

## MEMBER REPRESENTATION POLICY & PROCEDURE

DATE OF ORIGINAL ENDORSEMENT	20 June 2017	DATE OF EFFECT	20 June 2017	DATE LAST AMENDED	20 June 2017
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### 1. Purpose

The purpose of this policy is to document the level of assistance (information, advice, advocacy or representation) that ASMOF will provide to members and provide clarity to members and staff about expectations of service. Details of Information services provided to members are not covered in this document.

### 2. Policy Details

#### 2.1 Issues

ASMOF membership provides many benefits which are funded by union fees paid by members. This includes expert industrial support by specialist staff on a range of matters like workplace rights, disciplinary processes, termination of employment, workplace discrimination, performance reviews, workplace injuries and illness, workers' compensation, workplace health and safety, and restructures.

#### 2.2 Level of Assistance

We will assess each case on its industrial merits. After discussion and consultation with the member(s) ASMOF will advise of the appropriate course of action in relation to the matter. To guarantee the most effective use of the Union's resources for all members we reserve the right to determine the level and extent of the service that will be provided in respect of each case. We reserve the right not to pursue any matter which we believe to be unreasonable, lacking in substance, unlawful, frivolous, vexatious or has no reasonable prospects of success. All decisions to withdraw or not provide industrial services to existing members will be made by the Executive on behalf of the Council.

<b>Information</b>	All members are entitled to contact ASMOF for information related to their workplace rights and referrals to external agencies. Information may take the form of telephone information, fact sheets and referrals to external agencies regarding employment and work life matters.
<b>Advice</b>	Advice is the provision of information and how that information applies to a member's situation. Advice includes interpretation about how Awards, Enterprise Agreements and other industrial instruments apply to members.
<b>Advocacy</b>	Advocacy is an extension of an advice service and may include, writing documents, completing forms and making phone calls on behalf of members. Advocacy is part of a continuum of assistance to resolve matters at the local level but which may progress to the IRC or FWC. Advocacy may also include face to face support by an industrial officer at a workplace meeting.
<b>Representation</b>	Representation is advocacy before a court or tribunal. ASMOF retains the ultimate discretion regarding representation. Decisions about whether to progress matters to the IRC or FWC or another court or tribunal will be based on seriousness and merit, including whether all members will benefit from the result. Further, ASMOF may decide to take a matter in the NSW IRC or FWC only to the initial conciliation or compulsory conference stage and may decide not to proceed to the full hearing or arbitration of the matter.

## **2.3 Conduct**

A positive collaborative approach facilitates communication between members and ASMOF staff. ASMOF staff will treat all members with dignity and respect, likewise, ASMOF staff expect to be treated with dignity and respect by members. Abusive, hostile or threatening behaviour towards union staff will not be tolerated, nor will sexual harassment of ASMOF staff. Industrial assistance for a member may be withdrawn if it is considered the member's conduct towards ASMOF staff is inappropriate.

## **2.4 Resolution of a matter**

Once an industrial officer is allocated a matter, they will, where possible, see the matter through to its final resolution. At all times the industrial officer will provide confidential and timely advice on the prospects of successful resolution. In some circumstances the Union may be unable to provide further assistance on a matter. If this situation arises the industrial officer will advise the member of alternative options.

## **2.5 External Tribunals**

Industrial officers may appear on behalf of members in a range of tribunals where we have jurisdiction.

An appearance by an industrial officer in a tribunal requires the prior approval of the Executive Director. In making such a decision the Executive Director will consider such factors as the outcomes which may realistically be achieved for the member(s), the industrial interests of affected members, and the resources required to pursue the matter.

## **2.6 Legal advice**

ASMOF industrial staff provide quality industrial advice about workplace related issues. They do not provide legal advice. Members are advised that it is their choice as to whether they choose the union's industrial staff, or someone else such as a lawyer (at their own expense), to act as their representative. They cannot have two representatives for the same matter with their employer. This avoids possible conflicts.

If a member has a non-employment related legal matter ASMOF can refer them to our preferred provider for discounted legal advice. However, once the referral is made the carriage of the matter and any resultant costs/action etc. is entirely a matter between the member and the law firm.

## **2.7 Financial advice**

Industrial staff cannot give financial advice to members in any circumstance. Members should contact their Superannuation fund or other financial institution or financial planner for financial advice.

## **2.8 Applicants with pre-existing problems**

Resolving individual matters can use up a lot of union resources and the union would be financially unviable if members only joined when they had problems to be resolved. The underlying principle is that income derived from Union fees should be spent on members who are committed to unionism and not on people who join the Union for convenience purposes only.

Therefore, no assistance will be given to a new member who has joined the Union with a pre-existing issue, unless approved by the State Council. Such exemptions will only be approved by State Council in circumstances where it is in the best interests of the Union and members in general.

## **2.9 Discontinuance and cessation of support**

In representing the Union's members, we will provide the highest quality service in a professional and courteous manner. However, the Union reserves the right to withdraw or limit support for members in certain circumstances. This can include, but is not limited to:

- ignoring or acting contrary to the advice which is provided

- making unreasonable demands on staff
- not providing the Union with all relevant information
- seeking alternative advice or representation, at the same time as seeking our advice, without our authorisation
- where the member has been dishonest to us about the facts and circumstances of their matter
- where the matter has no reasonable prospects of success
- where the member conducts themselves towards a member of ASMOF staff in a manner that, in the view of Council, is in breach of the NSW Health Code of Conduct.

## **2.10 Unfinancial Members**

Under ASMOF rules a member whose subscription is three months in arrears shall be deemed to be, and remain, an un-financial member until payment of the amount in arrears is made. Un-financial members shall not be entitled to any of the benefits and privileges of membership.

## **2.11 Complaints in relation to industrial assistance**

ASMOF takes its commitment to providing quality representation to members very seriously and therefore has a mechanism for resolving situations where members may be dissatisfied with the industrial assistance they have received. Where a member has issues with the service provided to them by the union then they can refer the issue to the Executive Director of the union for review.

## **3. Resolutions of State Council**

December 2016 [SC16/77](#):

*“ASMOF State Council agrees that all new applicants who have a pre-existing issue will first be looked at by senior ASMOF industrial staff who will write a short summary of the issue and will provide the summary and the application form to the Executive. Executive will form a view and make a recommendation to State Council who will make the final decision whether membership is accepted and whether assistance can be provided. Council’s decision will be recorded in the minutes.”*

## **4. Procedure for applicants with pre-existing issue**

- 4.1 Applicants must declare any pre-existing workplace issue on their application for membership.
- 4.2 An applicant with a pre-existing issue must provide sufficient information on the issue, and if requested provide supporting documentation, to allow an informed decision to be made regarding their application.
- 4.3 An applicant with a pre-existing issue will be contacted by the union within four working days of the application being made and will be told their application will be considered by the State Council at its next meeting. It will be made clear to the applicant that consideration of the application does not imply it will necessarily be approved, nor is there a guarantee that assistance will be offered on a pre-existing issue.
- 4.4 All new membership applications identified as having a pre-existing issue will, in the first instance, be considered by senior ASMOF staff who will write a short summary of the issue and will provide the summary and the application form to the Executive.
- 4.5 The Executive will form a view on the application and make a recommendation to State Council.
- 4.6 State Council will make the final decision whether membership is accepted, under what terms and whether assistance can be provided. Council’s decision will be recorded in the minutes. The applicant will also be advised of the Council’s decision by email.

*This Policy may be varied, withdrawn or replaced by ASMOF State Council at any time. The Council may, at its discretion but subject to the rules of the Union, vary any part of this Policy on a case by case basis.*