

**BOWEN COMMUNITY BROADCASTING ASSOCIATION INC.**  
**95.1 GEMFM**



**INTERNAL CONFLICT POLICY**

**Interpretation:**

The Act: The Broadcasting Services Act 1992 (BSA)

The Code: The Community Radio Broadcasting Codes of Practice 2008 (CBAA) Code 1.5

The Rules: 95.1 GEMFM- Registered constitution 12<sup>th</sup> September 2022

Association Incorporation Act 1981: Section 47A- Grievance Procedure.

**Purpose**

This policy relates to how to resolve internal grievances and disputes that arise between members of the station and complaints made by one member against another or other members. As of 1<sup>st</sup> July 2024, 95.1 GEMFM will adopt (automatically) into our Constitution, the Dispute Resolution Procedure as set out by Office of Fair Trading Qld. This will comply with section 47A of the Association Incorporation Act 1981 (refer below)

**Policy-** 95.1 GEMFM recognises that the issue of complaint is important to the complainant and must be taken seriously. Resolving complaints, where possible, to the satisfaction of the complainant is the goal of the complaints policy process. This policy sets out how to make a complaint and resolve a complaint.

**Grievance Procedure 47A**

1. The rules of an incorporated association may set out a grievance procedure for dealing with any dispute under the rules between-
  - (a) A member and another member
  - (b) A member and the management committee
  - (c) A member and the association
2. The grievance procedure must include mediation and may provide for a person to decide the outcome of the dispute.
3. A member may appoint any person to act on behalf of the member in the grievance procedure.
4. In applying the grievance procedure, the association must ensure that-
  - (a) Each party to the dispute has been given an opportunity to be heard on the matter the subject of the dispute.
  - (b) The mediator, and any person engaged under the rules to decide the outcome of the dispute, is unbiased.
5. If a member has initiated a grievance procedure in relation to a dispute between the member and the association, the association must not take disciplinary action against any of the following persons in relation to the matter and the subject of the grievance procedure until the grievance procedure has been completed-
  - (a) The member who initiated the grievance procedure (the complainant member)
  - (b) A member of the association appointed by the complainant member under subsection (3) to act on behalf of the complainant member in the grievance procedure.
6. If the rules of an incorporated association do not set out a grievance procedure that is consistent with subsection (2), (3), (4) and (5), the rules of the association are taken to include the provisions of the model rules providing for the grievance procedure.
7. To remove any doubt, it is declared that subsection (6) applies even if the rules of an incorporated association provide, as permitted under section 47(3), that 47(1) does not apply.

**Model Rules Grievance Procedure** which will be adopted by 95.1GEMFM Constitution on 1<sup>st</sup> July 2024.  
As per Office of Fair Trading Qld

### **12A Grievance Procedure**

1. This rule sets out a grievance procedure for dealing with a dispute under the rules between parties as mentioned in section 47A(1) of the Act.
2. To remove any doubt, it is declared that the grievance procedure can not be used by a person whose membership has been terminated if the rules provide for an appeal for an appeal process against termination.
3. A member (the aggrieved party) initiates the grievance procedure in relation to the dispute by giving notice in writing of the dispute:
  - (a) To the other party; and
  - (b) If the other party is not the management committee, to the management committee.
4. If 2 or more members initiate a grievance procedure in relation to the same subject, the management committee may deal with the disputes in a single process and the members must choose 1 of the members (also the aggrieved party) to represent the members in the grievance procedure.
5. Subject to rule 12B, the parties to the dispute must, in good faith, attempt to resolve the dispute.
6. If the parties to the dispute cannot resolve the dispute within 14 days after the aggrieved party initiates the grievance procedure, the aggrieved party may, within a further 21days, ask the associations secretary to refer the dispute to mediation.
7. Subject to rule 12B, if the aggrieved party asks the associations secretary to refer the dispute to mediation under subrule (6), the management committee must refer the dispute within 14 days after the request.

### **12B Grievance procedure not continued in particular circumstances.**

1. This rule applies if –
  - (a) A member initiates a grievance procedure in relation to a dispute and the association or associations management committee is the other party to the dispute; or
  - (b) The aggrieved party asks the associations secretary to refer the dispute to mediation under rule 12A(6).
2. The management committee does not have to act under rule 12A(5) or (7) if-
  - (a) The aggrieved party has, within 21 days before initiating the grievance procedure, behaved in a way that would give the management committee grounds for taking disciplinary action under the rules against the aggrieved party in relation to the matter the subject of the grievance procedure: or
  - (b) Before the grievance procedure was initiated, a process had started to take action under the rules against the aggrieved party or terminate the aggrieved party's membership, as provided for under the rules, and the dispute relates to that process or to a matter relevant to that process; or
  - (c) The dispute relates to an obligation under the Liquor Act 1992 or any other State Law to prevent the entry of the aggrieved party to, or to remove the aggrieved party from, premises used by the association, or to refuse to serve liquor to the aggrieved party at the premises; or
  - (d) The dispute could reasonably be considered frivolous, vexatious, misconceived, or lacking in substance or the dispute relates to a matter that has already been subject of grievance procedure.

### **12C Appointment of Mediator**

1. If a dispute under rule 12A is referred to mediation-
  - (a) The parties to the dispute must decide a mediator to conduct the mediation; or
  - (b) If the parties are unable to agree on the appointment of a mediator within 14 days after the dispute is referred to mediation, the mediator must be-
    - (i) For a dispute between a member and another member- a person appointed by the management committee; or
    - (ii) For a dispute between a member and the management committee or the association- an accredited mediator or a mediator appointed by the director of the dispute resolution centre.
2. An accredited mediator may refuse to be the mediator, or the director of a dispute resolution centre may refuse to appoint a mediator, to mediate the dispute.
3. If subrule (2) applies, the parties may seek to resolve the dispute in accordance with the Act or otherwise at Law.

### **12D Conduct of Mediation**

1. If a mediator is appointed under rule 12A, the mediator must start the mediation as soon as possible after the appointment and try to finish the mediation within 28 days after the appointment.
2. Subrule (1) does not apply if the mediator is the director of a dispute resolution centre.
3. The mediator-
  - (a) Must give each party to the dispute an opportunity to be heard on the matter the subject of the dispute; and
  - (b) Must comply with natural justice; and
  - (c) Must not act as an adjudicator or arbitrator; and
  - (d) During the mediation, may see the parties, with or without their representatives or separately.
4. The parties to the dispute must act reasonably and genuinely in the mediation and help the mediator to start and finish the mediation within the time required under subrule (1)
5. The costs of the mediation, if any, are to be shared equally between the parties, unless otherwise agreed.
6. If the mediator cannot resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### **12E Representation for grievance procedure**

1. A party to a dispute may appoint any person to act on behalf of the party in the grievance procedure.
2. If a party appoints a person under subrule (1) to be the party's representative, the party must give written notice of the appointment to each of the following entities-
  - (a) The other party to the dispute
  - (b) The management committee
  - (c) If a mediator has been appointed before the party appoints the representative- the mediator.
3. A representative who acts for a party at mediation must-
  - (a) Have sufficient knowledge of the matter the subject of the dispute to be able to represent the party effectively; and
  - (b) Be authorised to negotiate an agreement for the party.

### **12F Electronic communication for grievance procedure**

Any meeting or mediation session required under the grievance procedure may be conducted by electronic means if the parties to the dispute and, for a mediation, the mediator agrees.