

Managing
General Agents'
Association

MGAA

Enforcement of the Code of Ethics (Adopted 19th February 2019)

Enforcement of the Code of Ethics

The Role of the Conduct and Ethics Committee (the "Committee")

1. The Committee shall be made up of at least four individuals appointed by the Board of Directors of the MGAA (the "Board"). These appointments will be based on recommendations made by the Chair of the Committee to the Board.
2. The Committee's role is to determine whether a Member has breached this Code and to make recommendations, including as to sanctions, to the Board. The Committee and Board may act irrespective of when the Member became or ceased to be a Member. If membership ceases before or during proceedings, they will proceed as if membership has not ceased so that the former Member will be given the same rights to participate in the proceedings as a Member.
3. Any information supplied to MGAA suggesting that a Member has breached the provisions of this Code will be reported to the Committee.
4. The Committee will first establish whether, if the information is correct, a breach of the Code is likely to have occurred. If it concludes not, then it may dismiss the matter or seek further information from the informant. Even where the information (if correct) is likely to mean that a breach of the Code has occurred, the Committee may dismiss the matter if it concludes that it is frivolous, vexatious or otherwise not appropriate for further action. The Committee may also do this at any point thereafter.

Frivolous, vexatious or otherwise not appropriate for further action

5. A matter may be treated by the Committee as frivolous, vexatious or otherwise not appropriate for further action at any stage where in its opinion:
 - a. any breach of the Code alleged is so likely to have been inadvertent, or committed in good faith and/or so unlikely to have had any material consequences and the Member has acted sufficiently responsibly in relation to the circumstances (for example remedying any harm which may have occurred and/or acting to prevent repetition of circumstances which might constitute a breach or risk of a breach) that it would be disproportionate to subject the Member to an investigation and/or;
 - b. where the events in question are so long ago that their investigation would be disproportionate to their seriousness; and/or
 - c. where the matter would involve reopening matters which have already been investigated and where it would be disproportionate to do so; and/or
 - d. Where the conduct of any person making the complaint is so malicious or unreasonable and the impact of this on the Member is such as to render it disproportionate to continue.

Making a Notice of Potential Breach

6. If the Committee concludes there to be a potential breach which is not frivolous, vexatious or otherwise not appropriate for further action, it shall prepare a Notice of Potential Breach, setting out the details of the potential breach, including the facts and which parts of the Code are engaged, and submit the same to the Member. Members will be given a reasonable period, not normally less than 21 days, to provide a written response and any documents which the Committee should seek at that point.

Investigating the Notice of Potential Breach

7. The Committee will appoint a person to investigate the matter and stand as Investigator. This may be one of its members, or another person. If the Investigator is a member of the Committee they will not participate in any decision of the Committee as to whether a breach has occurred. The Investigator may take any step to investigate the matter and obtain evidence, but will wait until the Committee has received the Member's response before doing so, unless directed by the Committee otherwise. The investigation is to be conducted as confidentially as reasonably possible consistent with ensuring effective investigation.
8. The investigated Member may be required to provide further documents or written responses at any point during the course of the investigation, either by the Investigator or the Committee.
9. The Investigator may present material gathered in the course of the investigations to the Committee at any stage and the Committee may direct him to seek particular evidence or make particular enquiries.

Meeting with the Member **Before the meeting**

10. Once it has completed its investigation, and normally within 3 months of sending the Notice of Potential Breach to the Member, the Committee will meet with the Member to decide whether a breach of the Code has occurred.
11. Normally, at least 21 days before this meeting the Committee will prepare and send to the Member a bundle, including:
 - a. the evidence which it has obtained during the investigation; and
 - b. a Statement of Case, being a written statement of the case against the Member following the investigation prepared by the Investigator.
12. The Member will be invited to submit any evidence or representations upon which they wish to rely.

Representation

13. The Member may be represented by any of its officers or employees or otherwise as the Committee may decide.

Conduct of the meeting

14. At the meeting, the Investigator will present the case against the Member and may question the Member and any witnesses.
15. The Member will be entitled to question the Investigator and any witnesses as well as making his case orally and/or by way of written submissions.
16. The Member will have the last word.

Witnesses

17. The Committee has discretion to hear witnesses on behalf of the Investigator or the Member. If the Investigator wishes to rely on a witness, that must be stated when the bundle is submitted to the Member, which must include a brief summary of what the witness is

expected to say. A Member should notify the Committee in advance of an intention to call a witness, and should provide a brief summary of what the witness is expected to say

Decision of the Committee

18. If it is determined by the Committee that the Member has breached the Code the matter will be reported to the Board with the Committee's recommendations for action, which may include suspension or expulsion from the MGAA without reimbursement of any fees paid, or such condition on continuing or future membership as appropriate to the circumstances of the breach.

Review by the Board

19. The Board will consider the Committee's report and reach a provisional decision. The provisional decision and the Committee's report will be provided to the Member at least 21 days before the Board makes a final decision.
20. The Member may ask the Board to review its provisional decision and / or to reject all or part of the Committee's report in a Notice of Challenge citing the following grounds only:
 - a. that the Board / Committee has acted procedurally unfairly; or
 - b. that the Board / Committee has failed to take into consideration at all identified material presented by the Member which it provided in good time; or
 - c. that the Board's provisional decision / Committee's report is wrong in the light of new evidence provided by the Member which, having taken all reasonable steps, it was impossible to have provided to the Committee.
21. In addition the Member may make written representations on the appropriateness of the provisional sanction indicated by the Board which does not challenge the facts which the Committee has found.
22. A Notice of Challenge must comprise a full written case delivered to the Chairman of the Board at least 7 days before the Board meets to make its final decision. It should include a request to attend the Board if this is desired. The Chairman may invite the Member to attend the Board to address it on the matters raised, or the Board may do so when it meets and may adjourn its consideration if necessary. Otherwise the Board may proceed to determine the matter having regard to the Member's Notice of Challenge only.
23. The Board may not make any finding of a breach of the Code unless the Committee has concluded such breach to have occurred.
24. The Board may impose a sanction more onerous to the Member than recommended by the Committee but may only impose a final sanction more onerous than indicated in its provisional decision if it has given the Member an opportunity to address it on that issue.
25. Where the Committee has concluded a breach of the Code has occurred the Board need not follow the Committee's recommendations for whatever reason it sees fit, whether in receipt of a Notice of Challenge or not. It may dismiss the matter in full or in part and/or impose no or a reduced sanction.
26. Where the Committee has concluded a breach of the Code has occurred the Board may postpone its decision as to what action to take, in particular where it believes that justice is best served by all or part of a matter being remitted to the Committee for reconsideration in

the light of the Board's identification of issues which it believes might have caused the Committee to reach different conclusions.

27. Where the Board concludes that a Member's Notice of Challenge is justified, in full or in part, or that new evidence should be considered, it may:
 - a. remit the matter back to the Committee; or
 - b. decide for itself whether a breach has occurred and any appropriate sanction, having remedied as appropriate matters identified in the Notice of Challenge and/or considered the new evidence.

Publicity

28. The Board may make its final decisions public, including on the MGAA website, and will report any relevant matters to any appropriate regulator. In addition, any regulated person participating in the process should comply with any personal obligation to report matters to a regulator, including where appropriate before any findings are made. They should liaise with the Chairman of the Committee to ensure that such reporting is undertaken in the most administratively efficient manner, avoiding duplication where possible.