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By: **CASA**

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**Australian Government**  
**Civil Aviation Safety Authority**

**Civil Aviation Safety Authority**  
**Ethics and Conduct Committee**  
**Terms of Reference**

**1. Purpose**

- 1.1 The purpose of the CASA Ethics and Conduct Committee (E&CC or the Committee) is to ensure that allegations and complaints made against CASA employees, delegates, authorised persons and contractors, which are not more properly dealt with in accordance with other processes and procedures, are fairly and effectively addressed.
- 1.2 The E&CC will receive, assess, consider and determine matters properly referred to it, with a view to making:
  - 1.2.1 appropriate referrals to relevant CASA senior executives or managers for further consideration and action; and
  - 1.2.2 appropriate recommendations to the Director of Aviation Safety for such further action as the Committee may consider to be necessary or appropriate in the circumstances, having regard to relevant CASA policies and the applicable requirements of the law.

**2. Composition**

- 2.1 The E&CC is comprised of three (3) *permanent members* and one or more *non-permanent members*.
- 2.2 The *permanent members* are:
  - 2.2.1 the Associate Director of Aviation Safety (Chair of the Committee);
  - 2.2.2 the Executive Manager, Corporate Services Division; and
  - 2.2.3 the Chief Legal Officer
- 2.3 *Non-permanent members* include the Deputy Director of Aviation Safety and/or Executive Manager(s) of the relevant CASA Division(s), having regard to the issues to hand. The E&CC will determine which Executive Managers, if any, should participate as a non-permanent member in respect of any particular matter. The Deputy Director of

Aviation Safety may participate as a non-permanent member in any meeting of the E&CC at his or her discretion.

### 3. Role of the E&CC

- 3.1 On the *proper referral* of a matter, the Ethics and Conduct Committee (E&CC), the Committee will consider complaints or allegations that a CASA employee, delegate, authorised person or contractor has acted in a manner inconsistent with or in contravention of:
  - 3.1.1 the CASA Code of Conduct;
  - 3.1.2 the CASA Conflict of Interest Policy
  - 3.1.3 the Commonwealth Fraud Control Guidelines;
  - 3.1.4 the CASA Fraud Control Policy; or
  - 3.1.5 a provision of Commonwealth, State or Territorial law.
- 3.2 Having duly considered a matter that has been properly referred to the E&CC, the Committee may:
  - 3.2.1 determine the matter and make recommendations to the Director of Aviation Safety as to what, in the view of the E&CC, is the fair, correct and reasonable disposition or resolution of the matter, having regard to the relevant CASA policies and in accordance with applicable provisions of the law; or
  - 3.2.2 refer the matter to another person for consideration and action, in accordance with clause 5.1.

### 4. Matters Properly Referred to the E&CC

- 4.1 A matter is *properly referred* to the E&CC if the matter falls within the parameters of paragraphs 3.1.1 to 3.1.5 above; and
  - 4.1.1 is not a reviewable decision, within the meaning of subsection 31(1) of the *Civil Aviation Act 1988*;
  - 4.1.2 is not a decision to which the *Administrative Decisions (Judicial Review) Act 1977* applies;
  - 4.1.3 is not already the subject of proceedings before a court or a tribunal (including Fair Work Australia);
  - 4.1.4 is not already subject to a review process of the kind contemplated by clause 65.1 of the Civil Aviation Safety

Authority Enterprise Agreement 2010-2011 or a successor agreement, or a matter that has been referred to Fair Work Australia pursuant to clause 10 of the Civil Aviation Safety Authority Enterprise Agreement 2010-2011 or a successor agreement;

- 4.1.5 is not a matter that is the subject of, or has been referred to Legal Services Division for investigation pursuant to Part IIIA of the Civil Aviation Act;
- 4.1.6 is not a matter in respect of which administrative action with a view to the possibility of a variation, suspension or cancellation of a civil aviation authorisation has been, or is likely to be, initiated; and
- 4.1.7 is not a matter which, in the Committee's view, ought more properly to be determined by a court or a tribunal or in some other forum.

4.2 A properly referred matter must be presented to the E&CC in writing, with sufficient information and detail to enable the Committee, or a person to whom the Committee may decide to refer the matter, to make meaningful inquiries with a view to addressing and resolving the issues to hand in a timely, fair and reasonable manner.

4.3 Any person may refer a matter to the E&CC.

4.4 Any complaint or allegation involving a matter of the kind contemplated by clause 3.1 above, and which, in the first instance, has been referred to, brought or come to the attention of:

- the Industry Complaints Commissioner;
- the Head of Human Resources; or
- any other CASA manager,

must be referred to the E&CC for the Committee's consideration and disposition, in accordance with the provisions of clause 3.2.

## **5. Disposition of Matters Referred to the E&CC**

5.1 When a matter has been properly referred to the E&CC, or referred to the Committee in accordance with the provisions of clause 4.4 above, the Committee will, in the first instance, determine whether the matter should be retained by the Committee for further consideration and action, or referred (or referred back) for appropriate action to:

- 5.1.1 the Head of Human Resources;
  - 5.1.2 the Industry Complaints Commissioner
  - 5.1.3 the Deputy Director of Aviation Safety; or
  - 5.1.4 one or more relevant Executive or Branch Managers
- 5.2 In referring a matter to (or back to) the Head of Human Resources, the Industry Complaints Commissioner or one or more relevant Executive or Branch Managers pursuant to clause 5.1 above, the E&CC may give such directions and instructions as the Committee considers to be necessary or appropriate in the circumstances.
- 5.3 In referring a matter to (or back to) the Deputy Director of Aviation Safety, under paragraph 2, the E&CC may make such recommendations as the Committee considers to be necessary or appropriate in the circumstances.
- 5.4 Where the E&CC decides to consider a matter, it will do so in accordance with the procedures mentioned in section 6 below.
- 5.5 Where the E&CC determines a matter pursuant to paragraph 3.2.1, it will produce and submit written findings and recommendations to the Director, who, having considered the Committee's recommendations, may take such action as he deems to be appropriate in the circumstances.

## **6. E&CC May Develop Its Own Procedures**

- 6.1 Having regard to the relevant CASA policies and the applicable requirements of the law (including the principles of procedural fairness), the E&CC may develop and specify, in writing, appropriate procedures governing the processes by which the Committee assesses, manages and disposes of claims considered by the Committee.
- 6.2 Amongst other things, the E&CC's procedures, or the procedures by which the E&CC functions in the absence of specified written procedures, will cover the matters mentioned in clause 5.5 above.
- 6.3 The E&CC's procedures will, in any case provide or allow for the preparation of dissenting reports by permanent or non-permanent members of the Committee in relation to the matters referred to the Director for action pursuant to clause 5.5 above.

## **7. Tracking and Reporting**

- 7.1 The E&CC will ensure that complete and accurate records of the activities of the Committee are maintained, describing:
  - 7.1.2 the substance of matters referred to the Committee for consideration;
  - 7.1.3 the disposition of those matters, either by the Committee or by the person(s), other than the Director, to whom those matters were referred for further consideration and action; and
  - 7.1.4 the disposition of matters submitted, with recommendations for action, to the Director.
- 7.2 The E&CC will provide the Director of Aviation Safety with a report containing the information mentioned in clause 7.1, and such additional information as the Director may require, at such intervals as the Director specifies.

## **8. Frequency of Meetings**

- 8.1 Meetings of the E&CC shall be convened by the Chair as and when, in the view of the Chair, such meetings are necessary. Meetings may be conducted face-to-face, telephonically or via video conferencing facilities.
- 8.2 The Chair may circulate materials to permanent members of the Committee with a view to obtaining those members' opinion as to whether a matter has been properly referred, and:
  - 8.2.1 if so, how the Committee should proceed to consider the matter;
  - 8.2.2 If not, what alternative disposition should be made of the matter.
- 8.3 The Chair of the E&CC must ensure that a written record is made and maintained of decisions and determinations of the Committee in relation to the matters mentioned in clause 8.2.

## **9. E&CC Terms of Reference to be Construed Consistently with Relevant CASA Policies**

- 9.1 The E&CC shall endeavour to construe any relevant CASA policy consistently with these Terms of Reference and any procedures developed pursuant to Section 6 above.

9.2 Where the E&CC finds a provision of a relevant CASA policy to be irreconcilably inconsistent with a provision of these Terms of Reference or a procedure developed by pursuant to Section 6 above, these Terms of Reference shall prevail, subject to a contrary determination by the Director of Aviation Safety.

**10. Committee Secretariat**

The Office of the Director of Aviation Safety will arrange for the provision of secretariat services for the E&CC.