



Alberta

Conference of Mennonite
Brethren Churches

ABMB Policy and Procedures

Managing Cares, Concerns, or Conflicts

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TABLE OF CONTENTS

INTRODUCTION	4
Interpretation	4
Mandate	5
INITIATION OF THE FORMAL COMPLAINT PROCESS	5
STRUCTURE, ROLES AND RELATIONSHIPS	6
ABMB Executive Board & Commissioner	6
Judicial Committee	6
Appeals Committee	6
Removal and Expiry of Term	7
Appearance of Bias	7
Legal Counsel	7
REQUEST TO INVESTIGATION	7
Filing of a Request to Investigate a Concern, Complaint, or Conflict	7
Investigation	8
Disposition	8
HEARING	9
Preliminary Steps	9
Pre-hearing Conference	9
Form and Notice of Hearing	9
Conducting the Hearing	10
Decisions	10
APPEALS	11
Initiation	11
Materials for the Appeal	11
Date and Form of the Appeal	12
Powers of the Appeals Committee	12
Decision and Reasons	13
ENFORCEMENT	13
CONFIDENTIALITY	13
AMENDMENT OF THIS DOCUMENT	13

ALBERTA CONFERENCE OF THE MENNONITE BRETHREN CHURCHES

Policy and Procedures Managing Cares, Concerns, or Conflicts

Introduction

1. This document sets out the formal procedures to be followed by the Alberta Conference of the Mennonite Brethren Churches where there is a need to address a care or concern, or to work through a conflict, regarding the conduct of a credentialed pastor/leader. This same procedure may also be applied to a member church and/or organization that may experience a matter of significant care, concern, or conflict.
2. This document is a guideline only. The failure of the ABMB or any of its representatives to comply with a requirement set out in the document does not affect the validity of the process or a decision that is made.
3. The objective of these procedures is reconciliation and restoration (Matthew 18).

Interpretation

4. In this document,
 - a. **Number and Gender:** Words importing the singular include the plural and vice versa; words importing a male person included a female person and a corporation.
 - b. **"ABMB"** means the Alberta Conference of the Mennonite Brethren Churches;
 - c. **"CCMBC"** means the Canadian Conference of the Mennonite Brethren Churches;
 - d. **"Member"** is a credential-holder (usually a pastor) who has been credentialed by ABMB. ABMB ministers licensed by the province of Alberta to perform marriages are required to be credential-holders.
 - e. **"Member Church"** refers to a church that has been formally accepted into membership into ABMB.
 - f. **Executive Board** refers to the ABMB Executive Board.
 - g. **"Commissioner"** is the person assigned by the Executive Board to provide oversight to the proceedings of a formal care, concern, or conflict.
 - h. **"Faith Team"** is a panel of normally no less than three credentialed members that provides guidance to the ABMB and its member churches in matters of doctrine, Christian conduct, and church polity; this team credentials pastors serving in ABMB.
 - i. **"Life Team"** is a panel of normally no less than three members, of which at least two shall be credentialed by ABMB, who provide assistance in matters of care, concern, and conflict within ABMB; this may be specific to theological practice, church conflict, or pastoral misconduct according to the MB Conference Covenant (which includes the MB Code of Conduct).
 - j. **"BFL"** is the CCMBC Board of Faith and Life.
 - k. **"Confession of Faith"** is the confession of the Mennonite Brethren in Canada and forms the biblical and ethical standard for ABMB which all credential-holders and member churches are committed to support and teach.
 - l. **"MB Conference Covenant"** is a relationship agreement between a credential-holder and ABMB that engages the privileges, responsibilities and accountabilities of all parties involved. This Covenant affirms the Confession of Faith and the MB Code of Christian Conduct.
 - m. **"Reviewee"** refers to a Member or Church under formal review or investigation.
 - n. **"Complainant"** refers to a credential-holder or member church who brings a Request to Investigate to ABMB.
 - o. **"Request to Investigate"** is a formal request by a member to the Executive Board to investigate a person or/and an ABMB church or organization.

Mandate

5. This document applies to a care, concern, or conflict, that arises with regards to:
 - a. A Member (credential-holder) in relationship to the Mennonite Brethren Conference Covenant formally brought forward to the Executive Board for a review or investigation.
 - b. A Member Church in relationship to the responsibilities and expectations of a Member Church (see General Operating Bylaws) formally brought forward to the Executive Board for a review or investigation.
6. ABMB has jurisdiction over the conduct of a Member during the time they were a member and during any period of suspension of membership.
7. The jurisdiction over a Member continues even though the person (or Member Church) is no longer a Member as it pertains to matters of the ABMB.
8. No Member may resign or otherwise voluntarily terminate his or her membership in the ABMB once the ABMB receives a formal complaint, or initiates an investigation of a concern, until the matter is finally disposed of.
9. The ABMB may provide clarification to a Member about the interpretation of the MB Conference Covenant, MB Conference Code of Christian Conduct, or its Confession of Faith if requested to do so. Any such request shall be in writing and shall specify all material facts. The advice is not binding on the ABMB if any material fact was omitted or inaccurately stated in the request.

Initiation of the Formal Complaint Process:

10. Process of Care, Concern, or Conflict:
 - a. Informal: As cares, concerns, or conflicts arise, they are to be processed in the natural relationships in which they are situated. An informal process seeks to limit those outside of the natural relationships to resolve the matter. As part of the process, the LIFE team may be assigned to assist in this matter and is still considered to be "informal".
 - i. The LIFE team is assigned to process with the Member or Member Church on the care, concern, or conflict.
 - ii. All reasonable effort of care, in the spirit of Matthew 18, shall be applied.
 - b. If reasonable effort does not resolve the matter, the formal process, as outlined below, is to be used. A Member (or Member Church) may initiate this process as well (Complainant). Formal:
 - i. If a care, concern, or conflict is such that it may affect the Member's (credential-holder's) status within ABMB (or in the case of a Member Church, their membership within ABMB), the LIFE Team, or Complainant, will register a Request to Investigate (formal review) to the ABMB Executive Board.
 - ii. The Executive Board will decide, based on initial evidence, if a formal review will commence.
 - iii. Upon the start of a formal review, the Member (or Member Church) will be immediately suspended (considered not in good standing).

The Executive Board shall, in normal circumstances:

- i. Appoint a Commissioner to chair and oversee the process of formal review or investigation;
- ii. Appoint the Faith Team to be the Investigation Committee;
- iii. Function as the Judicial Committee, unless conflict of interest or other reasonable restraints prevents it from carrying forth its duties in a fair manner, in which case other persons may be appointed;
- iv. Appoint the BFL to be the Appeals Committee.

11. The Commissioner will oversee the review process.

Structure, Roles and Relationships

ABMB Executive Board & Commissioner

12. The Executive Board shall appoint a Commissioner to lead the process and meetings.
13. The Commissioner shall not have an appearance of bias or a conflict of interest. If the Commissioner is otherwise unable to perform their functions in a particular matter, another Commissioner shall be appointed by the Executive Board.
14. The Commissioner shall not select himself or herself to sit on a Committee handling a concern or conflict.
15. The Executive Board shall function as the "Judicial Committee" and its decision shall be considered final. An appeal process is available.

Investigative Committee

16. The ABMB Faith Team shall normally function as the Investigative Committee.
17. Two persons of the Committee, or 50% plus one, whichever is greater, constitutes quorum.
18. If the Committee does not have sufficient persons who are able and willing to serve, the Commissioner may select another person to serve on that committee so long as they had no prior involvement in the matter.
19. The Investigative Committee shall have no less than three persons.
20. The Commissioner shall select one of the Committee Members to act as its chair.

Judicial Committee

21. The ABMB Executive Board shall function as the Judicial Committee, or it may appoint, in conjunction with the Commissioner, other persons to serve on the Judicial Committee.
22. Three persons of the Committee, or 50% plus one, whichever is greater, constitutes quorum.
23. If the Committee does not have sufficient persons who are able and willing to serve, the Commissioner may select, in conjunction with the Executive Board, another person to serve on that committee so long as they had no prior involvement in the matter.
24. The Commissioner shall select one of the Committee Members to act as its chair.
25. When the Judicial Committee has ruled, the Executive Board must vote to formally approve this decision at their duly called meeting. If the decision concerns a Member Church the matter must proceed as per the General Operating Bylaws (see Bylaw 3.3 & 3.5, Version 2017).

Appeals Committee

26. If after the Judicial Committee has ruled, and if a subsequent appeal is commenced, the BFL shall be requested to serve as the Appeals Committee.
27. The Appeals Committee shall have no less than three persons who are selected by the BFL. All persons are not required to be members of the BFL.
28. The Appeals Committee shall select its own chair.

29. Three persons, or 50% plus one, whichever is greater constitutes quorum.

Removal and Expiry of Term

30. The Executive Board of the ABMB may remove the Commissioner from his or her office if he or she does not fulfill his or her duties with competence, diligence or integrity.

31. The Commissioner, with the approval of the Executive Board, may remove a Committee Member if he or she does not fulfill his or her duties with competence, diligence or integrity.

32. If the term of a Committee Member ends for any reason other than removal for lack of competence, diligence or integrity and the Committee Member is dealing with a matter, the Committee Member shall be deemed to remain a Committee Member for the purpose of completing that matter. However, the Committee Member shall not be deemed to remain a Committee Member of the Committee for any new matters.

Appearance of Bias

33. The Commissioner and the Committee Members shall not participate in a matter in which he or she had prior involvement.

34. The Commissioner and the Committee Members shall not participate in a matter in which he or she has an appearance of bias or a conflict of interest unless the parties receive full disclosure of the material facts and waive the appearance of bias or a conflict of interest.

35. Where the Commissioner or a Committee Member has doubts as to whether he or she has an appearance of bias or a conflict of interest, he or she shall declare the material facts to the parties and receive submissions on the matter.

36. Where a Committee concludes that the Commissioner has an appearance of bias or a conflict of interest and the Commissioner has not disqualified himself or herself from the matter, the Committee may disqualify the Commissioner from acting in the matter and shall request the Executive Board to appoint another person to act as Commissioner for that matter.

37. Where a Committee concludes that a Committee Member has an appearance of bias or a conflict of interest and the Committee Member has not disqualified himself or herself from the matter, the Committee may disqualify the Committee Member from acting in the matter.

Legal Counsel

38. The Commissioner and the Investigative Committee may retain legal counsel.

39. The Judicial Committee and the Appeals Committee may retain legal counsel who is not legal counsel to the Commissioner or the Investigative Committee.

Request to Investigation

Filing of a Request to Investigate a Concern, Complaint, or Conflict

40. A Request to Investigate a care, concern, or conflict:

- a. shall be in writing;
- b. shall identify the person(s), church or organization making the complaint;
- c. shall identify the "Reviewee" (the Member or Member Church under investigation) and;
- d. shall identify the conduct in issue.

41. A Request to Investigate is a written summary prepared or approved by the Commissioner based on information received that identifies the Reviewee and the care, concern, or conflict in issue.

42. The Commissioner shall appoint the Investigative Committee to investigate any concern, complaint or conflict that has been filed.
43. The preparation, approval or filing of a concern by the Commissioner does not constitute an appearance of bias or a conflict of interest.

Investigation

44. The Commissioner shall notify the Reviewee(s) in writing within a reasonable time of the following:
 - a. the care, concern, complaint, or conflict,
 - b. the Reviewee's right to make submissions in writing to the Investigative Committee about the complaint or concern within 30 days of the sending of the notice,
 - c. the availability of this document, and
 - d. the Reviewee's right to retain legal counsel.
45. The Investigative Committee may decline to investigate a Complainant's care, concern, complaint, or conflict if it concludes that it is frivolous or vexatious or otherwise an abuse of process. The Investigative Committee shall issue a written decision and reasons to the Commissioner who will communicate the matter to the Complainant if it reaches such a conclusion.
46. Otherwise, the Investigative Committee shall investigate the care, concern, complaint, or conflict in a manner that it deems appropriate. The investigation may include the following:
 - a. reviewing the information about the matter held by the Commissioner;
 - b. arranging for the interviewing of the Complainant, originator of a concern, the Reviewee or any witness;
 - c. gathering relevant documents;
 - d. permitting either the Complainant, or the initiator of a concern, or the Reviewee to respond to information received by the Investigative Committee; and
 - e. such other inquiries as may seem appropriate.

Disposition

47. After considering the information gathered in its investigation and considering any written submissions by the Reviewee, the Investigative Committee may do one or more of the following:
 - a. take no action on the care, concern, complaint, or conflict;
 - b. provide a written caution or advice to the Reviewee, or Complainant;
 - c. require the Reviewee to attend before the Investigative Committee for a verbal caution or advice;
 - d. refer specified allegations to the Judicial Committee for a formal hearing;
 - e. such other action appropriate to the matter that is not inconsistent with this document and the Mennonite Brethren Conference Covenant and ABMB Conference Code of Christian Conduct, and the MB Confession of Faith.
48. In determining whether a care, concern, complaint, or conflict should be referred to the Judicial Committee, the Investigative Committee shall consider the following:
 - a. whether the alleged conduct is serious enough to warrant such a referral, and;
 - b. whether there is a reasonable prospect of proving the alleged conduct at a hearing.
49. The Investigative Committee shall issue a decision in writing and, except for a decision to refer specified allegations to a hearing, written reasons for its decision.
50. The decision and any reasons shall be sent to the Reviewee, and/or the Complainant, and the Commissioner.

51. Decisions of the Investigative Committee shall be by majority vote. If there is a tie vote, the chair may be allowed to vote; otherwise, the vote most favourable to the Reviewee shall be implemented.

Hearing

Preliminary Steps

52. If the Investigative Committee refers specified allegations to a hearing, the Commissioner shall notify the ABMB Executive Board to function as the Judicial Committee to hear the matter.

53. The Reviewee, or the Complainant, and the Investigative Committee are the parties to the hearing.

54. The Commissioner shall notify the parties of the composition of the panel of the Judicial Committee. Either party shall raise any objections, including full particulars of any grounds, to the composition of the panel within fifteen (15) days of the sending of the notice. Any objections shall be in writing and served on the other party and filed with the Commissioner. The Commissioner shall consider any objections and any written response to them and may change the persons on the panel in conjunction with the Life Team.

55. The Investigative Committee shall promptly make disclosure to the Reviewee of all of the relevant evidence in its possession that is not protected by a legal privilege.

56. Both parties shall deliver a report or statement from any witness who will be called and any documents that will be filed at the hearing to the other party at least thirty (30) days before the start of the hearing.

Pre-hearing Conference

57. The parties may agree to participate in a pre-hearing conference to determine if the evidence is sufficient to produce a ruling or to determine if a hearing is in fact needed.

58. The parties shall participate in a pre-hearing conference if directed to do so by the Commissioner.

59. The Commissioner shall select a presiding officer to facilitate the pre-hearing conference if requested to do so by the parties or if it appears expedient to the Commissioner to do so. The presiding officer may be a member of the ABMB Executive Board, Faith Team, or Life Team, or any other person who has not been involved in the matter.

60. The pre-hearing conference shall be conducted on a without prejudice basis and no information revealed at the pre-hearing conference (other than agreements reached by the parties) shall be disclosed to the Judicial Committee or the Appeals Committee.

Form and Notice of Hearing

61. If a hearing date is not agreed to at any pre-hearing conference, the Commissioner shall fix a hearing date. Where feasible, the Commissioner shall consult with the parties and the members of the Judicial Committee when fixing the hearing date.

62. A hearing may be held in person, electronically or in writing, or a combination of them.

63. If the form of the hearing is not agreed to at any pre-hearing conference, the Commissioner shall fix the form of the hearing. Where feasible, the Commissioner shall consult with the parties and the members of the Judicial Committee when fixing the form of the hearing.

64. Either party shall raise any objections, including full particulars of any grounds, to the date or form of the hearing within fifteen (15) days of being notified of them. Any objections shall be in writing and

served on the other party and filed with the Commissioner. The Commissioner shall consider any objections and any written response to them and may change the date or form of the hearing.

65. Once the date and form of the hearing have been set, the Investigative Committee shall deliver to the Commissioner, who will deliver the same to the Reviewee and the Judicial Committee a written notice of hearing setting out the time, place, form and purpose of the hearing and a statement that if a party does not participate the hearing may proceed without them.
66. Hearings are not open to the public unless the Commissioner and the Executive Board consider it in the best interest of all parties.
67. If a hearing is open to the public, access to documents filed at the hearing shall be made available to the public, unless the Judicial Committee decides that safety, privacy or similar concerns outweigh the principle of public hearings. Rather than restrict access entirely, the Judicial Committee may decide to limit access to only part of the hearing or documents.
68. All meetings shall record general comments and decisions that are reached. The Commissioner appoints a recorder, and if considered necessary the Commissioner may call on a court reporter so that a transcript of the hearing may be obtained.
69. The Commissioner may cause public notice to be given (for example, on the ABMB's website) of an upcoming hearing.

Conducting the Hearing

70. The parties are entitled to file relevant and reliable documents and make written submissions at the hearing. If the hearing is not just a written hearing, the parties may also call and examine witnesses and may, if permitted to do so by the Judicial Committee make oral submissions.
71. The procedure at the hearing shall be informal. The Judicial Committee shall direct the parties in the conduct of the hearing in any manner that permits the parties to fairly present its case.
72. The Judicial Committee may admit any evidence that it finds to be relevant and reliable even if the evidence might not be admissible in a court of law except that evidence that is protected by a legal privilege is not admissible.
73. The Judicial Committee shall record any oral evidence given at the hearing. If the Confidentiality (as described below) is intentionally violated by the Reviewee who publicly distributes hearing materials, the Reviewee will immediately be deemed in breach of their right to complete the hearing procedure as described above. An immediate ruling may be made by the Judicial Committee based on the information provided.
74. If the Confidentiality (as described below) is intentionally violated by the Judicial Committee who publicly distributes hearing materials that have been officially declared confidential, then Reviewee will have a right to an immediate appeal. (See below for procedure to release information.)

Decisions

75. The Judicial Committee shall first determine the following:
 - a. whether the factual allegations are admitted or have been proved on a balance of probabilities based on clear, cogent and convincing evidence consistent with the seriousness of the matter; and
 - b. whether the facts admitted or proved constitute a breach of the MB Conference Covenant or the MB Conference Code of Christian Conduct, or the ABMB Act, Constitution, or General Operating Bylaws, or the MB Confession of Faith.

76. If the Judicial Committee determines that there has been a breach of the Mennonite Brethren Conference Covenant or the MB Conference Code of Christian Conduct, or the ABMB Act, Constitution, or General Operating Bylaws, or the MB Confession of Faith, it shall then hear any evidence or submissions on the breach and determine the appropriate penalty.
77. The Judicial Committee may order one or more of the following penalties:
 - a. cancellation or removal of the Member's credentials with the ABMB;
 - b. temporary suspension of credentials with the ABMB for a period of time;
 - c. a period of probation for the Reviewee;
 - d. terms and conditions under which the Reviewee may continue as a Member;
 - e. if a Member Church (or organization), the above penalties may apply, including the removal of membership as per ABMB General Operating Bylaws.
78. In considering the appropriate penalty, the Judicial Committee shall give due consideration to any early admission in writing before the Investigative Committee of the allegations by the Reviewee.
79. Decisions of the Judicial Committee shall be by majority vote. If there is a tie vote on an allegation, it shall be deemed not to have been proved. If there is a tie vote on the penalty, the penalty most favourable to the Reviewee shall be imposed.
80. The Judicial Committee shall deliver a written decision and reasons to the parties and the Commissioner.

Appeals

Initiation

81. Either party may appeal a decision of the Judicial Committee by delivering a written notice of appeal to the other party and filing a copy with the Commissioner within thirty (30) days of the issuing of the written decision and reasons by the Judicial Committee.
82. The notice of appeal shall set out the grounds of the appeal and the order sought from the Appeals Committee.
83. The Commissioner shall normally request the BFL to act as the Appeals Committee promptly after the filing of the notice of appeal.

Materials for the Appeal

84. Within ten (10) days of filing the notice of appeal, the appealing party shall request through the Commissioner the filed reports of the Hearing, or if a transcript service has been used order the transcript including filing a financial deposit with the Judicial Committee's transcription service.
85. The appealing party shall not delay or cancel the order of the transcript and shall pay for it as soon as it is ready.
86. Within ten days of the transcript being ready, the appealing party shall deliver a copy of the transcript and the exhibits and other record from the hearing to the responding party and shall file four copies of them with the Appeals Committee.
87. No party shall file with the Appeals Committee evidence that was not before the Judicial Committee without the prior written permissions of the Appeals Committee.

88. The Appeals Committee shall not permit additional or fresh evidence to be filed unless the additional or fresh evidence:
 - a. is apparently credible;
 - b. if admitted it would probably have an important influence on the result; and
 - c. if it could not have been obtained by reasonable diligence at the time of the hearing before the Judicial Committee
89. Within thirty (30) days of the transcripts, exhibits and other record being filed, the appealing party shall deliver written submissions to the other party and shall file four copies with the Appeals Committee and one copy with the Commissioner.
90. Within thirty (30) days of the appealing party filing its written submissions, the responding party shall deliver written submissions to the other party and shall file four copies with the Appeals Committee and one copy with the Commissioner.

Date and Form of the Appeal

91. After the responding party has filed its written submissions, or at such other time as seems appropriate, the Commissioner shall fix an appeal date. Where feasible, the Commissioner shall consult with the parties and the members of the Appeals Committee when fixing the appeal date.
92. An appeal may be held in person, electronically (e.g. to include web casting or satellite broadcasting) or in writing, or a combination of them.
93. If the form of the appeal is not agreed to, the Commissioner shall fix the form of the appeal. Where feasible, the Commissioner shall consult with the parties and the members of the Appeals Committee when fixing the form of the appeal.
94. Either party shall raise any objections, including full particulars of any grounds, to the date or form of the appeal within fifteen (15) days of being notified of them. Any objections shall be in writing and served on the other party and filed with the Commissioner. The Commissioner shall consider any objections and any written response to them and may change the date or form of the appeal.
95. Once the date and form of the appeal have been set, the Commissioner on behalf of the Appeals Committee shall deliver to the Member (Reviewee) and the Judicial Committee a written notice of hearing of appeal setting out the time, place, form and purpose of the appeal and a statement that if a party does not participate the appeal may proceed without them.
96. If a hearing is open to the public, access to documents filed at the hearing shall be made available to the public, unless the Appeals Committee decides that safety, privacy or similar concerns outweigh the principle of public appeals. Rather than restrict access entirely, the Appeals Committee may decide to limit access to only part of the appeal or documents.
97. The Commissioner may cause public notice to be given (for example, on the ABMB's website) of an upcoming appeal.

Powers of the Appeals Committee

98. The Appeals Committee shall only grant an appeal if the Judicial Committee made an error of law or procedure that made the hearing substantially unfair or if there are sufficient grounds that show that the Judicial Committee made a decision that exceeds its authority.
99. If the Appeals Committee decides that a ground of appeal should succeed, the Appeals Committee can vary or reverse the decision of the Judicial Committee, and the Appeals Committee shall assume all of the powers of the Judicial Committee.

Decision and Reasons

100. Decisions of the Appeals Committee shall be by majority vote. If there is a tie vote on a ground of appeal, it shall be deemed not to have been established. If there is a tie vote on varying or reversing the decision of the Judicial Committee, the one that is most favourable to the Reviewee shall be imposed.
101. The Appeals Committee shall deliver a written decision and reasons to the parties and the Commissioner. Either party may appeal a decision of the Appeals Committee by delivering a written notice of appeal to the other party and to the Canadian Conference of Mennonite Brethren Churches. The appeal shall be governed by the CCMBC policies and procedures.

Enforcement

102. The Executive Board shall implement a final decision of the Judicial Committee or the Appeals Committee.
103. If a Reviewee's membership is suspended, the Executive Board shall notify the Reviewee that one or more of the following apply:
- a. cancellation or removal of credentials with the ABMB;
 - b. temporary suspension of credentials with the ABMB for a period of time;
 - c. a period of probation for the Reviewee;
 - d. terms and conditions under which the Reviewee may continue as a Member;
 - e. if the Reviewee is a Church (or organization), the above penalties may apply, including:
 - i. a "member church not in good standing within ABMB"
 - ii. removal of membership according to the ABMB General Operating Bylaws.

Confidentiality

104. The ABMB shall preserve confidentiality of all information obtained in the course of handling a concern or conflict unless:
- a. disclosure is desirable for the purpose of handling the matter;
 - b. disclosure is permitted by this document;
 - c. disclosure is desirable to protect the health or safety of a person or a group of persons; or
 - d. disclosure is permitted or required by law.
105. Prior to any public disclosure of information by the ABMB, the Reviewee and all committees must be informed verbally and/or in writing of the disclosure.
106. The Commissioner and the members of the Judicial Committee and Investigation Committee and the Appeals Committee shall return all of their files to the head office of the ABMB when they have completed their term of office or, in the case of the Appeals Committee, appeal, and shall securely destroy all copies, including electronic copies, of the files.
107. The staff of the ABMB shall maintain these files in a confidential manner and may securely destroy the files after fifteen years.

Amendment of This Document

108. The Executive Board shall approve of any changes to this policy after careful consideration, and after the matter at hand has been closed. Changes will be presented to the general membership through the ABMB newsletter or its website, or both, and shall be reported to the Annual General Meeting.