

ETHICAL REVIEW PANEL

Introduction

The Ethical Review Panel (ERP) is an appeal panel. It can be used by EATA members where they consider the outcome of an affiliated organisation's ethical procedures and practices included a failure of the affiliated organisation to effectively apply its own procedures and protocols or where it is considered that the existing procedures and protocols are unfit for practice.

Ethical Review Panel Procedure

- 1) Either party involved in an affiliated organisation's ethical procedures, including a hearing board or equivalent, may apply to the Ethical Advisor of EATA for an EATA Ethical Review Panel (ERP) to conduct a review of the procedures and protocols the affiliated organisation used in dealing with the complaint. The parties concerned may request a review on the grounds that there has been a procedural error or that one or more of the parties involved in the dispute consider that the affiliated organisations procedures and policies are not fit for practice. Reviews must normally be requested within 28 days of a decision by an affiliated organisation.
- 2) Evidential documentation to support a request for a review must be sent to the EATA Ethical Advisor accompanied by a brief statement as to the procedural error that is grounds for review or the procedure/s that are considered unfit for practice.
- 3) The EA will appoint an Ethical Review Panel consisting of three persons. These will be EATA members who are suitably qualified and experienced to evaluate affiliated associations ethical procedures and protocols.
- 4) The function of the ERP is to establish whether or not a procedural error has occurred and/or to consider if the protocols and practices of the affiliated organisation are fit for practice.
- 5) When an ERP decision that a procedural error has occurred must be based on one of the following
 - a) The Hearing Board or equivalent has had regard to irrelevant considerations or has failed to have regard to relevant ones; or
 - b) one or more members of Hearing Board or equivalent were biased; or

- c) The Hearing Board or equivalent has dealt with matters which do not arise directly from the complaint; or
 - d) the Hearing Board or equivalent has not provided an adequate explanation for the reason for their decisions; or
 - e) there has been a failure to follow the procedural rules and guidelines of the affiliated organisation concerning the investigation of the complaint or equivalent
- 6) Procedures and protocols are considered unfit for practice where the ERP considers that the procedures and protocols of the affiliated organisation do not conform to the accepted standards of existing EATA affiliated organisations and this failure to conform is considered to be detrimental to a fair and just management of complaints.
- 7) In the case where the ERP is investigating a specific case the ERP will generally accept the facts as they were found to be by the initial Hearing Board (or equivalent) except that they may refer the matter back to that Hearing Board (or equivalent) if they need to be aware of a fact which was not the subject of a finding by that Hearing Board (or equivalent) in order that an appropriate finding can be made.
- 8) A party who is aggrieved by the outcome of the ERP process in relation to a review or an application for review cannot appeal further.
- 9) The ERP which decides a review must either dismiss the application to review; or allow the review
- 10) The ERP which engages in a review must normally either:
- a) decide that there were no procedural errors, or that any procedural errors which did occur had caused no significant injustice, and dismiss the application; or
 - b) grant the application and quash the decision and (unless the parties agree it is not necessary to do so) remit the case back to the affiliated organisation for action
 - c) If the ERP, which is considering a conditional decision, decides there has been a procedural error in relation to the imposition of a condition but not in relation to the main decision, it must normally presume that the condition is fundamental to the decision and quash the decision as a whole; but if,

exceptionally, it is satisfied that the condition is not fundamental to the decision, it may quash the condition and leave the main decision standing on an unconditional basis.

- 11) In cases where an ERP is investigating the fitness of practice of an affiliated organisations procedure and protocols the ERP can, on the evidence submitted to them, decide either that they are fit or are not fit.
- 12) Where the ERP decides an affiliated organisations procedures and protocols are unfit for practice they are required to require specific amendments for the affiliated organisations procedures and protocols to make them fit for purpose.

Protocol for Implementation of an Ethical Review Panel

A request for an EATA ERP must be made in writing to the EATA Ethical Advisor normally within 28 days of the affiliated organisations completion of its own processes concerning the complaint. Only those parties directly involved in the Affiliated Organisation's investigation and handling of a complaint may request a review.

The request for a review must be made in writing and must include evidence outlining the grounds for an review as outlined in the ERP procedures above.

The Ethical Advisor will establish the likelihood of the possibility of grounds for a review. On establishing this he/she will request all relevant information from the involved parties, usually the Affiliated Organisations Chair of Ethics and the appellant. The Ethical Advisor will appoint an ERP. An ERP will consist of 3 persons, one of whom will be a certified Transactional Analyst and whom will chair the panel.

The ERP will meet to discuss the review within a reasonable time.

The ERP must normally either:

- a) decide that there were no procedural errors, or that any procedural errors which did occur had caused no significant injustice, and dismiss the application; or
- b) grant the application and quash the decision and (unless the parties agree it is not necessary to do so) remit the case back to the affiliated organisation for action

- c) If the ERP which is considering a conditional decision decides there has been a procedural error in relation to the imposition of a condition but not in relation to the main decision, it must normally presume that the condition is fundamental to the decision and quash the decision as a whole; but if, exceptionally, it is satisfied that the condition is not fundamental to the decision, it may quash the condition and leave the main decision standing on an unconditional basis

- d) That the affiliated organisations procedure and protocols are unfit for practice and need to be specifically amended.

The ERP will inform the Ethical Advisor of its decision who will then notify the EATA executive, the appellant and the Affiliated Organisation of the results of the review.