



Complaints proceedings

8 Complaints, appeals and disciplinary proceedings

8.1. Complaints and appeals mechanism

HS aims to ensure the fair, timely and objective resolution of complaints and appeals relating to HS Certification.

In situations where the HS Secretariat becomes aware of a complaint against an Accredited Assessor or an appeal against an Assessment finding in relation to the HS Certification, a two-step approach is implemented; first whether to accept the complaint or the request for appeal, and second its actual adjudication of the appeal. The two-step approach ensures that parties raising informal complaints are given the opportunity to submit these formally, and prevents risk of abuse when it comes to potentially frivolous complaints or appeals.

The mechanism for complaints and appeals specifies the following process:

1. Upon confirmation of a party raising a formal complaint or request for appeal, the HS Secretariat compiles a record of the complaint, and requests that the Accredited Assessor responsible for the Assessment concerned provide a written explanation of the events and evidence relevant to the complaint.
2. Both documents are then sent by the HS Secretariat to a duly convened sub-committee of the HS Governance Committee, who decide whether to accept the request to appeal.
3. If the request to appeal is accepted, the sub-committee is tasked with reviewing the final Assessment report in relation to the points of disagreement raised by the appellant, and with deciding whether a transgression of the Code of Ethics has occurred, and if so, the appropriate sanction.
4. In making this decision, the sub-committee has the right to request further documentation or evidence and/or bring in an independent Accredited Lead Assessor (ALA), who was not involved in any way with the Assessment, or a senior ESIA/ due diligence specialist from outside of the Assessor community, to provide their own independent review and advice to the HS Secretariat and HS Governance Committee. Costs will need to be identified and agreed with the Project Proponent, HS Secretariat and ALA. ALA access to information would be under an appropriate confidentiality agreement with the HS Secretariat. The Project Proponent needs to be a willing participant in this process, and has the right to provide specific evidence to the sub-committee and independent ALA under confidentiality agreements.
5. The sub-committee will respond to the complaint or appeal within four weeks, unless the above circumstance of additional independent advice is activated.
6. If the decision of the sub-committee results in a change to the Assessment findings, the final Assessment report will be updated and republished on the HS website. The HS Certification status will be updated accordingly should the change in Assessment findings lead to a change of Certification rating.
7. If the sub-committee decides that there has been a transgression of the Code of Ethics by the Accredited Assessor, it will have the option either to terminate the Licence Agreement or impose a suspended sanction at its discretion for any period up to two years, provided that should an Accredited Assessor be found to have again breached the Code of Ethics while still under a suspended sanction, the Licence Agreement will be automatically terminated by the HS Council upon written notice to the Licensee.
8. All decisions of the sub-committee are final and with immediate effect.

Appeals can only be made within the first 12 months of Certification, after which the appeal is considered invalid and is not processed. Appeals are open to all stakeholders (project affected people, local environmental groups, basin

organisations and regulators) even if the appellant did not submit comments.

As described in Section 5, Project Proponents are required to identify the methodology they will use to ensure comment can be obtained from project-affected communities who would not be able to engage effectively with the website-based public comment mechanism, and this needs to be approved by the HS Secretariat. Appeals made by project-affected communities, through the selected methodology, are addressed by the HS Complaints and Appeals Mechanism.

8.2 Disciplinary proceedings

If the Accredited Assessor is found to have breached the Code of Ethics, they will have the right to appeal the decision. Any decision to appeal must be communicated to the HS Secretariat in writing within seven days of the decision against which the appeal is to be noted.

On receipt of the notice to appeal, the HS Secretariat will request that the Chair of the HS Governance Committee convene an extraordinary meeting of the Committee. The members of the original sub-committee will not participate in the meeting, but will have to put forward reasons, at least two weeks before the date of the meeting, for the decision given.

Once the date for this meeting is decided, the HS Secretariat will communicate this to the appellant, who will have the right to appear either in person or via electronic means.

The HS Secretariat will speak on behalf of the sub-committee and complainant, and the Accredited Assessor will be given the opportunity to present argument. No new evidence will be considered at the appeal meeting, with argument only on the validity of the decision of the original sub-committee, based on the evidence then at hand. The HS Council may opt to either consider the arguments or deliver a decision immediately. In any event, a decision

will be made and communicated within two weeks of the meeting. No further recourse or appeal is available.

8.3 Complaints against HS Secretariat

Complaints against HS Secretariat are recorded and addressed in the HS grievance management process that aims to provide:

- A clear focal point for grievances raised by Project Proponents, HS Council members or Accredited Assessors;
- A transparent and impartial process and mediation to address grievances, with respect for sensitive information;
- A credible, efficient and solution-oriented arbitration.

The grievance management process is open only to members of the HS Council, Project Proponents and Accredited Assessors. Should a member have a grievance related to HS Secretariat's activities, this can be raised and managed through the HS grievance management process. For this process to apply, the grievance must be about adherence to the HS Certification Scheme standard-setting documents, rules, policies, and procedures directly related to the HS Secretariat. The grievance cannot be about contractual obligations between the Accredited Assessor and Project Proponent that go beyond policies and procedures of the HS Certification Scheme. Also, no claims for direct financial compensation from the HS Secretariat are accepted.

Grievances should be addressed at the most direct level possible. Only if resolution fails at that level, should the next level be engaged. A grievance should be submitted to HS Governance Committee Chair and include name and contact details, description of the grievance, supporting evidence (optional), description of steps already taken to resolve the grievance at an informal or direct level.

The HS Governance Committee Chair will inform the submitter within 10 working days after receipt of the grievance if the grievance is found eligible, as advised by the HS Governance Committee. In that case, the HS Governance Committee will appoint a grievance manager to handle the grievance in accordance with this procedure. The grievance manager has appropriate contextual knowledge to handle the case, and is, as much as possible, impartial, and free of any conflict of interest in relation to the grievance and the parties involved. If the complexity of the case so requires, the HS Governance Committee may appoint a committee of up to three persons, including one grievance manager, to handle the grievance.

Within 10 working days after informing the submitter that the grievance is found eligible, the HS Governance Committee Chair will inform the submitter in writing of the name and contact details of the grievance manager and the process for handling the grievance. Following receipt of any evidence, the grievance manager may request additional information from either party to develop a full picture of the situation. Any party requested to provide further information will be given 10 days to submit this to the grievance manager.

Within 30 days following the deadline for receipt of information, the grievance manager will inform both parties of the situation and the proposed resolution. Where an informal resolution is deemed possible, the grievance manager will contact both parties to attempt to resolve the issue by mutual accord (if applicable). Where this is not possible, the grievance manager will take a decision and inform both parties by email of the decision, including the reasons for the decision and, if applicable, any follow up measures to be taken. The grievance manager reserves the right to extend the period for taking a decision, if the complexity of the case, or other specific reasons so require.

Either party may appeal the decision by submitting an appeal within 30 days after the notification of the decision.