



The Ontario Archaeological Society

Complaint Resolution Procedures

January 2019

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Version History

Document	Currency Date
OAS Conflict of Interest Policy	May 2018
OAS Privacy Policy	January 2004
Statement of Ethical Principles	November 2017
OAS Corporate Constitution	November 2019
Complaint Procedure (version 1)	January 2020

PREAMBLE

Together the OAS (“Society”) Statement of Ethical Principles (Appendix A) and this document provide the interpretation and guidance to its members on the practice of conducting archaeology within Ontario. The Corporate Constitution (Appendix B) provides a mechanism for disciplinary action upon unanimous approval of the Executive Board (Article 11(1)) should concerns be brought forward against a member of the Society.

The most current standards and guidelines for the practice of commercial archaeology in Ontario are found on the Ministry of Heritage, Sport, Tourism and Culture Industries’ website. The Archaeology Program, Programs and Services Branch, Ministry of Heritage, Sport, Tourism and Culture Industries (“Ministry”) is responsible for administering the *Ontario Heritage Act* (R.S.O. 1990), including ensuring compliance with the *Standard and Guidelines for Consultant Archaeologists* (2011). It is recommended that members regularly consult the Ministry website for changes to the policies and/or related guidance. The Statement of Ethical Principles, and specifically those related to Indigenous communities, are intended to encourage members to exceed the minimum requirements of the Ministry for the practice of archaeology within Ontario.

It is recognised that the majority of complaints received are specific to the practice of commercial archaeology within Ontario. However, the policies and processes outlined in the following document apply equally to all members of the Society.

Territorial Acknowledgement

Encompassing archaeological practice in Ontario, the Society acknowledges the Indigenous (First Nations, Inuit and Métis) peoples and communities who have previously made and continue to make meaning on and of this land. The Society encourages members to come to know, acknowledge and respect the Indigenous peoples, communities and protocols particular to the places and territories they work within. In reciprocation, the Society expects members to share their research and insights with Indigenous communities, promoting a diverse appreciation for the continuum of Indigenous presence in the province.

OBJECTIVES

Introduction

From time to time the Society receives complaints from individuals and corporations about concerns including, but not limited to:

- Unprofessional conduct by an archaeologist, proponent or approval authority;
- Violations of Society's Statement of Ethical Principles;
- Violations of the *Ontario Heritage Act* (i.e disturbances to known archaeological sites);
- Violations of Ministry policies including the *Standards and Guidelines for Consultant Archaeologists* (2011).

The following procedures have been developed to provide a consistent process for addressing all complaints received by the Society in a manner that is fair and transparent for all parties. More specifically, the goals of this complaint process are:

1. For the Society to address concerns with respect to violations of its ethical principles; ensuring that Society members are acting in a manner that is consistent with those principles;
2. To support Society members in acting in a manner that is professional and consistent with legal requirements;
3. To advocate/support all archaeologists working within Ontario to adhere to the ethical, moral and legal obligations.

Role of the Society

It is recognised that a key role of the Society is the promotion and advancement of archaeology in the Province of Ontario. As such, the role of the Society when a complaint is received is:

1. To educate members and non-members on ethical principles of archaeology and legal and regulatory responsibilities of archaeologists;
2. To enforce the Statement of Ethical Principles confirmed as part of membership;
3. To address concerns from the perspective of the Society with respect to membership;
4. To actively try to mitigate situations in rare instances where the integrity of the Society and/or the Society's mission may be at risk;
5. To ensure that complainants are aware of the processes available to them for addressing their concerns and where determined to be appropriate support the complainant in these processes.

6. To shift internal procedures and advocate for external changes where systematic failures in archaeological governance give rise to a pattern of complaints.

Role of Members

Members have an important role in the complaint process. Should a complaint be brought forward, it is the role of the Member to work cooperatively with the Society in the review of the complaint.

In some instances, non-executive members will be asked to participate in a review, an appeal or support the Executive Board, Ethics Committee, or a Review Committee to successfully address a complaint.

Role of Third Parties

In some instances, the Executive Board may opt to notify a third party, such as the Ministry, of a complaint it has received. Any notification to a third party will be done in a manner that is consistent with the Society's privacy policy.

In other instances, the Executive Board may want include a third party on the Review Committee.

Conflict of Interest

Any Executive Board Member/Director, Society Member or third party participating or asked to participate in complaint proceedings on the Executive Board, Ethics Committee or Review Committee must assess whether they have a conflict of interest in a particular instance. If the individual is aware of a conflict of interest, they must immediately recuse themselves from proceedings and/or decline further participation.

COMPLAINT SUBMISSION

Who Can Submit a Complaint

Any person, member or non-member and including the Executive Director and Executive Board member, who believes a Member of the Society has not acted in accordance with the Corporate Constitution or the Statement of Ethical Principles may make a complaint against the member through a written submission to the Executive Board.

Form

All Complaints will be required to be submitted in writing and include the details of the conduct alleged to be a violation. Anonymous complaints will not be accepted. The Executive Board will endeavour to maintain confidentiality of the complainant's identity except in instances (1) where the individual or organization making the complaint has waived any confidentiality; or (2) where the Executive Board reasonably believes that revealing the identity of the complainant is required in order to afford the Member (accused) with an opportunity to provide full answer and defence to the complaint filed.

Accommodation can be made for verbal complaints if they are recorded in writing by the Executive Board Member receiving the complaint.

The Executive Board shall ensure that the principles of natural justice and due process are adhered to.

Acknowledgement

The Ethics Committee Chair is responsible for receiving and coordinating responses to complaints. An acknowledgement shall be sent within one week (seven days) acknowledge the receipt of a complaint and provide a timeline for responding.

Notification of Complaint

If a complaint is regarding a member of the Society, the Ethics Committee Chair will notify the member within 20 business days of the receipt of a complaint and the process being followed.

COMPLAINT REVIEW

Within 20 days after a complaint is received, the Chair of the Ethics Committee will determine if further action is required and notify the Ethics Committee with a recommendation as to the appropriate action.

Should the Chair of the Ethics Committee determine that a complaint requires additional review, a request to the Ethics Committee will be made to recommend that the Executive Board form a three person subcommittee.

Note: *The Society, its employees, directors or members shall not be liable to a Member for anything done in good faith as a result of any review of complaints received.*

Constitution or Ethics Violations

A three-member subcommittee from the Ethics Committee will be assigned to follow a discovery process to gather relevant information beyond the complaint itself. This could include further follow-up with the complainant. Determining which of the ethical principles may have been violated and reviewing for consistency with Society's interpretation of the principle.

The Member may be requested to provide documentation or other supporting materials as part of the review of the complaint. Refusal to provide materials requested will impact on the recommendation of the subcommittee and may lead to adverse inferences being drawn.

The subcommittee will prepare a written report describing the outcome of the review, reasons for their decision and recommendation of the disciplinary action, if any, to be taken. The report will be made available to the member and, where permission has been provided by the member in writing, to the complainant. In all instances, the complainant will be advised of the outcome of the investigation, as either substantiated or unsubstantiated.

Other Violations

If the complaint is directed against a non-Member, a member of the Executive Board will be assigned to review the complaint and determine if there is a role for the Society in the matter.

If the complaint is against a Member, but does not relate to a violation of the Statement of Ethical Principles or the Corporate Constitution, an Executive Board member will review the complaint and make a recommendation to the full Executive Board as to whether there is a role for the Society to assist the Member and/or complainant.

Should it be determined that a review committee be established for a complaint not directed against a Member of the Society, the Executive Board will establish a committee from Executive Board members and/or the general membership.

The Review Committee will prepare a written report describing the reasons for their findings. The report will be made available to the complainant except where privacy concerns have been identified.

COMPLAINT RESOLUTION

In most processes, the outcome of the review would not be shared with a third party. In some instances, specifically with respect to Indigenous communities, transparency would be desirable. In such circumstances, permission should be requested from the Member to provide information to the complainant. For some complaints the Director, in consultation with the Ethics Committee will make a decision that no action will be taken. In these cases, both parties to the complaint will be informed of the decision of no further action.

If further action is recommended, the Director/Review Committee can recommend for:

Members

1. Letter of concern to the Ministry. Letter may also include an offer of further assistance from the Society to facilitate resolution.
2. Warning letter to the Member reminding them of their obligations with respect to the Ethical principles, OHA, etc.
3. Suspension of Member from the Society
4. Expelling Member from the Society

Non-Members

1. Letter of concern to the individual or development proponent. The letter may include suggestions or advice on how the matter could be satisfactorily resolved.
2. Offer of assistance to mediate or resolve the concern.
3. Letter of concern to the Ministry. Letter may also include an offer of further assistance from the Society to facilitate resolution.

In instances where the committee recommends that an action be taken against a Member, the recommended action, including the rationale will be brought forward to the Executive Board for unanimous approval.

MEMBER COMPLAINT DISCIPLINARY ACTIONS

The corporate constitution provides for a range of potential outcomes following violations of the constitution, resolutions, or the Society's Statement of Ethical Principles. Members will be informed of the disciplinary action in writing within 48 hours of the decision by the Executive Board. The actions include:

Suspension

Should there be a unanimous decision of the Executive Board to suspend a member, the suspension will take effect on the date that the Member is notified of the action and will continue uninterrupted for the duration of the period of time determined by the Executive Board up to, but not exceeding the term of the membership. During the period of the suspension the Member will not have the privileges of membership including access to Society resources.

Should a suspension continue to the end of the membership term, the Executive Board will make a decision to continue the suspension or to not renew membership.

Should a Member appeal their suspension, the suspension will continue to be in effect during the appeal process.

Expulsion

Should there be a unanimous decision of the Executive Board to expel a member, the membership will be revoked on the date that the Member is notified of the action.

A member will not be permitted to re-apply for membership for a period no less than 1 year or more as stated in the letter communicating the decision.

Should a member appeal their expulsion, the Member will have provisional membership during the appeals process.

Other Disciplinary Actions

In most instances the response to a first-time violation, depending on the severity will not be suspension or expulsion, but rather a warning or other action.

APPEALS OF DISCIPLINARY ACTIONS

It is anticipated that a Member facing an action may request an appeal of the decision by the Executive Board. Should such an appeal be received, the review will be completed by the President of the Society. Should the President be in a conflict of Interest, they may ask one of the local chapter presidents to undertake the appeal. An appeal of the decision will be required to be submitted in writing and include details as to the specific objections with supporting documentation.

The President may engage other Executive Board members in the review with the exception of those with membership on the Ethics Committee and/or served on the particular Review Committee.

The President will review the information provided within 30 days of receipt of an appeal. The outcome and the basis for the decision will be communicated to the Member in writing. The decision will be copied to the Ethics Committee.

GLOSSARY OF TERMS AND ACRONYMS

Director refers to the Executive Board member assigned to coordinate complaints received.

Ethics Committee a committee established by the Executive Board to provide guidance for members on the interpretation, application and adherence to the Statement of Ethical Principles.

Executive Board refers to the executive board of the Society.

Expelled means membership in the Society is revoked

Suspended means that membership and its privileges are on hold for a defined period of time not to exceed the term of the membership.

Unprofessional Conduct Defined as conduct that violates the Constitution of the Society and, in particular, the Statement of Ethical Principles.

Member individual who is currently in good standing with the Society.

Ministry refers to the Ministry of Heritage, Sport, Tourism and Cultural Industries, unless otherwise stated.

OHA *Ontario Heritage Act* (R.S.O 1990)

FBCSA *Funeral, Burial and Cremation Services Act* (2002)

Review Committee a sub-committee established by the Ethic Committee for each to complete a review of the information available for a complaint.

Society The Ontario Archaeological Society

Appendix A: The OAS Statement of Ethical Principles

The archaeological study of the human past places a strong duty upon its practitioners to ensure that the archaeological record is conserved. Accordingly, members of the Society will adhere to the following principles and ethics:

1. We respect and support all domestic legislation and international conventions that protect archaeology and heritage.
2. As archaeologists, we recognize that we have special obligations to any Indigenous or Descendant community whose cultural legacy is the subject of our investigation.
3. We affirm that Indigenous communities have an inherent right to practice stewardship over their own cultural properties (including but not limited to: archaeological, spiritual, and historical sites, artifacts, designs, ceremonies, technologies, visual and performing arts, oral traditions and written and oral literature) and that said stewardship includes the right to maintain, control, protect, develop and have access to those properties.
4. We acknowledge the profound relationship between Indigenous communities and their cultural properties regardless of legal ownership.
5. We will take all reasonable efforts to obtain the free, prior and informed consent of representatives of Indigenous communities or Descendant groups prior to taking any steps in the investigation or management of their cultural properties.
6. We will respect the customs and traditions of Indigenous communities regarding the treatment of ancestors.
7. We oppose the purchase, sale and trading of archaeological artifacts.
8. We believe that it is the responsibility of archaeologists to disseminate the results of research to the archaeological community, as well as to the general public, in an easily accessible manner, medium, and format.
9. We condemn altering data, records and/or falsifying reports prepared by others or reporting information gathered by others without citation.
10. We promote the stewardship of all archaeological collections and believe that these should be maintained in an approved repository for long-term conservation.
11. Members are obligated to notify the Board of Directors of any material breach of these ethical guidelines, and we support initiatives that the Board may implement to obtain fair resolution to such breach, or to resort to remedies as provided for in our constitution.

Passed by ABM Vote, November 18, 2017

Appendix B: Articles 10 and 11 OAS Corporate Constitution (currency date December 2018)

ARTICLE 10 - CODE OF ETHICS

1. It shall be the duty of every member to exercise an interest in the Society, to avoid wrongful use of its name, or authority, and to regulate their conduct toward the Society, fellow members, and the public, in accordance with the Constitution, and the Statement of Ethical Principles, as appended to the Constitution.
2. The Society supports Ontario, Canadian and International legislation and conventions that discourage and/or prohibit the purchase, sale and trading of original artifacts, and it expects its members to comply with the spirit and intent of such legislation and conventions. Should the Society become aware that a member may have violated the spirit and intent of this clause, then the Executive Board may consider invoking the provisions of Article 11 below, but only once it has given the subject member an opportunity to appeal against any remedies contained in this article.
3. Books, periodicals, pamphlets, etc., shall not bear any inference of any approval of the Society, or any Chapter thereof, except by special permission of the Executive Board.
4. We acknowledge our debt to the Indigenous peoples, upon whose lands we live and work. We accept that it is a privilege to work with the cultural properties¹ of any Indigenous/Descendant group and that an archaeologist must recognize that privilege.

ARTICLE 11 - SUSPENSIONS AND EXPULSIONS

1. A member three months in arrears of dues shall forfeit their membership in the society, but can be reinstated upon payment of all arrears prior to the end of the calendar year.
2. Any member, upon unanimous approval of the Executive Board, may be suspended, expelled, or subject to other disciplinary action for the following offences:
 - i. Violation of the Constitution;
 - ii. Violation of any resolution in force or effect;
 - iii. Violation of the Society's Statement of Ethical Principles.

3. All elected Officers may be removed from office for the same causes applicable to members.

4. The Executive Board shall review all disciplinary matters relating to the Society.