



**CONSUMERS
FEDERATION
OF AUSTRALIA**

Developing and promoting
the consumer interest

Consumers' Federation of Australia

Policy on Consumer Representation

A. Background

As the peak body for consumer groups, from time to time, various government and industry decision-making and advisory bodies ask CFA to nominate persons for consideration to be consumer representatives or to represent CFA on a body.

CFA strongly supports the inclusion of consumer representatives on such bodies and is pleased to be involved in making nominations and providing consumers to represent CFA on bodies.

All consumer representatives, whether or not nominated by CFA or representing CFA, 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 Principles are:

1. Appointments must be made on merit. Nominees must, at minimum, demonstrate the following:
 - Expertise in consumer affairs;
 - Links to relevant consumer organisations;
 - Capacity and willingness to consult with relevant consumer organisations; and
 - Knowledge of, or the ability to gain knowledge of, the industry and issues involved in the appointment.
2. Appointees must be independent of industry or government and free of conflicts of interest.
3. Consumer organisations should, where possible, be involved in appointments.
4. An appropriate range of candidates should be sought.
5. The appointment process must be consistent with good corporate governance and, where relevant, good practice in self-regulation.

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> >.

6. The appointment process must be transparent, accountable and cost effective.

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

Whether or not a consumer representative is appointed through a process that involves CFA, we believe consumer representatives should:

- Consult with CFA members and other 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 and face-to-face meetings. The consumer representative will exercise their judgment about the appropriate mechanism; and
- Report back to CFA members and other relevant consumer organisations on relevant issues within the body to which they have been appointed.

Consumer representatives that represent 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.

D. CFA Nomination of Consumer Representatives

This section applies to persons seeking to represent CFA on a body and in instances when CFA has been asked to nominate persons for consideration for appointment to a consumer representative position on a body.

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
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- Recommend an appropriate nominations process for the CFA Executive to follow depending on the circumstances.

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 must 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 of 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.

If no Nominations Coordinator has been appointed, 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 for appointment as a CFA representative must state in their applications that they will be prepared to sign the CFA Representative Agreement (Appendix 1) should they be appointed. The specific approach is described further in Appendix 2.
- Where an entity seeking consumer representatives approaches CFA for nominations and has an acceptable internal selection process itself (for example, consistent with the *Principles for the Appointment of Consumer Representatives*) CFA will advertise the position within its network and call for nominations to be submitted to CFA. The applications of **all** people meeting the criteria specified by the entity will be forwarded to the entity seeking the nomination, without further screening or specific recommendation.
- Where an entity seeking consumer representatives approaches CFA for nominations and does not have an acceptable internal selection process itself (for example, consistent with the *Principles for the Appointment of Consumer Representatives*) 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 will then be assessed by CFA and the results forwarded to the entity seeking the nomination.
- The CFA may endorse the re-appointment of an existing consumer representative. This may occur, for example, where the representative has expertise and/or a track record and/or where there will be no other candidates with this expertise.

The guiding principle of the nomination process 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 CFA's limited resources.

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 CFA Representative's Agreement is attached as Appendix 1. All applicants for positions involving representing CFA 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 Committee Project

The Consumer Representatives on Standards Australia Committee project is managed by Consumer Action Law Centre on behalf of the CFA. Therefore, 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 REPRESENTATIVE 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 appointed as CFA’s consumer representative to a government or industry decision-making or advisory body agrees to be bound.

Reporting

The representative agrees to report back to the CFA Executive on relevant issues within the body to which they have been appointed 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.

Consultation

The representative will consult with CFA executive as appropriate on matters relevant to their role on the entity. However, the 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 consumer representative, the representative will maintain ongoing links with relevant consumer organisations and, wherever possible, participate in processes designed to strengthen the consumer voice. The representative should also disseminate information about their activities in other ways including by:

- Written reports in CFA newsletters;
- Oral presentations at conferences or similar events;
- Other mechanisms as appropriate.

Confidentiality of Information

As a matter of principle, a CFA consumer representative should respect any confidentiality requirement imposed by their position on an entity.

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

Conflict of Interest

Should the CFA consumer representative, subsequent to their appointment, find themselves in a conflict of interest (either self-identified or identified by the CFA Executive) 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 CFA consumer representative.

Termination

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

Signed

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(name of representative)

Date

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Signed

.....

(on behalf of CFA)

Date

.....

APPENDIX 2—CFA NOMINATIONS COMMITTEE PROCESS

*This Appendix describes how CFA will deal with applications to represent CFA or to be nominated by CFA for consideration as a consumer representative on an entity which does **not** have an adequate and acceptable internal selection process.*

In these situations, CFA will advertise the position within its network and call for a 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 or a CFA representative shall inform the Sub-Committee of such an intention and shall stand down from the Sub-Committee from the date of calling for such nomination to the date the relevant body is informed of the nomination.

Nomination Process

Applications from persons wishing to be nominated as a CFA endorsed consumer representative or a CFA representative to a body 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 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 body, 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 or a CFA representative (“applicants”):

- Expertise in consumer affairs;
- Links to relevant consumer organisations;
- Capacity and willingness to consult with relevant consumer organisations; and
- 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 or a CFA 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 communicate 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 or a CFA Representative is to be Appointed

Communication with an entity seeking nomination of a CFA representative 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 representatives or a CFA representative to an entity will be used only 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).