



Wireless Access Providers' Association Complaints & Disciplinary Procedure

Version 2

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1. General

- 1.1. In providing a mechanism for resolving complaints, WAPA aims to ensure that:
 - 1.1.1. Members maintain the standards of behaviour and service set out in the WAPA [Code of Conduct](#);
 - 1.1.2. Members and consumers have access to a fair, equitable and inexpensive process for dealing with complaints;
 - 1.1.3. There is an avenue for appeals following a decision on a complaint;
 - 1.1.4. Every effort is made by WAPA to resolve complaints and appeals in a timely and effective manner;
 - 1.1.5. All parties are given the opportunity to present their case, be fully informed about allegations and decisions made and have the right to representation.
- 1.2. All WAPA Members that provide wireless access services have the licences required by law and are bound by the WAPA [Code of Conduct](#), which is in keeping with current regulations and contains rules and best practices.
- 1.3. The WAPA Management Committee is tasked with dealing with all complaints received, and has designated the WAPA Secretariat the contact person and facilitator for all complaints.
- 1.4. WAPA will maintain records of all complaints and disciplinary processes for 3 years.
- 1.5. The complainant has the right to withdraw a complaint at any time prior to appointment of the independent adjudicator.
- 1.6. The timelines indicated in the Complaints and Disciplinary Procedure are indicative only and do not constitute a service level commitment.
- 1.7. If there is evidence that a complaint or dispute has been lodged, or action has been instituted, with any other regulatory body or a Court, and where the subject matter of that complaint, dispute or action is substantially the same as the subject matter of the complaint lodged with WAPA, then WAPA may dismiss the complaint.
- 1.8. Where a complaint cannot be resolved by WAPA, the complainant may pursue other avenues for resolution of his complaint (including but not limited to approaching [ICASA](#), [the courts](#), [the police](#)).
- 1.9. WAPA reserves the right to investigate any transgression of or non-compliance with the Code of Conduct by a Member, and to lodge a complaint against that Member using the process outlined below.



2. Consumer Complaints Procedure

- 2.1. The complainant must submit a complaint to WAPA by filling in the [online complaints form](#) or sending an email in the appropriate format.
- 2.2. The complaint must contain the following:
 - 2.2.1. the name of the [WAPA Member](#) against whom the complaint is being made;
 - 2.2.2. the name and contact details of the complainant;
 - 2.2.3. an indication of the sections of the WAPA [Code of Conduct](#) which have allegedly been breached;
 - 2.2.4. a detailed description of the actions/inactions which resulted in the alleged breach;
 - 2.2.5. a summary of evidence (eg emails, reports of phone conversations) in support of the complaint;
 - 2.2.6. confirmation that the complainant has exhausted every available option to resolve the dispute directly with the WAPA Member, including following the WAPA Member's complaints procedure;
 - 2.2.7. an undertaking that the complaint is made in good faith; and
 - 2.2.8. where appropriate, the complainant may suggest a satisfactory resolution process.
- 2.3. If the complaint lacks sufficient information, the complainant will be given an opportunity to provide the required information. A complaint will not be considered if it is deemed to be incomplete.
- 2.4. An acknowledgement of receipt will be sent to the complainant within 3 working days for complaints validly received. If this is not sent, it is suggested that the complainant query whether the complaint has been received by emailing info@wapa.org.za or calling 021 701 2511.
- 2.5. WAPA will assess the complaint, and will seek advice from the WAPA regulatory advisor if appropriate.
- 2.6. WAPA will first follow an informal resolution process, which entails the following:
 - 2.6.1. WAPA will forward the complaint to the relevant WAPA member, and request that the Member respond within 5 working days. On request and at WAPA's discretion, an additional 5 working days may be allowed.
 - 2.6.2. WAPA will forward the Member response to the complainant, and request that the complainant advise if the complaint has been dealt with satisfactorily.
 - 2.6.3. If the complainant is satisfied with the Member response, the complaint will be considered to be resolved.



- 2.7. If no satisfactory resolution is found following the informal resolution process, or the Member fails to respond within the allocated timelines, then the complaint will be escalated to the formal resolution process as detailed hereunder.
- 2.8. In terms of the formal resolution process, the complaint (and responses) will be forwarded for resolution to an independent adjudicator appointed by WAPA.
- 2.9. The WAPA Secretariat will act as liaison between the independent adjudicator and the complainant/WAPA Member.
- 2.10. The independent adjudicator must consider the merits of the complaint, taking into account:
 - 2.10.1. The complaint;
 - 2.10.2. The WAPA Member's response to the complaint;
 - 2.10.3. The Code of Conduct;
 - 2.10.4. The associated practical recommendations;
 - 2.10.5. Any previous complaints made by the complainant;
 - 2.10.6. Any previous complaints made against the WAPA Member.
- 2.11. The independent adjudicator may request additional information relevant to the complaints from the complainant/WAPA Member, and will specify a time frame for the provision of this information. If the required information is not provided within the specified time frame, the independent adjudicator must proceed to evaluate the complaint without the additional information.
- 2.12. In evaluating the complaint, the independent adjudicator must take the following into account:
 - 2.12.1. precedent;
 - 2.12.2. prior record of the WAPA Member;
 - 2.12.3. damages caused as a consequence of the breach of the Code of Conduct; and
 - 2.12.4. any other mitigating or aggravating factor which an adjudicator deems relevant.
- 2.13. After evaluating the matter, the independent adjudicator can make one or more of the following resolutions:
 - 2.13.1. The complaint is not valid;
 - 2.13.2. The complaint is referred back to the WAPA Member with a further opportunity for remedial action within a specified time frame;
 - 2.13.3. The WAPA Member must undertake appropriate remedial action (including the provision of a refund), as specified;
 - 2.13.4. The WAPA Member is issued with a formal reprimand or warning;
 - 2.13.5. The WAPA Member is fined;



- 2.13.6. The WAPA Member must take-down content (when the complaint stems from a valid take-down notification);
 - 2.13.7. The WAPA Member is to be suspended from WAPA subject to conditions determined by the independent adjudicator;
 - 2.13.8. The WAPA Member's membership of WAPA is to be revoked;
 - 2.13.9. WAPA should publish a report containing the identity of the WAPA Member, the details of the breach of the Code of Conduct, and any action taken regarding the breach; and/or
 - 2.13.10. WAPA is to report unlawful conduct or content to the relevant law enforcement authority.
- 2.14. The independent adjudicator shall deliver his resolutions together with reasons therefor in a written report, which the WAPA Secretariat will forward to the complainant, the WAPA Member concerned, the WAPA Management Committee and the WAPA regulatory advisors.

3. Consumer Appeals Procedure

- 3.1. The complainant or the WAPA Member may lodge an appeal together with full reasons therefore with the WAPA Management Committee within 10 working days of the distribution of the independent adjudicator's resolution to the parties. A complaint can only be appealed once to the Management Committee. If no appeal is lodged within ten working days, then the matter will be considered closed.
- 3.2. If an appeal is lodged, then the WAPA Management Committee can either reject the appeal or refer the matter for independent adjudication by panel. A copy of the WAPA Management Committee's decision and the reason for the decision will be sent to both appellant and the respondent.
- 3.3. WAPA will appoint a panel to hear the appeal, which will consist of 2 or more independent adjudicators.
- 3.4. The appeal will follow the formal resolution process set out above, but with the appeals panel fulfilling the role of the independent adjudicator.
- 3.5. WAPA is entitled to require a deposit from the appellant. The appeals panel may indicate that the respondent should bear the liability for the deposit in their resolution.

4. Procedure for Member Complaints against other Members

- 4.1. WAPA Members may approach WAPA for resolution of complaints against other WAPA Members where they have not been able to resolve the matter directly with the other WAPA Member.



- 4.2. The complaint will follow the Consumer Complaint Procedure with the necessary adjustments. The complainant is to submit a complaint containing the required information, and the complaint will then proceed to the informal resolution process.
- 4.3. If necessary, the complaint will be escalated to the formal resolution process. The complainant may be required to pay a deposit in order for the matter to proceed to the formal resolution process, and the independent adjudicator may indicate that the respondent should bear the liability for the deposit in his resolution.
- 4.4. If either party is not satisfied with this resolution, they can lodge an appeal. The appeal will follow the Consumer Complaints Procedure with the necessary adjustments. The appellant may be required to pay a deposit in order for the matter to proceed to the formal resolution process, and the appeal panel may indicate that the respondent should bear the liability for the deposit in their resolution.

5. Interference Complaints

- 5.1. WAPA is not able to resolve interference complaints in licence-exempt bands, whether between WAPA Members or non-members.
- 5.2. WAPA can however assist in interference complaints in the licence-exempt bands. Such assistance can take the following forms:
 - 5.2.1. Facilitating electronic and telephonic communication between WAPA Members as a neutral party;
 - 5.2.2. Making a spectrum analyser available for hire, and making a request on the relevant forum that another WAPA Member volunteer to attend the site as a neutral party, as well as assist the parties in resolving the complaint between them;
 - 5.2.3. Suggesting an independent consultant to review the matter and assist the WAPA Members in resolving the complaint, with all costs for the independent consultant being for the WAPA Members' accounts;
 - 5.2.4. Providing ICASA's contact details, if such complaint can be escalated to ICASA.
- 5.3. Where WAPA receives a complaint about a WAPA Member causing interference in a licensed band, then WAPA will notify the WAPA Member implicated and afford them the opportunity to respond directly to the complainant. WAPA reserves the right to suspend or revoke a WAPA Member's membership of WAPA if repeated and valid complaints related to causing interference in licensed bands are received against such WAPA Member.

6. Complaints against non-members

- 6.1. WAPA can only act if the company in question is a [WAPA Member](#). As non-members are not bound by the WAPA Code of Conduct, WAPA cannot process complaints such company except to offer to act as intermediary, which will be decided on a case-by-case basis.



7. Complaints about Illegal Operators

- 7.1. Illegal operators are those providing services without the licences required by law.
- 7.2. WAPA has a standard form for the submission of information regarding illegal operators, which will be sent on request.
- 7.3. The complainant is requested to do background checks to determine the licensing status of the companies implicated, as well as providing the detailed information requested in the standard form.
- 7.4. WAPA will make contact with the illegal operator, and invite them to join WAPA so that WAPA may assist such operator to obtain the required licences and regularise its operations. Alternatively, WAPA requests that the operator provide copies of its licences to indicate that it is not an illegal operator.
- 7.5. If the operator does not respond, does not provide copies of its licences or does not show any intention of obtaining the required licences, then WAPA will forward the standard form to ICASA.
- 7.6. WAPA cannot provide any undertakings on behalf of ICASA and its chosen resolution of the complaint. WAPA will assist ICASA as required, and will ask the complainant to assist ICASA if required.