

# DIETITIANS ASSOCIATION OF AUSTRALIA

## BY-LAW

### COMPLAINTS AND DISCIPLINARY PROCEDURES

(By-law Made Pursuant to Clauses 21 and 36 of the *Constitution*)

Revised March 2013

#### A. Purpose

This By-law is made pursuant to Clauses 21 and 36 of the *Constitution*. This By-law states the DAA's internal disciplinary mechanism to deal with complaints about any member as referenced in *By-law—Code of Professional Conduct* (the "**Code of Professional Conduct**").

The Dietitians Association of Australia ("**DAA**") has adopted this By-law to ensure that there is a fair process of determining complaints against members and non-member Accredited Practising Dietitians of a breach of professional standards.

The aim is to ensure the maintenance of proper professional standards, the Code of Professional Conduct and to uphold and increase public confidence in the profession as one that is committed to those standards.

#### B. Scope

This By-law applies to complaints made in accordance with Clause 1 of this By-law.

If a complaint involves a breach of the criminal law, the DAA may refer the Complaint to the appropriate authorities. However the DAA may consider the nature of any criminal proceedings commenced in any Court of law against any members and non-member Accredited Practising Dietitians and may consider suspension of the persons membership or participation in the APD Program until the resolution of those proceedings.

If a complaint involves a civil dispute over fees, the terms of a contract of engagement or other business matters then DAA will not deal with the complaint under these processes until any civil proceedings between the parties are completed.

#### C. Roles and Responsibilities

The **Vice-President** of the DAA takes overall responsibility to implement the process under this By-Law with the vested authority of the Board.

The **Chief Executive Officer** acts as the secretariat to the process and as the chief investigator. The Chief Executive Officer researches the complaint, gathers material (from the Complainant, the Respondent and may make its own inquiry) and presents that material to the Vice-President and / or the Hearing and Assessment Panel as required. The Chief Executive Officer is the primary point of contact for the Respondent and the Complainant during the processes set out in this By-law.

The **Chairperson of the Complaints Committee** shall chair all Hearing and Assessment Panels during their 3 year appointment and shall be an APD member with significant professional and complaints handling experience.

The **Complaints Committee** shall comprise the Chairperson of the Complaints Committee and three other experienced APD members as well as two independent non-DAA members with expertise in complaints handling. The Complaints Committee will be established in accordance with *By-law Procedure for Operation of Committees of the Board*.

Full functions and requirements of the Complaints Committee are defined in the Complaints Committee's Terms of Reference.

The **Hearing and Assessment Panels** will review all material presented by the Chief Executive Officer and provide an opportunity for the member to present their response to the allegations against them. The Panel shall advise the Board regarding any findings and/or penalties recommended against the member for further action. Hearing and Assessment Panels shall comprise of:

- (1) the Chairperson of the Complaints Committee;
- (2) one other APD member from the Complaints Committee; and
- (3) one independent non-DAA member from the Complaints Committee.

The DAA **Board** shall appoint the Chairperson and members of the Complaints Committee and shall consider and make final determination on all recommendations for findings and / or disciplinary action regarding the member arising out of Level Two and Appeals processes.

## **PRELIMINARY PROCEDURE**

### **1. MAKING A COMPLAINT**

- 1.1 A complaint against a Member of the DAA or a non-member Accredited Practising Dietitian may be made by any person including another member/s or DAA employees (including the Chief Executive Officer) who have material obtained in the course of their duties which may indicate or support a breach of the Code of Professional Conduct having occurred.
- 1.2 To be dealt with under this By-law a complaint must:
  - 1.2.1 be made to the Chief Executive officer and be either;
    - (a) in writing signed by the person making the complaint (the "**Complainant**") or a legal representative acting for the Complainant or;
    - (b) a verbal complaint recorded by the Chief Executive Officer who will send two copies of the transcript of the Complaint to the complainant who will sign both and return one to the Chief Executive Officer.
  - 1.2.2 must set out the circumstances giving rise to the complaint; and
  - 1.2.3 must be accompanied by statements or other material relating to the allegations or circumstances giving rise to the complaint (the "**Complaint**").

### **2. ACKNOWLEDGING THE COMPLAINT**

- 2.1 The Chief Executive Officer will acknowledge receipt of the Complaint in writing within seven (7) business days of receiving a signed copy of the Complaint. This acknowledgment must advise the Complainant that the Complaint will be provided to the member concerned (the "**Respondent**").
- 2.2 The Complainant will be advised that this By-law and the Code of Professional Conduct can be found on the DAA Website. The DAA will provide a copy of these documents if requested by the Respondent.
- 2.3 If the Complaint grounds cause the Chief Executive Officer to reasonably apprehend that there may be a breach of criminal law, the Chief Executive Officer will notify the Complainant in writing and will refer the Complaint to the relevant authorities.
- 2.4 If the Complaint involves civil dispute over fees, the terms of a contract of engagement or other business matters then it will not be dealt with under this By-law until the appropriate civil proceedings between the parties have been determined and the Chief Executive Officer will notify the Complainant in writing that the Complaint will not be dealt with until those civil proceedings are resolved.

### **3. NOTIFICATION OF THE RESPONDENT – REQUEST FOR INPUT**

- 3.1 Subject to clause 2.4, within 7 days business days of receiving a signed copy of the Complaint the Chief Executive Officer will serve the Respondent with:
- 3.1.1 written notice of the Complaint which must contain an express request for the Respondent to provide a written response and explain the Respondent's obligations under Clause 3.2 of this By-law;
  - 3.1.2 a copy of the Complaint and any supporting documentation included by the Complainant with the Complaint;
  - 3.1.3 the Code of Professional Conduct; and
  - 3.1.4 this By-Law.
- 3.2 The Respondent must provide their written response to the Complaint and any supporting documentation that they wish to rely on within 15 business days of receipt of the Complaint notice and documents set out in paragraph 3.1.
- 3.3 If the Respondent fails to comply with paragraph 3.2 then:
- 3.3.1 the process under this By-law will continue in the absence of any response, evidence or supporting documentation from the Respondent; and
  - 3.3.2 The Chief Executive Officer may provide the Respondent with notice of their Failure to Engage under Clause 22.

### **4. INITIAL INVESTIGATION**

- 4.1 Within 15 business days of receiving a signed copy of the Complaint the Chief Executive Officer must notify the Vice President of the Complaint and must begin the initial investigation into the Complaint.
- 4.2 The initial investigation may include:
- 4.2.1 seeking further information from the Complainant;
  - 4.2.2 obtaining an opinion report on an issue or matter from an independent third party who has the relevant expertise in relation to that particular issue or matter;
  - 4.2.3 audit the Respondent's APD logs; and
  - 4.2.4 obtaining any other information that may be in the Chief Executive Officer's unfettered opinion appropriate, prudent, relevant or necessary to the subject or circumstances of the Complaint.
- 4.3 Any concerns which arise from the audit of the Respondent's APD logs may be joined to the Complaint by the Chief Executive Officer.

### **5. INITIAL ASSESSMENT OF THE EVIDENCE**

- 5.1 The Chief Executive Officer must assess all the information and material provided by the Complainant, the Respondent, itself and any other third party in relation to the Complaint.
- 5.2 The Chief Executive Officer must conduct and complete their initial assessment of the evidence within a reasonable time of receiving all the information and evidence.
- 5.3 The Chief Executive Officer must not complete their initial assessment before the expiration of the time allowed for the Respondent to provide their Response in Clause 3.2 above.

## **6. CONSIDERATION OF THE COMPLAINT - VICE PRESIDENT'S CONFERENCE**

- 6.1 Once the Chief Executive Office has completed their initial assessment of the material gathered concerning the Complaint, the Chief Executive Officer is to hold a conference with the Vice President.
- 6.2 At this conference the Chief Executive Officer and the Vice President are to discuss all the evidence and the Complaint.
- 6.3 Having given due consideration to the Complaint, the evidence and the Code of Professional Conduct, the Vice President must then determine whether the Complaint:
- 6.3.1 ought to be dismissed; or
  - 6.3.2 whether the Complaint should be referred to a Hearing and Assessment Panel in accordance with Clause 7 of this By-law.
- 6.4 If the Complaint is referred to a Hearing and Assessment Panel, then the Vice President may request that the Chief Executive Officer identify and engage an independent, suitably qualified independent person to provide expert report in relation to any matter raised in the Complaint.
- 6.5 The Vice President may determine that the Complaint is suitable for referral to the Mediation Process (outlined in Clause 7) in an attempt to resolve the Complaint before referral to a Hearing and Assessment Panel. The Vice President's decision on whether to refer the Complaint to mediation under this Clause is final and is entirely at the discretion of the Vice President.
- 6.6 If the Vice President determines that the Complaint ought to be dismissed then the Chief Executive Officer is to write to the Complainant and Respondent and notify them that the Complaint has been dismissed. The Vice President's decision on whether to dismiss the Complaint under this Clause is final and is entirely at the discretion of the Vice President holding the vested power of the Board.

## **MEDIATION**

### **7. MEDIATION PROCESS**

#### *Steps before Mediation*

- 7.1 If the Vice President determines that a Complaint should be referred to the Mediation and Conciliation Process the Vice President or a nominee will speak separately to the Complainant and the Respondent to arrange a suitable process.
- 7.2 Both Complainant and Respondent must be willing to engage in the mediation process for any mediation to continue. If either party refuses then the Complaint will be referred back to a Hearing and Assessment Panel.
- 7.3 If a suitable process is agreed upon by the Complainant and Respondent then the Vice President will notify the Chairperson of the Complaints Committee who is to appoint one DAA member from the Complaints Committee. The Mediator is to act as an independent facilitator of the mediation between the Complainant and the Respondent with the aim to resolve the Complaint in a manner agreed to by both the Complainant and the Respondent. This may include an agreed withdrawal of the Complaint or any other outcome agreed.

#### *Resolution at Mediation*

- 7.4 If the Complaint can be resolved at the mediation, then the terms of the agreed resolution are to be written down and signed by the Complainant, Respondent and Mediator. A copy of the agreed resolution will be sent to the Board with a summary of the Complaint.. The Board is to keep this as a record only and is not required to make a determination on the matter as the Complaint is taken to have been resolved.

*If resolution cannot be reached*

- 7.5 If the Complaint is not resolved at the mediation then the Mediator will notify the Vice President and the Chief Executive Officer that the Complaint could not be resolved.

*Confidentiality of mediation process*

- 7.6 All matters discussed during Mediation, including any offers made by either the Complainant or the Respondent at the Mediation are not to be referred to by either party or used by either party in the Hearing.

## **HEARING**

### **8. REFERRAL OF THE COMPLAINT TO A HEARING AND ASSESSMENT PANEL**

- 8.1 If the Vice President makes a determination under 6.3.2 or Mediation fails under Clause 7.6 then the Vice President must request the Chairperson of the Complaints Committee to invite one DAA member and one independent non – DAA member of the Complaints Committee to form a panel to consider the Complaint (the **Hearing and Assessment Panel**).

8.1.1 The Chairperson must also sit on the Hearing and Assessment Panel unless they are excluded under 8.1.4

8.1.2 If the Chairperson of the Complaints Committee is unable to sit on the Hearing and Assessment Panel under 8.1.4, then the Vice President must appoint one of the DAA members of the Complaints Committee to be an Acting Chairperson of that Hearing and Assessment Panel.

8.1.3 If a member of the Complaints Committee has been involved as the Mediator in an unsuccessful mediation of the Complaint under Clause 7 of this By-law then that person must not be part of the Hearing and Assessment Panel.

8.1.4 No member of the Complaints Committee may sit on the Hearing and Assessment Panel if they have a conflict or perceived conflict in relation to the Complainant, the Respondent or the subject of the Complaint itself. A declaration of such a conflict must be made in writing by the member of the Complaints Committee and must be kept on file.

- 8.2 Once a Hearing and Assessment Panel has been formed the Chief Executive Officer must:

8.2.1 notify the Board that a complaint has progressed to Hearing for initial determination;

8.2.2 notify the Respondent in writing that the Complaint has been referred to the Hearing and Assessment Panel;

8.2.3 provide a copy of all material submitted by the Complainant by the Respondent and all additional material relied on by the Chief Executive Officer to make the assessment under clause 5.1 and any expert report prepared under clause 6.4 to each member of the Hearing and Assessment Panel; and

8.2.4 arrange an initial teleconference or meeting with the Hearing and Assessment Panel to occur.

### **9. INITIAL DETERMINATION**

- 9.1 At the Hearing and Assessment Panel's initial teleconference or meeting in relation to the Complaint the Panel is directed to consider all material before them and determine whether:

9.1.1 the matters giving rise to the Complaint (whether or not substantiated) are trivial or do not warrant further action by the Hearing and Assessment Panel;

- 9.1.2 the matters giving rise to the Complaint would not, if substantiated, equate to a breach of the Code of Professional Conduct;
- 9.1.3 the matters giving rise to the Complaint may, if substantiated, equate to a breach of the Code of Professional Conduct.
- 9.2 If the Hearing and Assessment Panel makes a determination under 9.1.1 or 9.1.2 then the Hearing and Assessment Panel are to recommend to the Board, with reasons, that the Complaint be:
  - 9.2.1 dismissed; or
  - 9.2.2 referred back to Mediation under Clause 7.
- 9.3 The Board must consider the Hearing and Assessment Panel's recommendation and either accept or reject it. The Board's decision on whether to dismiss the Complaint or to refer the Complaint to mediation under this Clause is final and is entirely at the discretion of the Board.

## **10. PROCEEDING TO HEARING AND FORMAL NOTICE OF HEARING**

### *Proceeding to a formal Hearing*

- 10.1 If the Hearing and Assessment Panel makes a determination under 8.1.3 or the Board rejects a recommendation made under 8.2 then the matter will proceed to a formal hearing (the **Hearing**).
- 10.2 The Chief Executive Office is to arrange a suitable Hearing date with the Hearing and Assessment Panel. The Hearing date must be listed on a business day and must be listed to occur between normal business hours.

### *Formal notice of Hearing (the **Notice of Hearing**)*

- 10.3 The Chief Executive Officer must serve a Notice of Hearing on the Respondent no less than 21 days before the date set for hearing. The Notice of Hearing must be in writing and must include the following:
  - 10.3.1 The time, date and location of the Hearing and must advise the Respondent that the Hearing will be conducted by telephone conference unless they opt to attend in person at the Hearing location.
  - 10.3.2 State the actions or allegations that are the subject of the Complaint, have arisen during the Chief Executive Officers Investigation of the Complaint (including the result of the APD Audit) that are alleged to be a breach of the provisions of the Code of Professional Conduct which are to be considered at the Hearing.
  - 10.3.3 A copy of the material provided to the Hearing and Assessment Panel under clause 8.2.3.
  - 10.3.4 Set out the actions under the Constitution which may be taken by the DAA.
  - 10.3.5 Advise the Respondent that they may send in any additional material, information or a further response to the Complaint which is to be considered by the Hearing and Assessment Panel; provided that **this must be received by the Chief Executive Officer no less than 5 business days before the Hearing date**; and the Hearing and Assessment Panel are not required to consider any information or further response received from the Respondent outside 5 business days before the Hearing date other than what may be allowed by Clause 13.2.

## **11. ADJOURNMENT OF THE HEARING**

- 11.1 If the Hearing date is not suitable to the Respondent then they must, within 5 business days of service of the Notice of Hearing, request an adjournment in writing from the Chief Executive Officer. The Respondent must provide their reasons for requesting an adjournment and propose alternative

available dates as near as possible to the existing Hearing date. An adjournment will not be granted if the Respondent fails to provide reasons.

- 11.2 The Chief Executive Officer is to consider the reasons for adjournment put by the Respondent within 2 business days and either accept or reject that request. Within those 2 business days the CEO may request that the Respondent provide material in support of their request and may do so subject to conditions.

*Adjournment request due to illness or compassionate reasons*

- 11.3 If at any other time the Respondent discovers that they will be unable to attend the hearing date due to illness or for compassionate reasons then the Respondent must request an adjournment in writing prior to the date of the Hearing as soon as they are able and must provide supporting evidence, if any (such as a doctor's certificate in the case of illness). This request is to be considered and determined as soon as possible by the Chief Executive Officer.

- 11.4 The decision of the Chief Executive Officer in relation to an adjournment request is final and is entirely at the discretion of the Chief Executive Officer.

*Notice of a determination in relation to the adjournment*

- 11.5 The Respondent must be notified of any determination in relation to an adjournment by the Chief Executive Officer as soon as possible. This may be done by telephone in addition to written notice, but a file note of the telephone discussion must be kept.

**12. HEARING**

*General Matters*

- 12.1 The Hearing may take place by telephone conference. The Respondent may attend the Hearing in person at the hearing location set out in the Notice of Hearing or may attend the Hearing by telephone.

- 12.2 The Hearing and Assessment Panel may have a legal advisor at the Hearing.

- 12.3 The Respondent may have an advisor present at the Hearing. An advisor may include a solicitor or barrister however this does not grant the Respondent with the right to legal representation and the Hearing will not be adjourned on the basis of the unavailability of a Respondent's advisor.

- 12.4 The Complainant and any witnesses or expert advisors will not attend the Hearing. The Chief Executive Officer may invite them to attend if the Hearing and Assessment Panel are of the view that their attendance may assist in clarifying the Complaint or issues raised in response to it. However, the DAA has no power to compel them to attend and the invitation may be refused. The Respondent may not request or demand the attendance of the Complainant, nor any witnesses or expert advisors.

- 12.5 The Hearing will continue if the Respondent fails to attend, or if the Respondent attends but refuses to co-operate during the Hearing.

*Hearing Procedure*

- 12.6 At the commencement of the hearing the Chief Executive Officer shall verbally present a summary overview of the Complaint and material before the Hearing, for the purposes only of ensuring the general nature of the matter is identified.

- 12.7 The members of the Hearing and Assessment Panel will then be given the opportunity to ask the Respondent questions in relation to the substance of the Complaint (and the Respondent's reply (if any)).

- 12.8 The Respondent must respond to all questions personally. The Respondent's answers must not be conveyed through their advisor.

12.9 Once the Hearing and Assessment Panel have concluded their questioning of the Respondent, the Respondent shall then be given the opportunity to put their case orally to the Hearing and Assessment Panel.

### **13. FINDINGS AND RECOMMENDATIONS**

13.1 At the conclusion of the Hearing the Hearing and Assessment Panel will retire to consider the Complaint, the material before it, and the Respondent's answers (if any) given at the Hearing and will determine their findings and recommendations in relation to the Complaint.

13.2 The Hearing and Assessment Panel is not required to consider any written material, submissions, documentation or information not given to the Chief Executive Officer more than 5 business days before the commencement of the Hearing unless it is of the view that there are reasonable and mitigating circumstances surrounding its late provision or if the Hearing and Assessment Panel is of the view that the document, information or evidence is of such significance that it ought to be taken into account.

13.3 The Hearing and Assessment Panel will prepare a written report for the Board outlining their findings in relation to the Complaint, brief reasons for those findings and their recommendations (**Hearing Findings and Recommendations**).

13.4 A copy of the Findings and Recommendations will be served on the Respondent by the Chief Executive Officer.

### **14. APPEAL PROCESS**

14.1 If there is an adverse finding, the Respondent may serve on the Chief Executive Officer an appeal against the process of the Hearing (the **Appeal**).

14.2 The Appeal must:

14.2.1 be made within 14 business days from the date the Findings and Recommendations were served on the Respondent;

14.2.2 be in writing;

14.2.3 contain a statement of all the grounds on which the Respondent relies to allege that the procedures under this By-law were not followed or that the Hearing Findings and Recommendations are so unreasonable that they cannot rationally be supported by the material before the Hearing and Assessment Panel; and may contain a statement outlining any mitigating circumstances.

14.3 If an appeal has not been received in accordance with 14.2 above, the Chairperson of the Complaints Committee will send their Findings and Recommendations to the Board for determination.

### **15. REVIEW PANEL**

15.1 If an appeal is received in accordance with Clause 14.2 then the Chief Executive Officer shall inform the Chairperson of the Complaints Committee who must refer the Appeal to Review Panel composed of three members of the Complaints Committee who did not participate in the original hearing, or any mediation.

15.2 The Hearing and Assessment Panel may prepare a short statement regarding the Hearing process and responding to any issues raised by the Appeal.

15.3 The Review Panel must consider:

15.3.1 the grounds stated in the Appeal under Clause 14.2.3;

15.3.2 any statement outlining mitigating circumstances;

- 15.3.3 any statement provided by the Hearing and Assessment Panel in accordance with Clause 15.2 above; and
- 15.4 If the appeal grounds contain allegations that the Hearing Findings and Recommendations are so unreasonable that they cannot rationally be supported by the material before the Hearing and Assessment Panel then the Review Panel must consider:
- 15.4.1 the material which was before the Hearing and Assessment Panel; and
- 15.4.2 the Hearing Findings and Recommendations.
- 15.5 The Review Panel will prepare a brief written statement (the **Appeal Findings and Recommendations**) for the Board on its findings in relation to the grounds of the Appeal and this must recommend to the Board that it either:
- 15.4.1 upholds the decision of the Hearing and Assessment Panel; or
- 15.4.2 order a rehearing of the Complaint.
- 15.6 The Chief Executive officer will send a copy of the Appeal Findings and Recommendations to the Respondent.

## **16. COMPLAINT DISMISSED OR UPHELD**

- 16.1 The Board must consider the Hearing Findings and Recommendations and any Appeal Findings and Recommendations. The Board will then determine whether:
- 16.1.1 to accept that the Complaint be dismissed or upheld; or
- 16.1.2 order a rehearing of the Complaint by another Hearing and Assessment Panel.
- 16.2 If the Board upholds the Complaint then it is to either accept or modify the recommended sanction in accordance with the Constitution.
- 16.3 Any determination of the Board is final and binding on the Respondent.
- 16.4 The Respondent and the Complainant must each be notified of the decision of the Board in writing.
- 16.5 If the Board determines that the Respondent is to be expelled or an APD credential is to be withdrawn then the Board may direct the Chief Executive Officer to release the decision to any person, corporation, organisation or other body as it sees fit.
- 16.6 If the Board orders a rehearing of the Complaint then a new Hearing and Assessment Panel must be formed in accordance with Clause 8.1 of this By-law. This new Hearing and Assessment Panel must not include any member of the Complaints Committee who have previously been involved with the Complaint.

## **GENERAL MATTERS**

### **17. CONFIDENTIALITY**

- 17.1 All activities surrounding the processing of a complaint including proceedings of the Board, the Hearing and Assessment Panel and the Review Panel are held in confidence.
- 17.2 The Respondent is not permitted to contact the Complainant/s directly regarding the complaint unless specifically required to do so under this By-law.
- 17.3 The Respondent must not approach any Director of the Board in relation to the Complaint until the complaint process set out by this By-law is finalised.

- 17.4 “Should the Respondent attempt to make any contact as described in clause 17.2 or 17.3, then that behaviour can be included in the Complaint, or dealt with as a new Complaint under this By-law.”
- 17.5 Once a determination of the Board has been made under Clause 16.1, then this determination may be published or released as determined by the Board.

## **18. LEGAL REPRESENTATION**

- 18.1 The Chief Executive Officer may seek legal advice in relation to this By-law and any Complaint made under this By-law
- 18.2 The Respondent may seek legal advice in relation to any Complaint made under this By-law.
- 18.3 The Respondent is responsible for any and all legal costs in relation to the Complaint and any procedure under this By-law.

## **19. COSTS**

- 19.1 The Complainant shall pay all their costs.
- 19.2 The Respondent is responsible for all their costs associated with the Complaint and any procedure under this By-law.
- 19.3 The Board will budget for the costs to support the Hearing and Assessment Panel and the Review Panel in the execution of their duties under this By-law.

## **20. SERVICE OF DOCUMENTS**

- 20.1 Any document or notice which must be served on the Respondent is to be:
- 20.1.1 sent by Australia Post Registered Post to the most recent address provided to the DAA by the Respondent;
- 20.1.2 delivered personally to the Respondent; or
- 20.1.3 sent to the Respondent by any other means which the Respondent has indicated is suitable, such as an email address or fax number or to another person, such as a legal representative. Written correspondence from a legal representative asserting the authority to receive correspondence behalf of the Complainant may be relied on by the DAA as authority to correspond directly with that legal representative unless subsequent correspondence is received from the Complainant to the contrary.
- 20.2 If a document is served on the Respondent in accordance with 20.1.1 then it is deemed to have been served on the Respondent 4 business days after the day it is sent.

## **21. CORRESPONDENCE WITH THE CHIEF EXECUTIVE OFFICER**

- 21.1 The Complainant and Respondent may send any documentation or correspondence required to be sent under this By-law by Registered Post or in person to:
- The Chief Executive Officer  
Dietitians Association of Australia  
1/8 Phipps Close  
DEAKIN ACT 2600
- 21.2 The Chief Executive Officer may from time to time consent to an alternative means of delivery.

## **22. FAILURE TO ENGAGE**

- 22.1 If the Respondent fails to comply with any requests made by the Chief Executive Officer or the Hearing and Assessment Panel under this By-law, then the Chief Executive Officer may serve the Respondent with a written notice:
- 22.1.1 particularises the request which has been not been complied with by the Respondent;
  - 22.1.2 advises the Respondent that their failure to comply is a breach of their undertakings as a member of the DAA / non-member Accredited Practising Dietitians;
  - 22.1.3 advises the Respondent that they have 14 days from the date the notice was served to rectify the breach; and
  - 22.1.4 advises the Respondent that failure to rectify the breach within the time allowed will result in immediate suspension of their APD status until they rectify the breach.
- 22.2 If the Respondent does not rectify the Breach within the time provided under Clause 22.1.3 then their APD status will be immediately suspended. This suspension will not be listed on the DAA Website but may be disclosed to persons who make direct enquiries about the Respondent's APD status.
- 22.3 If the Respondent resigns or allows their membership or non-member APD status to lapse whilst the subject of a Complaint under this By-law then:
- 22.3.1 The Complaint made while they were a member of the DAA or a non-member Accredited Practising Dietitian will remain active and will be pursued should they wish to re-join the DAA or the Accredited Practising Dietitian Program.
  - 22.3.2 Their name will be added to the list of names on the DAA Website of persons not permitted to use their post-nominal as they have rendered themselves ineligible for reinstatement until the Complaint has been resolved.

