
FEE DISPUTE RESOLUTION POLICY & PROCEDURE

The Fee Dispute Resolution service is offered to members and clients of members at no cost.

JURISDICTION

1. APSO will generally only adjudicate fee disputes where both parties are APSO members. In cases involving a non-member, the non-member and the client must agree to abide by the Code before APSO will consider the matter.
2. The fee dispute resolution formula takes precedence over individual Terms & Conditions and/or any provisions in a Service Level Agreement and any such agreements may be excluded from the adjudication process.
3. APSO will not investigate:
 - a. matters of a commercial nature to assist in retrieving monies or compensation as these are legal issues over which APSO has no jurisdiction. However, APSO may investigate such matters to the extent that they may also involve a breach of the APSO Codes;
 - b. disputes between two non-Members;
 - c. disputes that are already subject to an investigation by a regulatory authority;
 - d. matters that are sub-judice;
 - e. anonymous complaints.

FEE DISPUTE ADJUDICATION

4. The fee dispute is adjudicated on paper by a Fee Dispute Adjudication panel.
5. A Fee Dispute Adjudication Panel quorum will be a minimum of three (3) individuals.
6. All matters relating to Fee Disputes will be governed by the Fee Dispute Resolution formula.

FEE DISPUTE RESOLUTION FORMULA

7. This resolution formula has been in place for more than three decades and is recognised as best practice in the staffing industry.

8. The party that completed all of the following three (3) steps will usually be regarded as the **effective cause** of the placement and therefore entitled to the fee:
 - a. interviewed the Candidate;
 - b. Obtained the Candidate's permission to represent them to that *specific* Client for that *specific* vacancy;
 - c. Obtained the Client's acceptance of the Candidate as an applicant for that *specific* vacancy. The Client's acceptance is considered to have taken place when the Client acts upon the introduction by requesting the submitting member/party to set up an interview with the relevant Candidate.
9. If neither party completed all three (3) steps, the Fee Adjudication Panel shall be entitled to use its discretion in making a decision.
10. Adherence to all sections of the Codes will be taken into account when deliberating cases and arriving at decisions.

RESOLUTION PROCESS

11. Once membership status has been confirmed or written agreement obtained from the parties, the Ethics & Compliance Manager will notify both parties in writing and call for the submission to be made within ten (10) working days of the notification.
12. All submissions must be complete and in writing.
13. For the purpose of speedy adjudication, proof and substantiating evidence must be presented in an orderly manner and indexed to clearly identify each step in the process as per Fee Dispute Resolution formula.
14. The format of the submission must include the following:
 - a. A chronological record of events and a brief motivation;
 - b. A concise breakdown of each step in the formula with appropriate proof and substantiating evidence. A general framework is provided in the Fee Dispute Guidance Note.
15. The fee dispute is adjudicated on paper and will be based on submissions made.
16. It is the sole responsibility of the parties involved to submit all relevant information and supporting documentation by the deadline. APSO will proceed with the adjudication and will not be liable to accept any late submissions.
17. The Fee Dispute Adjudication panel will be entitled to use their discretion in reaching a final decision and making an appropriate award. This may include, but is not limited to seeking clarity or confirmation from the Client or the Candidate or any relevant third party.
18. Once submissions have been received, only the party that initiated the dispute has the right to withdraw the matter prior to a ruling and award being made.
19. Notwithstanding the above, if APSO suspects that a serious breach of the Code has taken place, the alleged breach may be referred separately to the APSO Ethics Committee for further investigation.

20. Once the Fee Dispute Adjudication panel has reached a decision, written notification will be communicated to all parties.
21. Decisions must be made and communicated to all parties within fourteen (14) days from the deadline date for submission.
22. The decision of the Fee Dispute Adjudication panel is final and binding on all parties.

RIGHT TO APPEAL

23. A party shall be entitled to apply for an appeal of the ruling, provided it is made in writing within three (3) working days from the date of original ruling.
24. The written application for appeal must contain:
 - a. Detailed grounds upon which the appeal is based; and
 - b. Supporting evidence
25. Grounds for consideration of appeal must fall within at least one of these categories:
 - a. Material error in facts relied upon;
 - a. Relevant new evidence raised; and
 - b. Bias
26. After receipt of the application for appeal APSO will consider same and will advise the appellant within five (5) working days of its decision.
27. If the application is granted the appeal process will be initiated and APSO will deliver a ruling within fourteen (14) days. If APSO can show just cause, the deadline may be reasonably extended providing all parties have been informed in writing.

ARBITRATION

28. The party that loses the appeal shall have the right to initiate outside arbitration. This must be done in writing by the appellant no later than ten (10) working days from the date of the ruling handed down by the Appeal Board. The South African Institute of Arbitrators will be asked to propose an arbitrator. All costs relating to this arbitration procedure shall be borne by the appellant, unless otherwise ordered by the arbitrator.
29. As a quicker and more affordable alternative to formal arbitration the party that loses the appeal shall have the right to initiate expedited private arbitration by requesting APSO to refer the matter to a recognised Dispute Resolution organization no later than ten (10) working days from the date of the ruling handed down by the Appeal Board. The dispute resolution organisation will appoint a commercial arbitrator. The arbitrator will consider the matter on written submissions from the parties. The arbitrator's decision will be final and binding on the parties. All costs relating to this arbitration procedure shall be borne by the appellant, unless ordered otherwise by the arbitrator.