the Professional Conduct Panel be set aside with an order for the matter to be re-review, re-investigated and re-heard by a newly appointed Professional Conduct Panel if the rules of Procedural Fairness were not followed.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Form is to:
- (a) provide the Member a right of Appeal;
 - (b) ensure the Member has the opportunity to raise any issue(s) of concern identified in processing the matter;
 - (c) maintain the rules of natural justice;
 - (d) provide administrative uniformity in handling Appeal matters;
 - (e) maintain reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (f) provide protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Form for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Form it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in a scheme administered by the APIV.
Appeal	A Member who may raise an Appeal in accordance with sections 5 and 6 of this Policy.
Appeal Book	A book which an Appellant must provide to the Professional Conduct Officer as described within section 4 of this Policy.
Appeal Form	A form prescribed by the API completed by the Appellant.
Appeal Written Representation Form	A form prescribed by the API completed by the Appellant.
Appeals Tribunal	A tribunal established under the Appeals Tribunal Policy to hear an appeal raised by the Member.
Appeals Tribunal Policy	An API policy which sets the guidelines and procedures for the formation and operation of an Appeals Tribunal to hear appeals regarding decisions of the Professional Conduct Panel.

Appellant	A Member who is the subject of a Professional Review and/or Disciplinary Assessment who raises an Appeal.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Former Member(s)	An individual who does not hold a current membership with the API and/or APIV.
Member	A current or former API and/or APIV Member who is the subject of a Professional Review and/or Disciplinary Assessment.
Professional Conduct Officer	A person appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of an API and/or APIV Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of an API and/or APIV Member described within section 3 of this Policy.

3. Information details of the Appellant

3.1 Details of Appellant	
Name	
Company	
Address	
Contact Number	
Email Address	

4. Information details of the Professional Conduct Panel

4.1 Details of the Professional Conduct Panel	
Panel Member Name	
Panel Member Name	
Panel Member Name	
Meeting date	
Decision date	
Determination Report issue date	
Panel finding(s)	
Sanction(s) imposed	

5. Reason(s) for raising an Appeal

5.1. In order for you to raise an Appeal please specify the reason(s) why you are raising the Appeal and a brief explanation of why your Appeal should be upheld.

5.2 Reason(s)		5.3 Brief Explanation
<input type="checkbox"/> Professional Conduct Panel Decision	<input type="checkbox"/> Sanction(s) imposed	
<input type="checkbox"/> Procedural Fairness	<input type="checkbox"/> Transparent process <input type="checkbox"/> Respectful environment <input type="checkbox"/> Neutrality <input type="checkbox"/> Awareness of issue(s) of concern <input type="checkbox"/> Review and investigation of issue(s) of concern <input type="checkbox"/> Opportunity to respond <input type="checkbox"/> Right to a hearing <input type="checkbox"/> Reason(s) provided <input type="checkbox"/> Notified throughout the process	

6. Appeal Book

- 6.1. I understand that I will be required to complete an Appeal Book in accordance with the Appeals Tribunal Policy, by raising this Appeal.
- 6.2. I understand that I will be required to provide:
- (a) An electronic copy of the Appeal Book to the Professional Conduct Officer within fifteen (15) business days of confirmation of receipt of this Form; and
 - (b) A hard copy of the Appeal Book to the Professional Conduct Officer via registered post within twenty (20) business days of confirmation of receipt of this Form.

7. Acknowledgement

- 7.1. By completing and returning this Form, I acknowledge all information on this form is true and correct, and I have read, understood and accept the privacy statement and collection notice contained on the following page.
- 7.2. I understand and accept that I will bear any administrative costs associated with processing the Appeal if the Appeal is dismissed.
- 7.3. Pursuant to the API Appeals Tribunal Policy, I acknowledge and agree to the following:
- (a) The completion of this Form to the satisfaction of the Professional Conduct Officer;
 - (b) The Appeal has been raised within fifteen (15) business days of receipt of the notice of the decision of the Professional Conduct Panel; and
 - (c) The API providing a copy of this Form and all supporting documentation to the Professional Conduct Panel and Appeals Tribunal Panel.

Signature of Appellant	
Name of Appellant	
Date	

8. Return Details

8.1. You must return the completed Form to the below details:

To	The Professional Conduct Officer
Email	professionalconduct@api.org.au
Post	Level 3 60 York Street DEAKIN ACT 2600
Queries	1800 111 274 or professionalconduct@api.org.au

9. Privacy statement and collection notice

- 9.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 9.2. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 9.3. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

10. Review of the Form

- 10.1. This Form will be reviewed annually to ensure continued relevance to the operations of the API.
- 10.2. This review will include consultation with the API Board.
- 10.3. Amendments to this Form must be approved by the API Board.

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV
LIMITED



Appeal Book – Professional Review Raised

2020

API Document

APIV Document

Reference: Appeal Book – Professional Review Raised
Effective: August 2020
Review: August 2021
Owner: API Board

**NOTE: effective date subject to
ACCC authorisation**

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Introduction

The Appeals Tribunal Policy (**Policy**) provides a Member who is the subject of an adverse finding of Professional Misconduct, to exercise their right of appeal with the Appeals Tribunal by completing an Appeal Form (**Form**). Such a Member will be known as the Appellant. The Australian Property Institute Limited (**API**) Board chairperson is responsible for the establishment and appointment of the Appeals Tribunal Panel (**Panel**).

The Appellant may raise an Appeal because they do not agree with the sanction(s) imposed by the Professional Conduct Panel and/or because the rules of procedural fairness were not afforded to the Appellant.

Once an Appeal has been raised with the Professional Conduct Officer by the Appellant, a Panel will be formed by the API Board chairperson. The Appellant will be required to provide Appeal Written Representations (**Representations**) as to the grounds in which they wish to raise an Appeal as part of preparing and submitting an Appeal Book (**Book**).

Upon receipt of the Book, each Panel member will meet to deliberate and consider the evidence put forward to the Panel prior to attending the Appeal hearing.

At the Appeal hearing, the Appellant will have the opportunity to voice their argument in support of their Representations of why the Appellant raised an Appeal.

The Panel will then reconvene post the Appeal hearing and deliberate and determine whether:

- The Appeal be dismissed; or
- The Appeal be upheld.

In determining the outcome above, the Panel will decide whether:

- The finding of the Professional Conduct Panel be upheld in its entirety;
- The finding of the Professional Conduct Panel be upheld with an order that any one or more sanction(s) be varied; or
- The finding of the Professional Conduct Panel be set aside with an order for the matter to be re-review, re-investigated and re-heard by a newly appointed Professional Conduct Panel if the rules of Procedural Fairness were not followed.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Book is to:
- (a) provide the Member a right of Appeal;
 - (b) ensure the Member has the opportunity to raise any issue(s) of concern identified in processing the matter;
 - (c) ensure the Member has the opportunity to present their arguments to the Appeals Tribunal Panel;
 - (d) maintain the rules of natural justice;
 - (e) provide administrative uniformity in handling Appeal matters;
 - (f) maintain reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (g) provide protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Policy for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Policy it is identified as a capitalised term.

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API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in a scheme administered by the APIV.
Appeal	A Member who may raise an Appeal in accordance with sections 5 and 6 of this Policy.
Appeal Book	A book which an Appellant must provide to the Professional Conduct Officer as described within section 4 of this Policy.
Appeal Form	A form prescribed by the API completed by the Appellant.
Appeal Written Representation Form	A form prescribed by the API completed by the Appellant.
Appeals Tribunal	A tribunal established under the Appeals Tribunal Policy to hear an appeal raised by the Member.
Appeals Tribunal Policy	An API policy which sets the guidelines and procedures for the formation and operation of an Appeals Tribunal to hear appeals regarding decisions of the Professional Conduct Panel.

Chief Executive Officer	A person appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by an API/APIV Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Former Member(s)	An individual who does not hold a current membership with the API and/or APIV.
Member	A current or former API and/or APIV Member who is the subject of a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee	The persons appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	A person appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of an API and/or APIV Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of an API and/or APIV Member described within section 3 of this Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.
Response Submission Form	A form prescribed by the API completed in full by the Member who is the subject of a Professional Review and/or Disciplinary Assessment.

3. Information details of the Appellant

3.1 Details of Appellant	
Name	
Company	
Address	
Contact Number	
Email Address	

4. Information details of the Professional Conduct Panel

4.1 Details of the Professional Conduct Panel	
Panel Member Name	
Panel Member Name	
Panel Member Name	
Meeting date	
Decision date	
Determination Report issue date	
Panel finding(s)	
Sanction(s) imposed	

5. Information details of the Appellant's Legal Representative

5.1 Details of Appellant's Legal Representative, if applicable	
Name	
Company	
Address	
Contact Number	
Email Address	

6. Information details of the Appeal Tribunal Panel

6.1 Details of Appeal Tribunal Panel	
Panel Member Name	
Panel Member Name	
Panel Member Name	

7. Appendices required

1. Professional Review Form

- i. The Appellant must provide a copy of the Professional Review Form submitted to the API by the Complainant.
- ii. The Appellant must label the Professional Review Form, Appendix 1.

2. Response Submission Form

- i. The Appellant must provide a copy of the Response Submission Form submitted by the Member to the API.
- ii. The Appellant must label the Response Submission Form, Appendix 2.

3. Professional Conduct Officer Report

- i. The Appellant must provide a copy of the Professional Conduct Officer Report submitted by the Professional Conduct Officer to the Professional Conduct Panel.
- ii. The Appellant must label the Professional Conduct Officer Report, Appendix 3.

4. Professional Conduct Panel Report

- i. The Appellant must provide a copy of the Professional Conduct Panel Report prepared by the Professional Conduct Panel.
- ii. The Appellant must label the Professional Conduct Panel Report, Appendix 4.

5. Appeal Form

- i. The Appellant must provide a copy of the Appeal Form prepared by the Appellant submitted to the API.
- ii. The Appellant must label the Appeal Form, Appendix 5.

6. Appeal Written Representations Form

- i. The Appellant must provide a copy of the Appeal Written Representations Form prepared by the Appellant submitted to the Appeals Tribunal Panel.
- ii. The Appellant must label the Appeal Written Representations Form, Appendix 6.

7. Supporting evidence

- i. The Appellant must provide a copy of all supporting evidence submitted to the API.
- ii. The Appellant must label the Supporting Evidence, Appendix 7.
- iii. The Appellant must separate the supporting evidence into the following categories:
 1. Correspondence
 2. Reports
 3. Letters
 4. Images
 5. Other
- iv. The Appellant must submit the supporting evidence in chronological date order. The first document being that which occurred first and the last document that which occurred most recently.

8. Appeal Supporting Evidence

- i. The Appellant must provide a copy of all supporting evidence they wish to rely on.
- ii. The Appellant must label the Appeal Supporting Evidence, Appendix 8.
- iii. The Appellant must separate the appeal supporting evidence into the following categories:
 1. Correspondence
 2. Reports
 3. Letters
 4. Images
 5. Other
- iv. The Appellant must submit the appeal supporting evidence in chronological date order. The first document being that which occurred first and the last document that which occurred most recently.

8. Acknowledgement

- 8.1. By completing and returning this Book, I acknowledge all information in this book, including the appendices, is true and correct, and I have read, understood and accept the privacy statement and collection notice contained on the following page.
- 8.2. I understand that I will be required to provide:
- (a) An electronic copy of the Appeal Book to the Professional Conduct Officer within fifteen (15) business days of confirmation of receipt of this Form; and
 - (b) A hard copy of the Appeal Book to the Professional Conduct Officer via registered post within twenty (20) business days of confirmation of receipt of this Form.
- 8.3. I understand and accept that I will bear any administrative costs associated with processing the Appeal if the Appeal is dismissed.
- 8.4. Pursuant to the API Appeals Tribunal Policy, I acknowledge and agree to the following:
- (a) The completion of this Book to the satisfaction of the Professional Conduct Officer;
 - (b) The Appeal Book has been submitted to the Professional Conduct Officer, electronically via email within 15 business days of confirmation of receipt of the Appeal Form;
 - (c) The Appeal Book has been submitted to the Professional Conduct Officer, a hard copy via registered post within 20 business days of confirmation of receipt of the Appeal Form;
 - (d) The API providing a copy of this Form and all supporting documentation to the Professional Conduct Panel and Appeals Tribunal Panel.

Signature of Appellant	
Name of Appellant	
Date of Submission - electronic copy	
Date of Submission – hard copy	

9. Return Details

9.1. You must return the completed Form to the below details:

To The Professional Conduct Officer
Email professionalconduct@api.org.au
Post Level 3
60 York Street
DEAKIN ACT 2600
Queries 1800 111 274 or professionalconduct@api.org.au

10. Privacy statement and collection notice

- 10.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 10.2. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 10.3. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

11. Review of the Book

- 11.1. This Book will be reviewed annually to ensure continued relevance to the operations of the API.
- 11.2. This review will include consultation with the API Board.
- 11.3. Amendments to this Book must be approved by the API Board.

APPENDIX 1: Professional Review Form

[insert a copy of the Professional Review Form]

APPENDIX 2: Response Submission Form

[insert a copy of the Response Submission Form]

APPENDIX 3: Professional Conduct Officer Report

[insert a copy of the Professional Conduct Officer Report]

APPENDIX 4: Professional Conduct Panel Report

[insert a copy of the Professional Conduct Panel Report]

APPENDIX 5: Appeal Form

[insert a copy of the Appeal Form]

APPENDIX 6: Appeal Written Representations Form

[insert a copy of the Appeal Written Representations Form]

APPENDIX 7: Supporting Evidence

7(a) Correspondence

[insert a copy of all correspondence in chronological date order]

7(b) Reports

[insert a copy of all reports in chronological date order]

7(c) Letters

[insert a copy of all letters in chronological date order]

7(d) Images

[insert a copy of all images in chronological date order]

7(e) Other

[insert a copy of any other documents submitted into evidence in chronological date order]

APPENDIX 8: Appeal Supporting Evidence

8(a) Correspondence

[insert a copy of all correspondence in chronological date order, you wish to rely on]

8(b) Reports

[insert a copy of all reports in chronological date order, you wish to rely on]

8(c) Letters

[insert a copy of all letters in chronological date order, you wish to rely on]

8(d) Images

[insert a copy of all images in chronological date order, you wish to rely on]

8(e) Other

[insert a copy of any other documents in chronological date order, you wish to rely on]

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV LIMITED



Appeal Book- Disciplinary Assessment Undertaken 2020

API Document

APIV Document

Reference: Appeal Book –
Disciplinary Assessment Undertaken

Effective: August 2020

Review: August 202

Owner: API Board

**NOTE: effective date subject to
ACCC authorisation**

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Introduction

The Appeals Tribunal Policy (**Policy**) provides a Member who is the subject of an adverse finding of Professional Misconduct, to exercise their right of appeal with the Appeals Tribunal by completing an Appeal Form (**Form**). Such a Member will be known as the Appellant. The Australian Property Institute Limited (**API**) Board chairperson, is responsible for the establishment and appointment of the Appeals Tribunal Panel (**Panel**).

The Appellant may raise an Appeal because they do not agree with the sanction(s) imposed by the Professional Conduct Panel and/or because the rules of procedural fairness were not afforded to the Appellant.

Once an Appeal has been raised with the Professional Conduct Officer by the Appellant, a Panel will be formed by the API Board chairperson. The Appellant will be required to provide Appeal Written Representations (**Representations**) as to the grounds in which they wish to raise an Appeal as part of preparing and submitting an Appeal Book (**Book**).

Upon receipt of the Book, each Panel member will meet to deliberate and consider the evidence put forward to the Panel prior to attending the Appeal hearing.

At the Appeal hearing, the Appellant will have the opportunity to voice their argument in support of their Representations of why the Appellant raised an Appeal.

The Panel will then reconvene post the Appeal hearing and deliberate and determine whether:

- The Appeal be dismissed; or
- The Appeal be upheld.

In determining the outcome above, the Panel will decide whether:

- The finding of the Professional Conduct Panel be upheld in its entirety;
- The finding of the Professional Conduct Panel be upheld with an order that any one or more sanction(s) be varied; or
- The finding of the Professional Conduct Panel be set aside with an order for the matter to be re-review, re-investigated and re-heard by a newly appointed Professional Conduct Panel if the rules of Procedural Fairness were not followed.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Book is to:
- (a) provide the Member a right of Appeal;
 - (b) ensure the Member has the opportunity to raise any issue(s) of concern identified in processing the matter;
 - (c) ensure the Member has the opportunity to present their arguments to the Appeals Tribunal Panel;
 - (d) maintain the rules of natural justice;
 - (e) provide administrative uniformity in handling Appeal matters;
 - (f) maintain reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (g) provide protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Policy for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Policy it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in a scheme administered by the APIV.
Appeal	A Member who may raise an Appeal in accordance with sections 5 and 6 of this Policy.
Appeal Book	A book which an Appellant must provide to the Professional Conduct Officer as described within section 4 of this Policy.
Appeal Form	A form prescribed by the API completed by the Appellant.
Appeal Written Representation Form	A form prescribed by the API completed by the Appellant.
Appeals Tribunal	A tribunal established under the Appeals Tribunal Policy to hear an appeal raised by the Member.
Appeals Tribunal Policy	An API policy which sets the guidelines and procedures for the formation and operation of an Appeals Tribunal

	to hear appeals regarding decisions of the Professional Conduct Panel.
Chief Executive Officer	A person appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by an API/APIV Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Former Member(s)	An individual who does not hold a current membership with the API and/or APIV.
Member	A current or former API and/or APIV Member who is the subject of a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee	The persons appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	A person appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of an API and/or APIV Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of an API and/or APIV Member described within section 3 of this Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.
Response Submission Form	A form prescribed by the API completed in full by the Member who is the subject of a Professional Review and/or Disciplinary Assessment.

3. Information details of the Appellant

3.1 Details of Appellant	
Name	
Company	
Address	
Contact Number	
Email Address	

4. Information details of the Professional Conduct Panel

4.1 Details of the Professional Conduct Panel	
Panel Member Name	
Panel Member Name	
Panel Member Name	
Meeting date	
Decision date	
Determination Report issue date	
Panel finding(s)	

Sanction(s) imposed	
---------------------	--

5. Information details of the Appellant's Legal Representative

5.1 Details of Appellant's Legal Representative, if applicable	
Name	
Company	
Address	
Contact Number	
Email Address	

6. Information details of the Appeal Tribunal Panel

6.1 Details of Appeal Tribunal Panel	
Panel Member Name	
Panel Member Name	
Panel Member Name	

7. Appendices required

1. Disciplinary Assessment Form

- i. The Appellant must provide a copy of the Disciplinary Assessment Form submitted to the API by the Complainant.
- ii. The Appellant must label the Disciplinary Assessment Form, Appendix 1.

2. Response Submission Form

- i. The Appellant must provide a copy of the Response Submission Form submitted by the Member to the API.
- ii. The Appellant must label the Response Submission Form, Appendix 2.

3. Professional Conduct Officer Report

- i. The Appellant must provide a copy of the Professional Conduct Officer Report submitted by the Professional Conduct Officer to the Professional Conduct Panel.
- ii. The Appellant must label the Professional Conduct Officer Report, Appendix 3.

4. Professional Conduct Panel Report

- i. The Appellant must provide a copy of the Professional Conduct Panel Report prepared by the Professional Conduct Panel.
- ii. The Appellant must label the Professional Conduct Panel Report, Appendix 4.

5. Appeal Form

- i. The Appellant must provide a copy of the Appeal Form prepared by the Appellant submitted to the API.
- ii. The Appellant must label the Appeal Form, Appendix 5.

6. Appeal Written Representations Form

- i. The Appellant must provide a copy of the Appeal Written Representations Form prepared by the Appellant submitted to the Appeals Tribunal Panel.
- ii. The Appellant must label the Appeal Written Representations Form, Appendix 6.

7. Supporting evidence

- i. The Appellant must provide a copy of all supporting evidence submitted to the API.
- ii. The Appellant must label the Supporting Evidence, Appendix 7.
- iii. The Appellant must separate the supporting evidence into the following categories:
 1. Correspondence
 2. Reports
 3. Letters
 4. Images
 5. Other
- iv. The Appellant must submit the supporting evidence in chronological date order. The first document being that which occurred first and the last document that which occurred most recently.

8. Appeal Supporting Evidence

- i. The Appellant must provide a copy of all supporting evidence they wish to rely on.
- ii. The Appellant must label the Appeal Supporting Evidence, Appendix 8.
- iii. The Appellant must separate the appeal supporting evidence into the following categories:
 1. Correspondence
 2. Reports
 3. Letters
 4. Images
 5. Other
- iv. The Appellant must submit the appeal supporting evidence in chronological date order. The first document being that which occurred first and the last document that which occurred most recently.

8. Acknowledgement

- 8.1. By completing and returning this Book, I acknowledge all information in this book, including the appendices, is true and correct, and I have read, understood and accept the privacy statement and collection notice contained on the following page.
- 8.2. I understand that I will be required to provide:
- (a) An electronic copy of the Appeal Book to the Professional Conduct Officer within fifteen (15) business days of confirmation of receipt of this Form; and
 - (b) A hard copy of the Appeal Book to the Professional Conduct Officer via registered post within twenty (20) business days of confirmation of receipt of this Form.
- 8.3. I understand and accept that I will bear any administrative costs associated with processing the Appeal if the Appeal is dismissed.
- 8.4. Pursuant to the API Appeals Tribunal Policy, I acknowledge and agree to the following:
- (a) The completion of this Book to the satisfaction of the Professional Conduct Officer;
 - (b) The Appeal Book has been submitted to the Professional Conduct Officer, electronically via email within 15 business days of confirmation of receipt of the Appeal Form;
 - (c) The Appeal Book has been submitted to the Professional Conduct Officer, a hard copy via registered post within 20 business days of confirmation of receipt of the Appeal Form;
 - (d) The API providing a copy of this Form and all supporting documentation to the Professional Conduct Panel and Appeals Tribunal Panel.

Signature of Appellant	
Name of Appellant	
Date of Submission -electronic copy	
Date of Submission – hard copy	

9. Return Details

9.1. You must return the completed Form to the below details:

To The Professional Conduct Officer
Email professionalconduct@api.org.au
Post Level 3
60 York Street
DEAKIN ACT 2600
Queries 1800 111 274 or professionalconduct@api.org.au

10. Privacy statement and collection notice

- 10.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 10.2. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 10.3. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

11. Review of the Book

- 11.1. This Book will be reviewed annually to ensure continued relevance to the operations of the API.
- 11.2. This review will include consultation with the API Board.
- 11.3. Amendments to this Book must be approved by the API Board.

APPENDIX 1: Disciplinary Assessment Form

[insert a copy of the Disciplinary Assessment Form]

APPENDIX 2: Response Submission Form

[insert a copy of the Response Submission Form]

APPENDIX 3: Professional Conduct Officer Report

[insert a copy of the Professional Conduct Officer Report]

APPENDIX 4: Professional Conduct Panel Report

[insert a copy of the Professional Conduct Panel Report]

APPENDIX 5: Appeal Form

[insert a copy of the Appeal Form]

APPENDIX 6: Appeal Written Representations Form

[insert a copy of the Appeal Written Representations Form]

APPENDIX 7: Supporting Evidence

7(a) Correspondence

[insert a copy of all correspondence in chronological date order]

7(b) Reports

[insert a copy of all reports in chronological date order]

7(c) Letters

[insert a copy of all letters in chronological date order]

7(d) Images

[insert a copy of all images in chronological date order]

7(e) Other

[insert a copy of any other documents submitted into evidence in chronological date order]

APPENDIX 8: Appeal Supporting Evidence

8(a) Correspondence

[insert a copy of all correspondence in chronological date order, you wish to rely on]

8(b) Reports

[insert a copy of all reports in chronological date order, you wish to rely on]

8(c) Letters

[insert a copy of all letters in chronological date order, you wish to rely on]

8(d) Images

[insert a copy of all images in chronological date order, you wish to rely on]

8(e) Other

[insert a copy of any other documents in chronological date order, you wish to rely on]

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV LIMITED



Appeal Book – Professional Review & Disciplinary Assessment 2020

API Document

APIV Document

Reference: Appeal Book
Professional Review & Disciplinary
Assessment

Effective: August 2020

Review: August 2021

Owner: API Board

**NOTE: effective date subject to
ACCC authorisation**

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Introduction

The Appeals Tribunal Policy (**Policy**) provides a Member who is the subject of an adverse finding of Professional Misconduct, to exercise their right of appeal with the Appeals Tribunal by completing an Appeal Form (**Form**). Such a Member will be known as the Appellant. The Australian Property Institute Limited (**API**) Board chairperson is responsible for the establishment and appointment of the Appeals Tribunal Panel (**Panel**).

The Appellant may raise an Appeal because they do not agree with the sanction(s) imposed by the Professional Conduct Panel and/or because the rules of procedural fairness were not afforded to the Appellant.

Once an Appeal has been raised with the Professional Conduct Officer by the Appellant, a Panel will be formed by the API Board chairperson. The Appellant will be required to provide Appeal Written Representations (**Representations**) as to the grounds in which they wish to raise an Appeal as part of preparing and submitting an Appeal Book (**Book**).

Upon receipt of the Book, each Panel member will meet to deliberate and consider the evidence put forward to the Panel prior to attending the Appeal hearing.

At the Appeal hearing, the Appellant will have the opportunity to voice their argument in support of their Representations of why the Appellant raised an Appeal.

The Panel will then reconvene post the Appeal hearing and deliberate and determine whether:

- The Appeal be dismissed; or
- The Appeal be upheld.

In determining the outcome above, the Panel will decide whether:

- The finding of the Professional Conduct Panel be upheld in its entirety;
- The finding of the Professional Conduct Panel be upheld with an order that any one or more sanction(s) be varied; or
- The finding of the Professional Conduct Panel be set aside with an order for the matter to be re-review, re-investigated and re-heard by a newly appointed Professional Conduct Panel if the rules of Procedural Fairness were not followed.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of this Book is to:
- (a) provide the Member a right of Appeal;
 - (b) ensure the Member has the opportunity to raise any issue(s) of concern identified in processing the matter;
 - (c) ensure the Member has the opportunity to present their arguments to the Appeals Tribunal Panel;
 - (d) maintain the rules of natural justice;
 - (e) provide administrative uniformity in handling Appeal matters;
 - (f) maintain reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (g) provide protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Policy for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Policy it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in a scheme administered by the APIV.
Appeal	A Member who may raise an Appeal in accordance with sections 5 and 6 of this Policy.
Appeal Book	A book which an Appellant must provide to the Professional Conduct Officer as described within section 4 of this Policy.
Appeal Form	A form prescribed by the API completed by the Appellant.
Appeal Written Representation Form	A form prescribed by the API completed by the Appellant.
Appeals Tribunal	A tribunal established under the Appeals Tribunal Policy to hear an appeal raised by the Member.
Appeals Tribunal Policy	An API policy which sets the guidelines and procedures for the formation and operation of an Appeals Tribunal

	to hear appeals regarding decisions of the Professional Conduct Panel.
Chief Executive Officer	A person appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by an API/APIV Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Former Member(s)	An individual who does not hold a current membership with the API and/or APIV.
Member	A current or former API and/or APIV Member who is the subject of a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee	The persons appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	A person appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of an API and/or APIV Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of an API and/or APIV Member described within section 3 of this Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.
Response Submission Form	A form prescribed by the API completed in full by the Member who is the subject of a Professional Review and/or Disciplinary Assessment.

3. Information details of the Appellant

3.1 Details of Appellant	
Name	
Company	
Address	
Contact Number	
Email Address	

4. Information details of the Professional Conduct Panel

4.1 Details of the Professional Conduct Panel	
Panel Member Name	
Panel Member Name	
Panel Member Name	
Meeting date	
Decision date	
Determination Report issue date	
Panel finding(s)	
Sanction(s) imposed	

5. Information details of the Complainant

5.1 Details of Complainant	
Name	
Company	
Address	
Contact Number	
Email Address	

6. Information details of the API

6.1 Details of API	
Name	
Company	
Address	
Contact Number	
Email Address	

7. Information details of the Appellant's Legal Representative

7.1 Details of Appellant's Legal Representative, if applicable	
Name	
Company	
Address	
Contact Number	
Email Address	

8. Information details of the Appeal Tribunal Panel

8.1 Details of Appeal Tribunal Panel	
Panel Member Name	
Panel Member Name	
Panel Member Name	

9. Appendices required

1. Professional Review Form

- i. The Appellant must provide a copy of the Professional Review Form submitted to the API by the Complainant.
- ii. The Appellant must label the Professional Review Form, Appendix 1.

2. Disciplinary Assessment Form

- i. The Appellant must provide a copy of the Disciplinary Assessment Form submitted to the API by the Complainant.
- ii. The Appellant must label the Disciplinary Assessment Form, Appendix 2.

3. Response Submission Form

- i. The Appellant must provide a copy of the Response Submission Form submitted by the Member to the API.
- ii. The Appellant must label the Response Submission Form, Appendix 3.

4. Professional Conduct Officer Report

- i. The Appellant must provide a copy of the Professional Conduct Officer Report submitted by the Professional Conduct Officer to the Professional Conduct Panel.
- ii. The Appellant must label the Professional Conduct Officer Report, Appendix 4.

5. Professional Conduct Panel Report

- i. The Appellant must provide a copy of the Professional Conduct Panel Report prepared by the Professional Conduct Panel.
- ii. The Appellant must label the Professional Conduct Panel Report, Appendix 5.

6. Appeal Form

- i. The Appellant must provide a copy of the Appeal Form prepared by the Appellant submitted to the API.
- ii. The Appellant must label the Appeal Form, Appendix 6.

7. Appeal Written Representations Form

- i. The Appellant must provide a copy of the Appeal Written Representations Form prepared by the Appellant submitted to the Appeals Tribunal Panel.
- ii. The Appellant must label the Appeal Written Representations Form, Appendix 7.

8. Supporting evidence

- i. The Appellant must provide a copy of all supporting evidence submitted to the API.
- ii. The Appellant must label the Supporting Evidence, Appendix 8.
- iii. The Appellant must separate the supporting evidence into the following categories:
 1. Correspondence
 2. Reports
 3. Letters
 4. Images
 5. Other
- iv. The Appellant must submit the supporting evidence in chronological date order. The first document being that which occurred first and the last document that which occurred most recently.

9. Appeal Supporting Evidence

- i. The Appellant must provide a copy of all supporting evidence they wish to rely on.
- ii. The Appellant must label the Appeal Supporting Evidence, Appendix 9.
- iii. The Appellant must separate the appeal supporting evidence into the following categories:
 1. Correspondence
 2. Reports
 3. Letters
 4. Images
 5. Other
- iv. The Appellant must submit the appeal supporting evidence in chronological date order. The first document being that which occurred first and the last document that which occurred most recently.

10. Acknowledgement

- 10.1. By completing and returning this Book, I acknowledge all information in this book, including the appendices, is true and correct, and I have read, understood and accept the privacy statement and collection notice contained on the following page.
- 10.2. I understand that I will be required to provide:
- (a) An electronic copy of the Appeal Book to the Professional Conduct Officer within fifteen (15) business days of confirmation of receipt of this Form; and
 - (b) A hard copy of the Appeal Book to the Professional Conduct Officer via registered post within twenty (20) business days of confirmation of receipt of this Form.
- 10.3. I understand and accept that I will bear any administrative costs associated with processing the Appeal if the Appeal is dismissed.
- 10.4. Pursuant to the API Appeals Tribunal Policy, I acknowledge and agree to the following:
- (a) The completion of this Book to the satisfaction of the Professional Conduct Officer;
 - (b) The Appeal Book has been submitted to the Professional Conduct Officer, electronically via email within 15 business days of confirmation of receipt of the Appeal Form;
 - (c) The Appeal Book has been submitted to the Professional Conduct Officer, a hard copy via registered post within 20 business days of confirmation of receipt of the Appeal Form;
 - (d) The API providing a copy of this Form and all supporting documentation to the Professional Conduct Panel and Appeals Tribunal Panel.

Signature of Appellant	
Name of Appellant	
Date of Submission - electronic copy	
Date of Submission – hard copy	

11. Return Details

11.1. You must return the completed Form to the below details:

To	The Professional Conduct Officer
Email	professionalconduct@api.org.au
Post	Level 3 60 York Street DEAKIN ACT 2600
Queries	1800 111 274 or professionalconduct@api.org.au

12. Privacy statement and collection notice

- 12.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 12.2. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 12.3. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

13. Review of the Book

- 13.1. This Book will be reviewed annually to ensure continued relevance to the operations of the API.
- 13.2. This review will include consultation with the API Board.
- 13.3. Amendments to this Book must be approved by the API Board.

APPENDIX 1: Professional Review Form

[insert a copy of the Professional Review Form]

APPENDIX 2: Disciplinary Assessment Form

[insert a copy of the Disciplinary Assessment Form]

APPENDIX 3: Response Submission Form

[insert a copy of the Response Submission Form]

APPENDIX 4: Professional Conduct Officer Report

[insert a copy of the Professional Conduct Officer Report]

APPENDIX 5: Professional Conduct Panel Report

[insert a copy of the Professional Conduct Panel Report]

APPENDIX 6: Appeal Form

[insert a copy of the Appeal Form]

APPENDIX 7: Appeal Written Representations Form

[insert a copy of the Appeal Written Representations Form]

APPENDIX 8: Supporting Evidence

7(a) Correspondence

[insert a copy of all correspondence in chronological date order]

7(b) Reports

[insert a copy of all reports in chronological date order]

7(c) Letters

[insert a copy of all letters in chronological date order]

7(d) Images

[insert a copy of all images in chronological date order]

7(e) Other

[insert a copy of any other documents submitted into evidence in chronological date order]

APPENDIX 9: Appeal Supporting Evidence

8(a) Correspondence

[insert a copy of all correspondence in chronological date order, you wish to rely on]

8(b) Reports

[insert a copy of all reports in chronological date order, you wish to rely on]

8(c) Letters

[insert a copy of all letters in chronological date order, you wish to rely on]

8(d) Images

[insert a copy of all images in chronological date order, you wish to rely on]

8(e) Other

[insert a copy of any other documents in chronological date order, you wish to rely on]

API THE AUSTRALIAN
PROPERTY
INSTITUTE

APIV LIMITED



Appeal Written Representation Form 2020

API Document
APIV Document

Reference: Appeal Written Representation Form
Effective: August 2020
Review: August 2021
Owner: API Board

**NOTE: effective date
subject to ACCC
authorisation**

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Introduction

The Appeals Tribunal Policy (**Policy**) provides a Member who is the subject of an adverse finding of Professional Misconduct, to exercise their right of appeal with the Appeals Tribunal by completing an Appeal Form (**Form**). Such a Member will be known as the Appellant. The Australian Property Institute Limited (**API**) Board chairperson, is responsible for the establishment and appointment of the Appeals Tribunal Panel (**Panel**).

The Appellant may raise an Appeal because they do not agree with the sanction(s) imposed by the Professional Conduct Panel and/or because the rules of procedural fairness were not afforded to the Appellant.

Once an Appeal has been raised with the Professional Conduct Officer by the Appellant, a Panel will be formed by the API Board chairperson. The Appellant will be required to provide Appeal Written Representation Form (**Representation Form**) as to the grounds in which they wish to raise an Appeal as part of preparing and submitting an Appeal Book (**Book**).

Upon receipt of the Book, each Panel member will meet to deliberate and consider the evidence put forward to the Panel prior to attending the Appeal hearing.

At the Appeal hearing, the Appellant will have the opportunity to voice their argument in support of their Representations of why the Appellant raised an Appeal.

The Panel will then reconvene post the Appeal hearing and deliberate and determine whether:

- The Appeal be dismissed; or
- The Appeal be upheld.

In determining the outcome above, the Panel will decide whether:

- The finding of the Professional Conduct Panel be upheld in its entirety;
- The finding of the Professional Conduct Panel be upheld with an order that any one or more sanction(s) be varied; or
- The finding of the Professional Conduct Panel be set aside with an order for the matter to be re-review, re-investigated and re-heard by a newly appointed Professional Conduct Panel if the rules of Procedural Fairness were not followed.

Should you have any queries or feedback regarding this process, please do not hesitate to contact us on 1800 111 274 or write to us at professionalconduct@api.org.au.

1. Purpose

- 1.1. The purpose of the Representation Form is to:
- (a) provide the Member a right of Appeal;
 - (b) ensure the Member has the opportunity to raise any issue(s) of concern identified in processing the matter;
 - (c) ensure the Member has the opportunity to present their arguments to the Appeals Tribunal Panel;
 - (d) maintain the rules of natural justice;
 - (e) provide administrative uniformity in handling Appeal matters;
 - (f) maintain reporting and recording obligations pursuant to the Professional Conduct Policy; and
 - (g) provide protection to the consumer, the community and the reputation of the professional property industry.

2. Definitions

- 2.1. The definitions below have been included in this Policy for the interpretation and understanding of certain stated terms.
- 2.2. Where a defined term is included in this Policy it is identified as a capitalised term.

API	The Australian Property Institute Limited (ACN 608 309 128).
API Board	Individuals nominated and appointed in accordance with the API Constitution and Nomination Policy to sit as API Board directors.
API Member	An individual who holds a current membership with the API.
APIV	The Australian Property Institute Valuers Limited (ACN 143 638 975).
APIV Member	An individual/ corporate entity who holds a current membership with the APIV and is a participant in a scheme administered by the APIV.
Appeal	A Member who may raise an Appeal in accordance with sections 5 and 6 of this Policy.
Appeal Book	A book which an Appellant must provide to the Professional Conduct Officer as described within section 4 of this Policy.
Appeal Form	A form prescribed by the API completed by the Appellant.
Appeal Written Representation Form	A form prescribed by the API completed by the Appellant.
Appeals Tribunal	A tribunal established under the Appeals Tribunal Policy to hear an appeal raised by the Member.
Appeals Tribunal Policy	An API policy which sets the guidelines and procedures for the formation and operation of an Appeals Tribunal to hear appeals regarding decisions of the Professional Conduct Panel.

Chief Executive Officer	A person appointed by the API Board to manage the overall operations and resources of the API and APIV.
Complainant	An individual or entity who provides written notification to the Professional Conduct Officer alleging Professional Misconduct by an API/APIV Member.
Disciplinary Assessment	Formal written notification of the API's allegations of Professional Misconduct contained in a Disciplinary Assessment Form completed in full by the Chief Executive Officer.
Disciplinary Assessment Form	A form prescribed by the API completed by the Chief Executive Officer.
Former Member(s)	An individual who does not hold a current membership with the API and/or APIV.
Member	A current or former API and/or APIV Member who is the subject of a Professional Review and/or Disciplinary Assessment.
Procedural Fairness	The elements of affording natural justice to a Member described within section 5 of the Representation Form.
Professional Conduct Committee	The persons appointed by the API Board, from which the Professional Conduct Panel is formed to consider and hear a Professional Review and/or Disciplinary Assessment.
Professional Conduct Committee Charter	An API charter which sets the guidelines and procedures for the formation and operation of the Professional Conduct Committee.
Professional Conduct Officer	A person appointed by the API Board to manage, investigate and respond to a Professional Review raised and/or undertaking of a Disciplinary Assessment.
Professional Conduct Panel	A panel formed from eligible members of the Professional Conduct Committee to consider and hear a Professional Review and/or Disciplinary Assessment pursuant to this Policy and the Professional Conduct Committee Charter.
Professional Misconduct	The conduct of an API and/or APIV Member that is in breach of their Professional Member Obligations.
Professional Member Obligations	The obligations of an API and/or APIV Member described within section 3 of this Policy.
Professional Review	Formal written notification of the Complainant's allegations of Professional Misconduct contained in a Professional Review Form completed in full by the Complainant.
Professional Review Form	A form prescribed by the API completed by the Complainant.
Response Submission Form	A form prescribed by the API completed in full by the Member who is the subject of a Professional Review and/or Disciplinary Assessment.

3. Appeal details

Please select why you have raised an Appeal.

3.1 Professional Conduct Panel Decision
--

- | |
|--|
| <input type="checkbox"/> Sanction(s) imposed |
|--|

3.2 Lack of Procedural Fairness
--

- | |
|---|
| <input type="checkbox"/> Transparency
<input type="checkbox"/> Respect
<input type="checkbox"/> Neutrality
<input type="checkbox"/> Awareness of issue(s) of concern
<input type="checkbox"/> Review and investigation of issue(s) of concern
<input type="checkbox"/> Opportunity to respond
<input type="checkbox"/> Right to a hearing
<input type="checkbox"/> Reason(s) provided
<input type="checkbox"/> Notifications throughout the process |
|---|

4. Reason(s) for raising an Appeal

4.1 Explain why your Appeal should be upheld? (No more than 5 pages long)

5. Natural justice

- 5.1. The API pride themselves in ensuring that all parties to a dispute are afforded natural justice by following and applying the rules of procedural fairness when processing and handling:
- (a) A Professional Review;
 - (b) A Disciplinary Assessment; and
 - (c) An Appeal.
- 5.2. Please select the elements of procedural fairness that were followed when processing the issue(s) of concern. If you have selected any one or more of the items listed below in section 5.3 and have explained why in section 4.1, please skip to section 6.

5.3 Elements of Procedural Fairness	5.4 For the unticked elements, provide an explanation of why you believe this element was not followed
<input type="checkbox"/> Transparent process	
<input type="checkbox"/> Respectful environment	
<input type="checkbox"/> Neutrality	
<input type="checkbox"/> Awareness of issue(s) of concern	
<input type="checkbox"/> Review and investigation of issue(s) of concern	
<input type="checkbox"/> Opportunity to respond	
<input type="checkbox"/> Right to a hearing	
<input type="checkbox"/> Reason(s) provided	
<input type="checkbox"/> Notified throughout the process	

6. Supporting evidence

- 6.1. Supporting evidence is crucial to the Appeal raised by you. For the Appeals Tribunal Panel to properly consider the Appeal raised by you, you must ensure you provide all evidence, in your Appeal Book, you deem relevant to support your argument(s) in the Appeal raised.

7. Acknowledgement

- 7.1. By completing and returning the Representation Form, I acknowledge all information in the Representation Form, is true and correct, and I have read, understood and accept the privacy statement and collection notice contained on the following page.
- 7.2. I understand that I will be required to provide the Representation Form as an appendix to the Appeal Book.
- 7.3. I understand and accept that I will bear any administrative costs associated with processing the Appeal if the Appeal is dismissed.

Signature of Appellant	
Name of Appellant	
Date	

8. Return details

- 8.1. You must return the completed Representation Form to the below details:

To The Professional Conduct Officer
Email professionalconduct@api.org.au
Post Level 3
 60 York Street
 DEAKIN ACT 2600
Queries 1800 111 274 or professionalconduct@api.org.au

9. Privacy statement and collection notice

- 9.1. Australian Property Institute Limited (ACN 608 309 128), and related entities (together API) need to collect your personal information contained on this form to investigate your complaint in accordance with the API Professional Conduct Policy.
- 9.2. All personal and sensitive information is held by API and its staff in accordance with the API Privacy Policy.
- 9.3. By providing API with your personal information, you will be deemed to have read, understood and accepted API's Privacy Policy, as amended from time to time, and the most recent version of which is made available on the API website.

10. Review of the Representation Form

- 10.1. The Representation Form will be reviewed annually to ensure continued relevance to the operations of the API.
- 10.2. This review will include consultation with the API Board.
- 10.3. Amendments to the Representation Form must be approved by the API Board.