



## **COMPLAINTS POLICY & PROCEDURE**

*MCPS collection and distribution operations are handled by PRS on behalf of MCPS. Therefore, if you have a complaint about the operations service, please use the complaints procedure set out in the PRSforMusic Code of Conduct (“PRSforMusic Complaints Procedure”), which you will find on the PRSforMusic website at <http://www.prsformusic.com/codeofconduct/Pages/default.aspx>. If MCPS receives a complaint about its operations services, it will refer it to PRS to be handled in accordance with the above Code of Conduct.*

*For any other complaint against MCPS, the procedure below will apply.*

**N.B. IF YOU HAVE USED THE PRSFORMUSIC COMPLAINTS PROCEDURE, YOU ARE STILL ENTITLED TO USE STAGE 2 OF THIS PROCEDURE.**

### **1. Approach to complaints**

MCPS views complaints as an opportunity to learn and improve for the future, as well as a chance to put things right for the person (or organisation) who has made a legitimate complaint. Our policy is:-

- To provide a clear, usable policy for parties wishing to complain;
- To properly identify formal complaints;
- To make sure that MCPS officers and board members know what to do in the event of a complaint;
- To ensure that complaints are investigated fairly and in a timely way;
- To respect the confidentiality of information received during the course of a complaint
- To resolve complaints, wherever possible;
- To gather information that helps us to improve what we do.

### **2. Who can make a complaint?**

You are eligible to lodge a complaint if:-

- you have given us a mandate (ie. you have entered into the MA2 agreement); or
- you are a rightholder who wishes to give us a mandate; or
- you are a collective management organisation or other entity with whom MCPS has entered into a representation agreement; or
- you are a licensee of MCPS.

Complaints may be about operational or policy issues but please note that complaints about the licence fee we charge to end users, the terms of our licences or about the interpretation of Copyright Law are outside the scope of this policy as they are matters subject to jurisdiction of the courts and the Copyright Tribunal. Suitable matters for using this complaints procedures would be, for example:-

- the timeliness of a response from us;
- the behaviour of our staff in handling a response;
- lack of clarity about our mandate and its effect;
- lack of clarity in our licences;
- the application of our distribution policy;
- an alleged failure to operate within our mandate;
- an alleged failure of MCPS governance;
- discriminatory practices.

### **3. What is the procedure for making a complaint?**

All complaints should be made in writing (sent by post or as an electronic attachment to an email) and must:-

- notify us that you are invoking our formal complaint procedure;
- provide your name and address (if an individual);
- provide the name and address of your organisation making the complaint;
- give your position within the complainant organisation;
- provide details of the nature of the complaint, including all pertinent factual details.

### **4. To whom should complaints be addressed?**

Complaints  
Mechanical Copyright Protection Society Ltd  
3rd Floor,  
107 Grays Inn Road,  
London, WC1X 8TZ  
Email: [info@mpagroup.com](mailto:info@mpagroup.com)

### **5. What happens once a complaint is lodged?**

#### **Stage 1**

1. We will acknowledge receipt of the complaint within 10 working days. During this time we will make an assessment as to whether your complaint is legitimate and falls within the scope of this policy or whether it is frivolous or vexatious (in which case you will be notified of this in an acknowledgement letter together with an explanation of why this decision has been made). We may request further information to enable us to consider the complaint. For more information as to what constitutes a frivolous or vexatious complaint, see Paragraph 6 below.

2. In most cases, a complaint may satisfactorily be resolved by a review of the matter on the part the person responsible for the action or decision upon which the complaint is based. Such person will be informed about the complaint and, if possible, they should resolve the matter swiftly and appropriately and communicate the resolution to you.
3. Whether or not the complaint has been resolved, the complaint facts will be passed on to the CEO within 10 working days of the acknowledgement of receipt. If the matter has not been resolved then, following notification, the CEO will delegate an appropriate person to investigate the complaint and to take appropriate action. If the complaint relates to a specific person, that person will be informed of the complaint and given a fair opportunity to respond.
4. Within 5 working days of delegation by the CEO, you will be informed as to who is dealing with the complaint and when you can expect a reply. A copy of this complaints procedure will also be provided. Ideally, all complainants should receive a definitive reply to the substance of the complaint within one calendar month. If this is not possible, a progress report should be sent with an indication of when a full reply will be given. The reply should describe the action taken to investigate the complaint, the conclusions from the investigation and any action taken as a result of the complaint.

## **Stage 2**

5. If you feel that the problem has not been satisfactorily resolved at Stage 1, or if you have exhausted the PRSforMusic Complaints Procedure and are still not satisfied, you can request that the complaint is reviewed at Board level. At this stage, the complaint will be passed to the Chair of the MCPS Complaints Committee. This is an advisory committee of the MCPS Board comprised of the External Director of the MCPS Board, the Company Secretary of MCPS and may also consist of other members appointed by the Committee or the MCPS Board.
6. Your request for Board level review should be acknowledged within 10 working days of receiving it and you should receive a copy of the Committee's terms of reference. The acknowledgement should say who will deal with the case and when you can expect a reply. If necessary, the Committee may request more evidence and will set out an appropriate timetable.
7. Before considering the complaint, the Chair of the Committee will first make a determination as to whether your complaint is frivolous or vexatious, in which case the Chair may decide that the Committee shall refuse to accept your complaint for consideration. In such a case, the Chair shall report his/her decision to the MCPS Board, giving reasons, and the MCPS Board may either accept the Chair's decision and dismiss the complaint (in which case you will be informed, promptly, in writing, of such decision, giving reasons), or, if the MCPS Board disagrees with the Chair's determination, the MCPS Board may require the Committee to consider the complaint.

8. The person who dealt with the original complaint at Stage One should be kept informed of what is happening.
9. Following consideration by the Committee, the Committee will make a recommendation to the Board, which will then take a decision whether or not to follow the recommendation or to respond differently.
10. Ideally complainants should receive a definitive reply within one calendar month of instigating Stage 2. If this is not possible because for example, an investigation has not been fully completed or the Board cannot meet to discuss the matter within that timeframe, a progress report should be sent to you with an indication of when a full reply will be given.
11. Whether or not your complaint is upheld, the Board reply to your complainant should describe the action taken to investigate the complaint, the conclusions from the investigation, and any action taken as a result of the complaint.
12. The decision taken at this stage is final. However, if you are unhappy with the Board decision you may nevertheless refer the matter to the copyright division of the Ombudsman. Further details of that process may be found by visiting the Ombudsman's website at <http://www.ombudsman-services.org/copyright.html>.
13. A final decision by the Board at Stage Two is without prejudice to any other legal remedy that you might have.

## 6. What constitutes a frivolous or vexatious complaint?

A frivolous or vexatious complaint can be characterised in a number of ways:-

- Complaints that are obsessive, persistent (without foundation), harassing, prolific, repetitious;
- Complaints that are trivial, trifling, futile or not serious;
- Insistence upon pursuing unmeritorious complaints and/or unrealistic outcomes beyond all reason;
- Insistence upon pursuing meritorious complaints in an unreasonable manner;
- Complaints which appear to be designed to cause disruption or annoyance;
- Complaints that appear to be so-called "fishing expeditions" for information otherwise not available to the Complainant under the normal rules and procedures of MCPS;
- Demands for redress which lack any serious purpose or value.

Deciding whether a request is frivolous or vexatious is a balancing exercise, taking into account all the circumstances of the case. The main consideration will be the issues raised in the complaint rather than the behaviour of the Complainant. However, even in a case that may otherwise be meritorious, MCPS is entitled to look at whether the

behaviour of the Complainant is so unreasonable as to amount to an abuse of the complaints process, in which case MCPS shall be entitled to decide not to accept, or to continue to consider (as applicable) the case.

(Approved by MCPS Board on 25 February 2016)