



Australian Writers' Guild Authorship Collecting Society
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AWGACS COMPLAINTS HANDLING & EXPERT DETERMINATION PROCEDURE

BACKGROUND

The Australian Writers' Guild Authorship Collecting Society (**AWGACS**) has developed both a Complaints Handling Procedure and a Dispute Resolution Procedure. These procedures reinforce AWGACS' commitment to fair and transparent dealings with its members.

The establishment of an appropriate complaint handling and dispute resolution procedure is a requirement under paragraph 3(c) (viii) of the *Code of Conduct for Copyright Collecting Societies* and complies with the requirements of *Australian Standard 4269-1995 Complaints Handling* (the **Standard**). AWGACS is further guided by compliance with CISAC's Binding Resolutions (the Code of Conduct).

AWGACS will provide all reasonable assistance to any of its members wishing to lodge a complaint or seeking expert determination.

1. COMPLAINTS HANDLING PROCEDURE

WHY DOES AWGACS HAVE A COMPLAINTS HANDLING PROCEDURE?

AWGACS has developed a Complaints Handling Procedure to ensure that any members' complaints are handled promptly and effectively.

Complaints that cannot be resolved through AWGACS Complaint Handling Procedure may be resolved through AWGACS Expert Determination Resolution Procedure.

These procedures are open to all AWGACS members. Those AWGACS members who are also Australian Writers Guild (**AWG**) members also have access to the AWG Disputes Policy.

WHO CAN MAKE A COMPLAINT?

You are eligible to lodge a complaint if you are a member of AWGACS.

WHAT CAN BE COMPLAINED ABOUT?

Complaints may be made about any aspect of AWGACS operations.

AWGACS recommends that members should first attempt to resolve any complaints by talking with the AWGACS Coordinator or its Group CEO. Most misunderstandings and issues can be resolved this way.

The Complaints Handling Procedure exists to assist members in making a complaint when the issue is unable to be resolved in the first instance with AWGACS directly.

The Complaint Handling Procedure does not apply to members in dispute with other members. When two or more writers dispute the percentage split for a program that is listed on their royalty checklist, the onus is on them to reach a resolution in line with the AWGACS Distribution Policy (the **Distribution Policy**).

WHAT IS THE PROCEDURE FOR MAKING A COMPLAINT?

All complaints must be made in writing and sent to:

Mr Oliver Woodman
AWGACS Coordinator
Level 4, 70 Pitt St, Sydney NSW 2000
Telephone: (02) 9319 0339
Fax: (02) 9223 8933
Email: awgacs@awg.com.au

The complaint must include the following information:-

1. The name and contact details of the person/s making the complaint.
2. The nature of AWGACS operations being complained about and specifically setting out which obligation AWGACS has breached or may not be fulfilling.
3. A simple explanation of the reason(s) for the complaint.

WHAT HAPPENS ONCE A COMPLAINT HAS BEEN LODGED?

The AWGACS Coordinator will acknowledge receipt of the complaint within seven (7) working days and inform the Group CEO.

The AWGACS Coordinator has 14 working days to respond in writing to the member's complaint.

If the member is unhappy with the response, he/she has 14 days to bring the complaint to the attention of the Group CEO.

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The Group CEO then has 14 working days to respond in writing to the member's complaint.

If the member is unhappy with the response, he/she has 14 days to respond to the Group CEO.

The Group CEO will inform the AWGACS Board which will then make a determination of the complaint at its next quarterly meeting and communicate the final response to the member within 14 working days of that meeting.

WHAT OCCURS IF A MEMBER IS STILL UNSATISFIED AT THE END OF THIS PROCESS?

If the member is still unhappy with the response from the AWGACS Board, he/she has 14 days in which to inform the AWGACS Coordinator of his/her intention to avail themselves of the Expert Determination Process.

2. AWGACS EXPERT DETERMINATION PROCEDURE

WHAT IS THE AWGACS EXPERT DETERMINATION PROCEDURE?

Complaints that cannot be resolved through AWGACS Complaints Handling Procedure may be resolved through Expert Determination. This procedure is open to all AWGACS members.

This procedure is entirely voluntary and will occur only when both AWGACS and its member agree to resolve the dispute through this procedure after the dispute has not been resolved through the AWGACS Complaints Handling Procedure.

WHO CONDUCTS THE DISPUTE RESOLUTION PROCEDURE?

The Expert Determination Procedure occurs via a decision from an agreed independent expert.

Choosing the independent expert is a collaborative effort by both AWGACS and its member and both must agree on the independent expert appointed.

WHAT DISPUTES CAN BE RESOLVED THROUGH EXPERT DETERMINATION?

The AWGACS Complaints Handling Procedure aims to resolve issues promptly. AWGACS will assist in this to the best of its ability.

Only complaints that have first been through AWGACS Complaints Handling Procedure may be referred to Expert Determination. In these circumstances, any member's disputes about any aspect of AWGACS operations are eligible to be referred to Expert Determination.

HOW DO I APPLY TO UNDERTAKE THE AWGACS EXPERT DETERMINATION?

A member must notify AWGACS in writing that he/she wishes to use Expert Determination. The lodgement of the dispute must be made within 14 working days of AWGACS final response under the Complaints Handling Procedure.

WHAT STEPS DOES THE EXPERT DETERMINATION PROCEDURE FOLLOW?

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1. Any dispute received by the AWGACS Coordinator will be acknowledged within 14 working days. The acknowledgment letter will indicate whether AWGACS agrees that the dispute should be resolved via Expert Determination.
2. If a decision is made by AWGACS not to enter into Expert Determination, AWGACS must give reasons for this decision in the acknowledgment letter.
3. If AWGACS agrees to enter into Expert Determination, then:
 - a. AWGACS will write to the member within 14 working days requesting that all written submissions and evidence be provided to AWGACS within 28 working days.
 - b. AWGACS will provide a copy of its own written submissions and evidence to the member within 28 working days.
 - c. The parties will also agree to an independent expert to be used for Expert Determination within the 28 working days.
 - d. An estimate of the costs of the expert determination will be provided to the parties.
4. During this 28-day period, AWGACS will liaise with the member and the agreed independent expert regarding convenient dates for a hearing. AWGACS will then notify all parties in writing of the arrangements for the hearing.
5. Both AWGACS and the member will have a further 14 working days to provide any further written submissions or evidence in reply. AWGACS will then send a copy of all submissions and evidence to the agreed independent expert.
6. At the expert determination, both parties will be given an opportunity to present their case.
7. The agreed independent expert will make a determination within 28 working days of the hearing and send a copy of that decision to all parties.

WHAT IF THE MEMBER OR AWGACS DOES NOT AGREE WITH THE EXPERT DETERMINATION?

If AWGACS or the member do not agree with the independent expert determination, they have 28 working days to file proceedings in an appropriate Court or Tribunal. If proceedings are not filed, the determination of the independent expert is binding on the parties.

ARE THERE COSTS INVOLVED WITH THE EXPERT DETERMINATION PROCEDURE?

Both parties will share the costs of the expert determination, including professional fees, travel expenses and venue hire. Each party must also pay their own costs associated with the expert determination.