

Code Review Panel

Terms of Reference

March 2021



Australian
Carbon Industry
Code of Conduct



Role of the Code Review Panel

1. The oversight, monitoring and direction of the Australian Carbon Industry Code of Conduct (the Code) will be undertaken by the Code Review Panel (the Panel).
2. The Panel will adhere to these Terms of Reference (TOR), which set out its role, powers and functions.
3. The Panel will be responsible for:
 - a. Arbitrating cases referred to it by the Code Administrator in accordance with Section 3.5 of the Code, including in the first three years of the Operational Stage of the Code, arbitrating all cases with proposals to apply severe sanctions or suspensions.
 - b. Arbitrating appeals against sanctions imposed by the Code Administrator in accordance with Section 3.9 of the Code.
 - c. Conducting reviews and altering, as necessary, breach levels set out in Section 3.6 of the Code. In the first three years of the Operational Phase such reviews will be undertaken on an annual basis. Thereafter, reviews will be conducted at the discretion of the Panel.
 - d. Conducting its own inquiries into Code compliance.
 - e. Providing ongoing support to the Code Administration team, in particular the Compliance Manager.
 - f. Reviewing the Code Administrator's performance regularly, ideally on an annual basis, or otherwise at the discretion of the Panel.
 - g. Developing a conflicts of interest framework and implementing controls to manage the security and confidentiality of the Code Administrator's information assets.
 - h. Annually reviewing, in conjunction with the Code Administrator, the Signatory fees, taking into account inflation, the financial benefits of Signatory status, the variable resources required to administer the Code, and the level of financial support provided by Code stakeholders or supporters.
 - i. Engaging with the Code Administrator regularly, and at a minimum, annually to:
 - assess and report on the Code's operation, including reporting on Code compliance and assessment of the Code's effectiveness;
 - ensuring the Code standards meet the identified objectives;
 - identify systemic issues and areas for improvement; and
 - to contribute to the strategic direction of the Code.
 - j. Assisting independent reviewers of the Panel and the Code in accessing all necessary information including procedures and reporting from the Panel and Code Administrator.
4. All decisions of the Panel are final. Signatories have no right of review beyond the Panel.
5. Panel members will serve in good faith in accordance with these TOR and shall put aside their own interests to work together for the benefit of consumer protection in the Australian Carbon Industry.



Composition of the Code Review Panel

6. The Panel will:
 - a. Be an independent body. All members must be independent of Signatories. They must not have any conflict of interest, for example, be an employee of, or advisor to, any Signatory.
 - b. Not include any representative of the Code Administrator or the Carbon Market Institute Board.
 - c. Be suitably qualified to arbitrate cases referred to it by the Code Administrator, and to hear appeals against sanctions imposed by the Code Administrator.
 - d. Consist of three members with combined skills and experience in:
 - I. consumer advocacy, protection and law;
 - II. developing and managing carbon projects in the carbon industry;
 - III. regulatory or government administration of consumer law; and
 - IV. have a Chair with a suitable background to ensure due process is followed at all times, particularly when dealing with any breach of the Code. The Chair will not be employed in the carbon projects industry.
7. Panel members will be appointed by the Code Administrator for a period of three years and will be eligible for reappointment only once (for a total of two consecutive terms). The inaugural Panel Chair will be appointed by the Code Administrator for a period of four years to provide for appropriate transition between the first two terms of the Panel.
8. The Code Administrator may exercise its discretion to remove a Panel member if it considers that the Panel member has failed to discharge its responsibilities in accordance with these TOR. It will do so with the agreement of one other Panel member (the Chair if they are not the individual in question).
9. Where a Panel member retires or is removed by the Code Administrator, the Code Administrator shall exercise its discretion to select a replacement Panel member.
10. The Code Administrator shall publish details of all Panel members on the Code Administrator website.

Conduct of the Code Review Panel

11. The Panel will meet regularly – with a minimum of four meetings per year.
12. During meetings, the Panel will:
 - a. Carry out its responsibilities listed in Section 3 above.
 - b. Adopt, maintain and update the documentation relating to the administration of the Code.
 - c. Monitor the performance of signatories to the Code in accordance with the methods set out in the Code and these TOR.
 - d. Monitor and review the strategic direction and operation of the Code; complaints data; policy changes; and changes in the industry that could lead to the identification of areas requiring future updating in the Code.
 - e. Approve any revisions to the Code, and comment on any proposed revisions of these TOR.
 - f. Access such legal/other experts and/or establish such Expert Groups, as it considers necessary to advise it in carrying out its responsibilities under these TOR.
 - g. Review any reports presented to it by the Code Administrator.



13. A Panel meeting shall be quorate where all three Panel members are present.
14. The Panel shall decide any matters requiring its approval by consensus, or by a simple majority of those present and voting at a properly convened and quorate meeting.
15. The Code Administrator shall take minutes of proceedings at each Panel meeting, recording its deliberation and attendance. The minutes will be ratified by the Panel Chair.

General

16. The Code, Code reporting, Code Review Panel and these TOR will be independently reviewed every three years following their commencement. The review will be undertaken by a suitably qualified, independent person/body.

for more information please contact

Code Administrator

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