



**CONSUMERS'
FEDERATION
OF AUSTRALIA**

Developing and promoting
the consumer interest

Consumers' Federation of Australia Policy Statement – Policy on Consumer Representation

A. Preamble

As the peak body for consumer groups, from time to time, the CFA is asked to nominate consumer representatives for consideration by various government and industry decision-making and advisory bodies or to provide a representative to fill a position allocated to CFA. We strongly support the inclusion of consumer representatives on such bodies and are pleased to be involved in making nominations.

Consumer representatives, whether nominated by CFA or not, are accountable to the consumers whose interests they represent. They have a duty to stay informed about consumer's interests and how the body to which they have been nominated impacts on consumers. As part of discharging that duty, it is important that representatives consult with and report back to consumer organisations on relevant issues.

B. Principles for the Appointment of Consumer Representatives

The CFA notes that the Commonwealth Consumer Affairs Advisory Council has released *Principles for the Appointment of Consumer Representatives: A Process for Governments and Industry*.¹ The CFA supports these principles and recommends that organisations requiring consumer representatives abide by them. CFA particularly notes the principle that consumer organisations should where possible be involved in appointments.

C. Expectations of consumer representatives²

While organisations that seek to appoint consumer representatives are encouraged to involve CFA, this will not always occur. CFA can only bind consumer representatives that are selected through its nominations process, however it also encourages consumer representatives to:

- Consult with CFA members and consumer organisations as appropriate on matters relevant to their role on the entity. There are a variety of consultations mechanisms that could be used, including email, survey, face-to-face meetings and so on. The consumer representative will exercise their judgment about the appropriate mechanism.
- Report back to CFA members and consumer organisations on relevant issues within the body to which they have been nominated.
- Participate in processes designed to strengthen the consumer voice on bodies to which they are represented, for example, the ACCC Consumer Congress or the Directors' Day organised for Directors of EDR schemes.

¹ Commonwealth Consumer Affairs Advisory Council, *Principles of Consumer Representatives: A process for government and industry*, February 2005, available at <<http://archive.treasury.gov.au/contentitem.asp?ContentID=994>>.

² In some contexts representatives are appointed by consumer organisations or by others to specifically represent consumers; in other cases they are appointed because of their particular skills experience and networks. In either case representatives need to fulfil appropriate governance functions of the body to which they are appointed. In particular if they are appointed as company directors (as in the case many EDR schemes) they have obligations to act in the best interests of the company as per corporations law. Consumer representatives and directors need a good understanding of their obligations and appropriate skills to balance these sometimes competing obligations.

Consumer representatives that are appointed by CFA are expected to become a member of CFA if they are not employed by a member of CFA (this includes the Consumer Representatives on Standards Australia Committees project, see item E). Other consumer representatives are encouraged to become members of CFA to access member support and assistance. Where consumer representatives are in voluntary or unpaid positions, the membership fee may be waived.

CFA encourages organisations that do not utilise CFA to nominate consumer representatives to adopt these measures and the *Principles for the Appointment of Consumer Representatives*.

D. CFA Nomination of Consumer Representatives

Nominations Coordinator

One member of CFA Executive will be the Nominations Coordinator. This person's role will be to:

- coordinate any requests for consumer representatives received by CFA and generally act as the focus point for nominations; and
- recommend an appropriate nominations process for CFA Executive to follow depending on the circumstances.

If no Nominations Coordinator has been appointed then the CFA Chairperson will play this role. In either case, the CFA Secretariat will assist.

Nomination Processes

Given CFA's resource constraints, a flexible approach for nominations will be taken. The Nominations Coordinator may recommend a range of approaches for consideration by the Executive. The following list is a guide to the approach that could be taken, depending on the circumstances.

- Generally, CFA will advertise the position within its networks and call for applications. CFA will set up a three-person nominations committee to assess applications. Applicants must state in their applications that they will be prepared to sign the CFA's Representative Agreement should they be appointed. The specific approach is described further in Appendix 2.
- Where an entity seeking consumer representatives has an acceptable, internal selection process itself (for example, consistent with the *Principles for the Appointment of Consumer Representatives*) the CFA will advertise the existence of the position within its network and call for nominations to be submitted to the CFA. The applications of all people meeting the criteria specified by the entity and stating that they are willing to sign the CFA Representatives Agreement will be forwarded to the entity seeking the nomination, without further screening or specific recommendation. This is likely to be the process followed for some of the large EDR schemes
- The CFA may endorse the re-appointment of an existing representative. This may occur for example, where the representative has particular expertise, and/or a track record and/or where there will be no other candidates with this expertise.

The guiding principle is for the CFA Executive to take a common sense approach to nominations. This approach must strike an appropriate balance between a fair process, the need for high quality consumer representation and the resource limitations of the organisation.

Transparency

The CFA, through the Nominations Coordinator, will document the process used in relation to specific consumer representative appointments either in the CFA newsletter or on the CFA website.

Representatives' Agreement

A Representative's Agreement is attached as Appendix 1. All applicants will be required to indicate whether they are willing to enter into the Agreement. Applicants who are not prepared to sign the Representatives Agreement will not be nominated.

E. Consumer Representatives on Standards Australia Committees project

The Consumer Representatives on Standards Australia Committees project is managed by Consumer Action Law Centre on behalf of CFA. This policy does not apply to the nomination of consumer representatives appointed as part of that project, and such representatives enter into a representatives' agreement with Consumer Action Law Centre.

APPENDIX 1—CFA REPRESENTATIVES AGREEMENT

This agreement is between:

(name of representative) (the “representative”); and

the Consumers’ Federation of Australia Inc. (the “CFA”) a body incorporated in the Australian Capital Territory.

The agreement sets out the broad principles to which an individual, nominated as a CFA endorsed consumer representative to a government or industry decision-making or advisory body Standards Australia Consumer Standing Forum, agrees to be bound.

Reporting

The nominee agrees to report back to the CFA membership on relevant issues within the body to which they have been nominated. Reporting may be:

- by written reports in CFA newsletters. The frequency of such contributions will depend on the issues involved in the entity, however, as a general rule, a report in each newsletter would be expected;
- as directed from time to time by the CFA Executive. The Executive may set out the topics on which reporting is required and the form the reporting should take;
- oral presentations at conferences or similar events;
- other mechanisms as appropriate.

Consultation

The consumer representative will consult with CFA members as appropriate on matters relevant to their role on the entity. There are a variety of consultation mechanisms that could be used, including email, survey, face-to-face meetings and so on. The consumer representative will exercise their judgement about the appropriate mechanism.

However, the consumer representative may be directed by the CFA executive to undertake consultation on specific issues if necessary. Such direction will be in writing and set out the matters concerned, the form of consultation and reporting mechanisms.

Links and Involvement with Consumer Organisations

As a CFA endorsed consumer representative, the representative will maintain ongoing links with relevant consumer organisations. Representatives should also participate in processes designed to strengthen the consumer voice, such as the ACCC Consumer Congress and the Directors’ Day for Directors of EDR schemes.

Confidentiality of Information

As a matter of principle, consumer representatives should of course respect any confidentiality requirements imposed by their position on an entity.

However, “confidentiality” should not be used inappropriately, for example, as a mechanism for stifling discussion or avoiding consultation.

Conflict of Interest

Should the consumer representative, subsequent to their appointment, find themselves in a conflict of interest (either self-identified or identified by the Executive of CFA) they will seek guidance from the CFA Executive about how to deal with that conflict.

There may be circumstances where the conflict is of a nature that requires resignation (for example, the individual's employment places them in a different position that may conflict with the role of consumer representative).

Termination

Should a representative not comply with this agreement, the CFA Executive may remove their endorsement. The representative should resign from the entity in these circumstances.

Signed

.....

(name of representative)

Date

.....

Signed

.....

(on behalf of CFA)

Date

.....

APPENDIX 2—CFA NOMINATIONS COMMITTEE PROCESS

Where an entity does not have an adequate and acceptable internal selection process, CFA will advertise the position within its network and call for nominations. CFA will set up a three-person nominations committee to assess nominations. This Appendix describes this process.

Membership of the Sub-committee

The CFA will set up a three person Nominations Sub-committee, all of whom are members of the Executive.

Sub-committee membership is limited to one year, including membership that consists of one year of cumulative service, in any three year period.

Any Sub-committee member wishing to apply for nomination as a CFA endorsed consumer representative shall inform the Sub-Committee of that intention and shall stand down from the Sub-committee from the date of calling for such nomination to the date the relevant Scheme is informed of the nomination.

Nomination Process

Applications from persons wishing to be nominated as a CFA endorsed consumer representative to a Scheme shall be called for by the Nominations Coordinator, who will publish the selection criteria and the closing date for applications.

Applications are to be directed to the Nominations Coordinator. The Nominations Coordinator will forward applications to the Sub-committee.

The Sub-committee will consider applications for nomination of consumer representatives to determine which applicant or applicants it considers best satisfies the selection criteria.

The Sub-committee will advise the Nominations Coordinator which applicant or applicants the Sub-committee recommends be nominated.

The Nominations Coordinator will inform the CFA Executive of the Sub-Committee's recommendation (subject to the Conflict of Interest Rules) by email (or otherwise) and request that the Nominations Coordinator be informed within a designated timeframe of any objection by an Executive member to that recommendation.

In the event that no objection is received by the Nominations Coordinator, the Sub-Committee's recommendation will be deemed to be a decision of the Executive. In this case, the Nominations Coordinator will promptly inform the entity, successful applicant or applicants, and unsuccessful applicants of the decision, in accordance with the communication provisions of this policy.

In the event that an Executive member objects to the Sub-Committee's recommendation, that member will convey the grounds for objection to the Nominations Coordinator, who will convene a special sitting of the Executive to resolve the objection. A simple majority of a quorate Executive will be sufficient to resolve an objection.

Selection criteria

The Sub-committee will take into account the following selection criteria when considering applications from persons wishing to be nominated as a CFA endorsed consumer representative. ("applicants").

- Expertise in consumer affairs;
- Links to relevant consumer organisations;
- Capacity and willingness to consult with relevant consumer organisations
- Knowledge of, or the ability to acquire knowledge of, the industry/issues involved in the appointment.

Other criteria required by the relevant body will also be considered. For example, the desirability of ensuring significant representation on schemes by women, people from a non-English speaking background, people with a disability, people from remote/rural areas and Aboriginal and Torres Strait Islanders.

Other matters

Conflict of Interest Rule

In the event that an Executive member seeks to be nominated as a CFA endorsed consumer representative, that member shall not be involved in any part of the selection process. An individual in this position, should notify the Nominations Coordinator immediately.

Communications with Applicants

Communication with applicants, either verbally or in writing, will only be undertaken by the CFA Nominations Coordinator. No member of the CFA Executive will be communicated with applicants at all, other than if conducting an interview as part of a selection process.

A standard email (or letter) from the Nominations Coordinator of CFA will advise successful and unsuccessful applicants.

Communication with the Entity to which a Nomination is Made

Communication with an entity seeking nomination will be from either the Chairperson or Nominations Coordinator as appropriate.

Privacy

All personal information provided to the CFA by applicants seeking nominations as a CFA endorsed consumer representative to an entity will be used for the purposes of determining that nomination. It will not be added to a mailing list for any other purpose nor will it be used or disclosed for any other purpose without the consent of applicant who provided the information except as required by law (such as subpoena or warrant).