

Open Source Consortium

Dispute Resolution Guidance

The OSC needs to be able to deal effectively with disputes and complaints in ways that take only a reasonable amount of effort and which do not cause harm. Informal methods are better as they take less effort and are more likely to produce a good result.

Formal proceedings can only be based on a written complaint to the Council Secretary. Complaints can be accepted about any current member of the OSC providing that there is an OSC dimension. Complaints about the Council itself should be addressed through calling an EGM.

Deciding to impose a penalty on a member is a judicial process and must be taken seriously¹ as follows:

Fair Hearing – All parties should be given a fair opportunity to present their case, should know what the other evidence is so they can challenge it and what they say must be fairly considered.

Impartiality – The complaint will be considered by [three members] of Council who must act in a genuinely fair way. They must not have any pre-conceived ideas, they must not have any particular animosity or friendship with any of the parties to the case and they should not have any personal interest in the case. They should ideally have the confidence of all concerned (and others). They should not have had any prior dealings with the case. Decisions must be made solely on the evidence presented.

Appeals will be heard by an external body (Tribunal or Adjudicator)². They should be lodged within two weeks (except on grounds of new evidence) and will be allowed for any of the following reasons.

1. That the decision reached was one that no reasonable body could have come to. (This is not the same as simply disagreeing with the decision.)

1 To avoid legal challenge to the Council (jointly and individually)

2 I wonder if OSS-Watch would consider this role, we hope it's not going to a common occurrence

2. That errors in procedure or of understanding the rules or facts were made and these were serious enough to have possibly affected the outcome
3. That new evidence has come to light which was not available at the time of the original hearing and which may have affected the outcome if it had been known.

Decisions should be in writing, should normally give reasons and should be delivered to all parties at the same time. The decision should take effect immediately it is issued.

The standard to use is “Balance of Probabilities” rather than “Beyond Reasonable Doubt”.

The only penalty, if any, will be termination of membership.

If the complaint is considered to be malicious, mischievous, frivolous, is otherwise an abuse of the process or possibly should have been resolved at an earlier stage then the complaint itself may be subject to sanction.

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