

Code Administrator's Complaints Handling and Breaches Procedure

January 2023



Australian
Carbon Industry
Code of Conduct



Purpose and Scope

The Carbon Industry Code of Conduct seeks to set a higher standard of practice than current legislation requires, and in doing so create consistency of practice across industry and improve the baseline performance of market participants. This is in line with the Code's mission to enhance the integrity, transparency and accountability of Australia's carbon industry.

This document details the process by which the Carbon Market Institute in its capacity as Code Administrator will respond to complaints and suspected breaches of the Code. This procedure has been developed to align with the Joint Australian/New Zealand Standard Guidelines for complaint management in organizations (AS/NZS 10002:2014).

The scope of this Procedure is relevant to the definitions of *Complaint*, *Complainant*, *Breach* and *Dispute* as defined in the Code. In summary, these are:

- **Complaint:** an expression of dissatisfaction with an action or service of a Signatory where a response or resolution is explicitly or implicitly expected (see AS/NZS 10002:2014).
- **Complainant:** a client, stakeholder or other party who lodges a complaint.
- **Breach:** any failure to comply with the Code including the Code rules, and other documentation referred to in the Code.
- **Dispute:** a complaint by a client in relation to a Code Signatory, that has not been immediately resolved when brought to the attention of that Signatory.

There are two types of breaches that the Administrator investigates in the process to determine if a breach has occurred:

1. **Suspected Breach:** these originate from complaints from clients or stakeholders, Signatory self-reporting, Signatory reporting of other Signatories, and from Administrator compliance monitoring activities. They contain information that a Signatory's behaviour and/or actions may have breached Code rules (but have not yet been substantiated through investigation).
2. **Alleged Breach:** these originate from suspected breaches and are where the Administrator has investigated a suspected breach and requests a Signatory that is the subject of a suspected breach to formally respond to the breach allegation.



Procedure

The following outlines the Administrator's procedure to handle complaints and both types of breaches.

1. Complaints and Suspected Breaches

- 1.1. Complainants are required to contact the Signatory against which they are making a complaint in the first instance, prior to notifying the Administrator, as outlined in the **Working with Signatories - Guidance for Consumers** available on the Code website's [Resources](#) page. Signatories to the Code are required to separately inform the Administrator upon the receipt of a complaint.
- 1.2. Having lodged a complaint with a Signatory or the relevant consumer protection organisation, the complainant may still lodge a complaint with the Administrator.
- 1.3. The Signatory is required to be responsive and deal appropriately with complaints received from clients and other stakeholders in a timely manner, as outlined in the **Handling Complaints and Breaches - Guidance for Signatories** available on the Code website's [Resources](#) page.
- 1.4. If a Signatory suspects another Signatory has breached the Code, the Signatory must take reasonable steps to contact the Signatory suspected of breaching the Code before informing the Administrator of a suspected breach. Signatories must also provide the Signatory subject to a suspected breach the opportunity to self-report the breach within the timeframes for self-reporting set out in the Code.
- 1.5. In some instances, it may not be possible for a Signatory to contact another Signatory suspected of breaching the Code. In these situations, Signatories can raise the suspected breach directly with the Administrator providing reasons why they could not contact the other Signatory about the suspected breach.
- 1.6. If complainants are unsatisfied with outcomes from raising complaints with Signatories or if Signatories wish to self-report, complaints and suspected breaches can be raised with the Administrator by:
 - a) clients or any other person or body using the **Client Complaint Form** available on the Code website's [Resources](#) page. To be used by a complainant to notify the Administrator that:
 - (i) they have made a complaint against a company identifying itself as a Signatory to the Code, either directly to the Signatory or through a relevant consumer protection organisation or
 - (ii) that they are not satisfied with the outcome after lodging a complaint with a Signatory.
 - b) clients or any other person or body emailing the Administrator's inbox directly;
 - c) self-reporting by Signatories using the **Signatory Self-Reporting Form** available on the Code website's [Resources](#) page. To be used by a Signatory to notify the Administrator upon:
 - (i) receiving a complaint against them from a complainant or
 - (ii) being notified by the relevant body of receipt of a complaint or
 - (iii) self-reporting of a suspected breach that they have identified through other means.
 - d) Signatories reporting suspected breaches of other Signatories using the **Signatory Breach Reporting of Another Signatory Form** available on the Code website's [Resources](#) page;
- 1.7. The Administrator can also initiate investigations of breaches through compliance monitoring activities.
- 1.8. Evidence of breaches can be taken from any other source, including:
 - a) audit compliance checks;
 - b) self-audit checklists completed by Signatories;
 - c) feedback from clients obtained through client satisfaction surveys;
 - d) investigation of cases in which Signatories may have breached the Code;
 - e) analysis of conciliation and arbitration cases;
 - f) analysis of client complaints;



- g) media reports;
 - h) Signatory renewal process;
 - i) information received from other Signatories; and
 - j) any additional sources.
- 1.9. Written acknowledgment of receipt of a complaint or suspected breach will be sent by the Administrator to the complainant or Signatory within three (3) business days of the Administrator receiving notification.
- 1.10. The Administrator will securely record all information received in relation to complaints and breaches in an electronic file in an internal register. All commercial-in-confidence information will be treated with appropriate confidentiality and subject to the requirements of relevant laws, in particular the Privacy Act 1988.
- 1.11. If the Administrator determines that the alleged behaviour does not fall within its jurisdiction as the entity subject to a complaint or breach is not a Signatory or the complaint does not relate to the Code, the Administrator will:
- a) inform the complainant within ten business days of receiving the complaint that he or she should redirect the complaint to the relevant consumer protection agency or other body.
- 1.12. If the Administrator determines that the alleged behaviour may constitute a breach of the Code then a full investigation will take place using section 2 and section 3 of these procedures.

2. Investigating an Alleged Breach

- 2.1. Where the Administrator determines that a breach may have occurred then further investigation will take place to allow the Administrator to gather the necessary information to inform the Signatory.
- 2.2. Where the only source of information on a potential breach is raised by a third party, evidence of the breach will be requested from the third party as required.
- 2.3. The Administrator will as soon as practicable provide the Signatory subject to an alleged breach with:
- a) a complete list of allegations made against it including what sections of the Code have been potentially breached; and
 - b) copies of all documentation provided to the Administrator as evidence of the alleged breach or breaches; and
 - c) where the complainant is not an individual person, the name of the complainant.
 - d) summary of how many breaches have been recorded against them in past 12 months.
- 2.4. The Signatory will have 21 days from the date of being notified by the Administrator of the alleged breach to respond to the allegations and provide evidence of its response:
- a) Where the Signatory does not dispute the allegation, it must provide the Administrator with a written explanation of the action it has taken to rectify the breach and to ensure the breach will not occur again.
 - b) Where the Signatory disputes the allegation and does not provide the Administrator with evidence to support its position, the Administrator will proceed with its investigation of the complaint.
- 2.5. The Administrator will investigate an alleged breach of the Code where it has classified the alleged behaviour as constituting a breach of the Code and:
- a) the Signatory disputes the allegation made against it and does not provide the Administrator with a satisfactory explanation or evidence to support its position; and
 - b) the Signatory does not provide a response to the allegation made against it within 21 days of the Administrator's request (see section 2.4 above).



- 2.6. Where the Administrator determines to investigate an alleged breach of the Code, they will develop an investigation plan. The plan will be designed in accordance with this **Complaints Handling and Breaches Procedure** and to meet the specific requirements of the investigation. The Administrator will investigate alleged breaches using various means, including one or more of the following:
 - a) speaking with all involved parties;
 - b) requesting more information as required;
 - c) auditing the Signatory's procedures where relevant;
 - d) talking to external organisations if required; and
 - e) the Signatory presenting information to the Administrator as requested.
- 2.7. Before reporting the Administrator's findings to the Signatory or to the complainant, all the Administrator personnel who devised the investigative procedure will consider the findings and the sanction.

3. Imposing Sanctions

- 3.1. In the first three years of the Operational Stage of the Code all cases with proposals to apply severe sanctions (see actions / sanctions 3.7 of the Code) will be referred to the Code Review Panel (Review panel).
- 3.2. Where a breach of the Code is determined and section 2.5 of this document has not been satisfied, depending on the severity of the breach (see Breach Matrix in section 3.6 of the Code), the Administrator will either:
 - a) inform the Signatory in writing of its decision and any action or sanction to be applied in accordance with section 3.7 of the Code or
 - b) provide documentation relating to the breach along with recommended course of action to the Review Panel for consideration.
- 3.3. After one month has passed from the date of the notice given in 3.1 a) above, the Administrator will:
 - a) if the Signatory has not appealed the decision:
 - (i) notify the complainant of the outcome; and
 - (ii) ensure sanction requirements have been completed in required timeframe; and
 - (iii) record the outcome in an electronic file in a register for use in the Annual Report and as otherwise required; or
 - b) if the Signatory has appealed the decision:
 - (i) notify the complainant and Signatory that the matter has been referred to the Review Panel; and
 - (ii) prepare the necessary documentation for the Review Panel.
- 3.4. Where a breach of the Code is determined not to have occurred, the Administrator will inform the Signatory and complainant in writing of its decision.

4. Appealing a decision of the Code Administrator

- 4.1. A Signatory is entitled to appeal the Administrator's ruling to the Review Panel (see Section 3.9 of the Code). An appeal may be made if:
 - a) a Signatory believes that the Administrator did not exercise reasonable discretion; or
 - b) a Signatory was denied natural justice; or
 - c) new evidence is revealed that was not made available to the Administrator in the process of making the original determination.
- 4.2. Appeals must be lodged within one month of the original determination by the Administrator.



- 4.3. Appeals must be lodged by completing the **Compliance Appeals Form** on the Code website's [Resources](#) page .
- 4.4. Where an appeal is lodged, the Administrator will acknowledge receipt of the Compliance Appeal form within 3 business days of receipt and will advise the Signatory of the date of the next Review Panel meeting at which the appeal will be heard.
- 4.5. If a breach is referred to the Review Panel (either by the Administrator, or by appeal), the Administrator will provide documentation relating to the breach, along with a recommended course of action to the Review Panel for consideration.
- 4.6. The Panel will consider and provide a ruling on the appeal in writing, along with reasons for the determination and the subsequent action, if any, that will be taken. The Signatory may be called to present information to the Panel.
- 4.7. All parties involved in the breach will be notified in writing of the outcomes of the investigation, along with reasons for the determination, as soon as reasonably practicable.
- 4.8. All decisions by the Review Panel are binding and there is no further right of appeal.

5. Suspensions or removal from the Code

- 5.1. In the first three years of the Operational Stage of the Code all cases with proposals to suspend or remove a Signatory will be referred to the Review Panel.
- 5.2. Suspension or removal of a Signatory can occur if:
 - a) the Signatory fails to provide evidence that they have rectified or addressed a breach of the Code within a reasonable timeframe; or
 - b) the Signatory has multiple breaches that signify a systemic failure to adhere to the Code.
- 5.3. If suspended, the Signatory is given 30 days to remove suspension by providing evidence that non-compliance has been rectified. Suspension will remain until Administrator is satisfied with Signatories' response.
- 5.4. If Administrator is not satisfied with a Signatories' response, then a breach will be referred to Review Panel (refer to 4.5 of this document).
- 5.5. If this is the 3rd suspension for the Signatory in a 12-month period, the matter will be referred to Review Panel to have the Signatory removed.
- 5.6. If a Signatory has breaches that involves serious, wilful, systemic or repetitive non-compliance which is detrimental to clients the matter will be referred to Review Panel to have the Signatory removed.
- 5.7. Review Panel may choose to hear and decide on the removal of Signatory status outside of scheduled sitting sessions.
- 5.8. Any Signatory that has their Signatory status removed will be unable to reapply for six months from date of removal.
- 5.9. Suspended or removed Signatories from the Code are given 5 business days to cease:
 - a) describing itself as a Signatory to the Code;
 - b) use the Code brand mark; and
 - c) advertise or portray itself as in any way being connected to the Code.
- 5.10. Signatories who do not comply with 5.9 of these procedures will have a severe breach recorded against them.
- 5.11. Where a Signatory is removed from the Code, fees will not be refunded.
- 5.12. If removed, an organisation is unable to apply for reinstatement of their status for six months, and may be required to undertake a probationary period of review before being readmitted, Subsequent application and/or probationary fees will occur.



6. Data collection, reporting and publishing

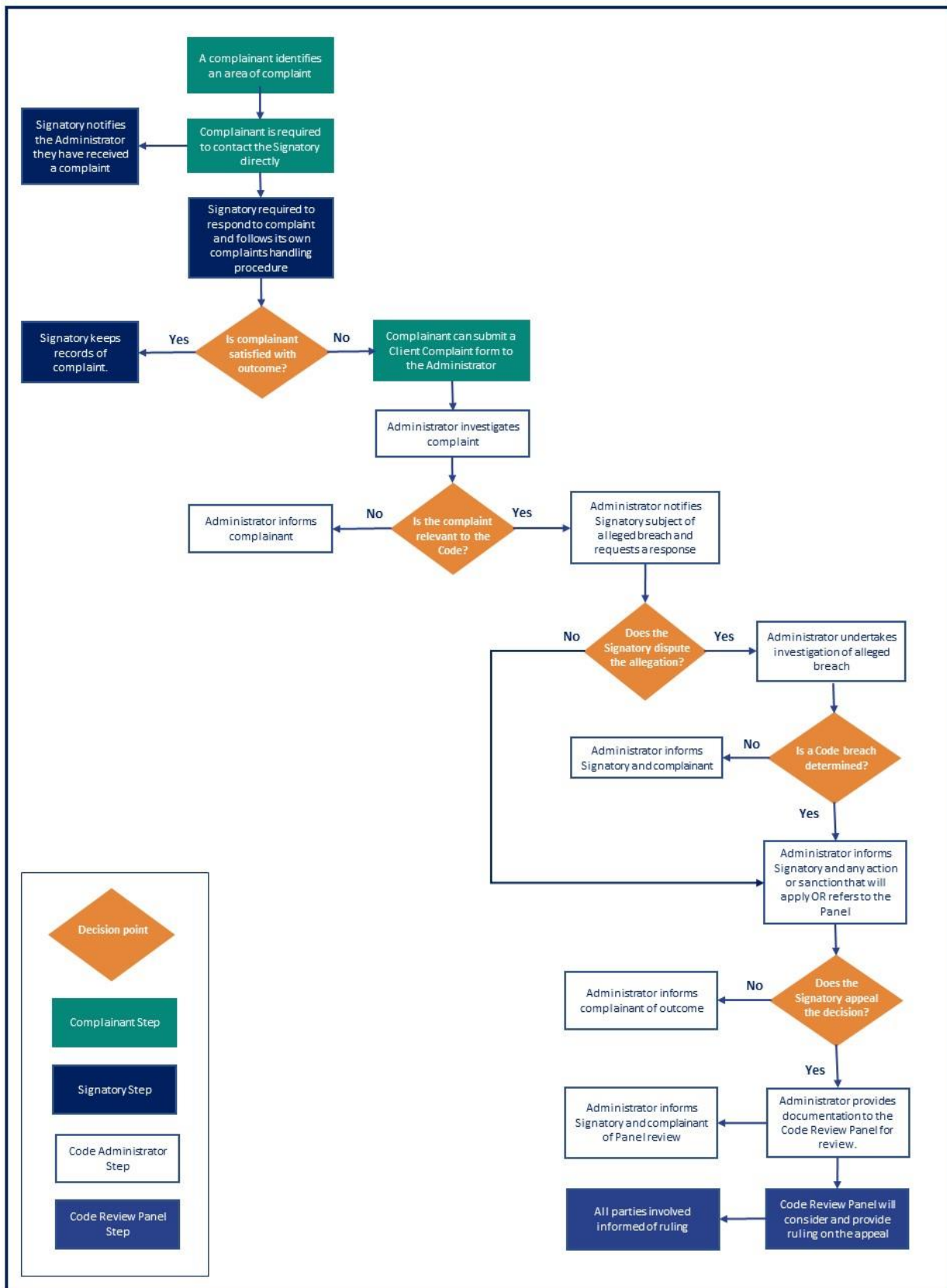
- 6.1. It is critical to record and analyse data on complaints and breaches to ensure the Code remains effective. The Code Administrator will do this by:
 - a) obtaining access, where possible, to public and certain non-public information on Signatories' compliance activities under regulatory or other carbon/and/or overlapping co-benefit schemes; and
 - b) collating complaints and breaches data supplied by Code Signatories.
- 6.2. This data will be analysed and used to track the effectiveness of the Code, to reduce administrative burden for Signatories and the Administrator; and to highlight newly arising problem areas that may need to be addressed by the Code. A regular summary of this data will be reported to the Review Panel by the Administrator.
- 6.3. All investigations of breaches will be recorded in an electronic file in a register.
- 6.4. All breaches, actions and sanctions occurring each year will be reported in the Code's annual report. This information will not identify the names of any Signatories, except for:
 - a) cases where a Signatory has been removed or suspended from the Code; and
 - b) severe breaches that are not rectified by the Signatory, as outlined in section 3.7(2) of the Code.
- 6.5. All investigations of alleged breaches that result in a breach or action or sanction will also be available on Code website (see section 3.7 and 3.6 of the Code) as follows:

Type of breach or sanction	Publication of information
Minor and medium breaches	Not listed on the website.
Major and severe breaches	Listed on the website. No Signatory name listed.
Unrectified Severe breaches	Listed on the website. Signatory name will be listed.
Suspension	Listed on the website on Suspensions table. Signatory name, suspension reason and date of suspension will be listed.
Removal	Listed on the website on Removals table. Signatory name, removal reason and date of removal will be listed.

- 6.6. This **Complaints Handling and Breaches Procedure** will be analysed in the annual review of the Code by the Review Panel or as requested by Administrator.
- 6.7. This procedure will be located on the Code website.



Figure 1 - Code Administrator's Complaints Handling Process: example of a client complaint



Code Administrator

code.administrator@carbonmarketinstitute.org



Australian
Carbon Industry
Code of Conduct