

AFTA Travel Accreditation Scheme (ATAS)

ATAS Charter and Code of Conduct

Implementation of Recommendations of Charter Review

1 July 2018



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Response by AFTA Board

The AFTA Board has received the report of the Review of the AFTA Travel Accreditation Scheme (ATAS) prepared by Mr Hank Spier and would like to thank him for his work in undertaking the review.

Board response to Recommendations

The Board will accept and implement 20 of the 29 recommendations: 70%

The Board will accept and implement in "part" 2 of the 29 recommendations. 6%

The Board will reject 7 of the 29 recommendations: 24%

Board Endorsement of AFTA Submission

Where a recommendation has been made by AFTA that was not addressed specifically by the Reviewers recommendations, the Board have endorsed all other changes submitted by the AFTA submission to the review.

Recommendations

The ATAS Eligibility Criteria

Recommendation (1)

Changes to the solvency criteria as outlined in the AFTA submission is supported by the review.

AFTA TO ADOPT

Recommendation (2)

Recommended background checks for new applications should be made mandatory and conducted by a third party at the applicant's expense.

AFTA TO ADOPT

Recommendation (3)

Work place Development- that the percentage of consumer dealing staff (that is front line consumer facing consultants) be lifted to 50% of the workforce (current set at 30%), who hold a Certificate III in travel or equivalent as prescribed by the ATAS charter.

AFTA TO ADOPT

Recommendation (4)

One of the submissions raised the issue of voluntary loss of accreditation and the language used on the AFTA website indicated that accreditation has been cancelled in this instance. It is recommended that the term "relinquished accreditation" be inserted as appropriate in the Charter to accommodate this instance.

AFTA TO ADOPT

Recommendation (5)

Clause 2.4 of the Charter has an appeal in relation the rejection by the Compliance Manager of the application for ATAS accreditation going to the AFTA CEO – that does not seem to accord with natural justice and such reviews, with strict time limits, go to the ACCMC or to the ACCMC Chair.

AFTA REJECTED.

Recommendation (6)

Clause 2.5 (d) (iv) covers "fit and proper person" issues. The addition of conviction of civil actions be added to criminal actions as many of the relevant regulators have both civil and criminal sanctions.

AFTA TO ADOPT

The Charter (other than Eligibility criteria)

Recommendation (7)

Who can complain to the scheme? A change is required such that anyone can complain or refer matters to the Compliance Manager under the Code, not just customers.

If we are to foster ethical conduct it is important that anyone can complain and industry participants (as they know more than customers) and can pick up systemic issues. There will need to be some safeguards to make sure that competitors do not misuse the regime and the Compliance manager and ACCMC need to be aware of competition impacts.

AFTA TO ADOPT IN PART

Recommendation (8)

That the ACCMC should not be bound by the Rules of evidence but must be sensitive to natural justice and fairness.

AFTA TO ADOPT

Recommendation (9)

Time limits - Clause 4.2 of the Charter outline the time limits and flow for complaints. These limits should have a time stopping provision be added where information is requested from third parties and where they delay in providing information.

AFTA TO ADOPT

Recommendation (10)

Suspension of membership. Clause 3.1 of Charter- this is arbitrary, and it is suggested that there be fair processes for suspension or expulsion. The criteria be laid out for expulsion or suspension and that an appeal be possible to the ACCMC or ACCMC Chair.

AFTA REJECTED

Recommendation (11)

Pre-escalation - Clause 4 of the Charter. ATAS participants must keep details and send to Complaints Manager details of all matters that are resolved pre-escalation. This gives Complaints Manager a better picture of what is happening and may pick up systemic issues. Such information to be provided to the ACCMC as well.

AFTA REJECTED.

Recommendation (12)

Eligible and Ineligible complaints- Clause 4.5 of the Charter.

Eligible complaints - I do not see a need for this List- any breach of the Code should be eligible- and as such should be deleted.

AFTA TO ADOPT

Recommendation (13)

Ineligible complaints

The following changes to the list of ineligible complaints as stated

Take out – “6 months blanket limitation” unless it would be unreasonable to pursue a matter that is more than 6 months old.

Take out- “identical incident” unless it is the same complainant.

Take out- “Criminal offence” as the matter may never be taken up by Police.

Take out- “finding of dishonesty by Court or Tribunal” as there will often still be an issue of compensation and/or compliance orders.

Take out “disciplinary actions by a law enforcement agency” as there as there may still issues of compensation and/ or compliance orders.

In relation to vexatious complaints- there should be a safeguard. Where this is given as the reason for “ineligibility” that should be after consultation with Chair of the ACCMC. Vexatious matters have a habit of being difficult.

AFTA TO ADOPT

Recommendation (14)

Clause 4.9 (b) (i) (ii) of the Charter, this allows the ACCMC to re -open a closed matter. That seems to open issues of uncertainty. Matters can only be re-opened if the Complaints Manager or ACCMC have been misled by any party involved in a matter.

AFTA TO ADOPT

Recommendation (15)

Clause 5.4 (c) of the Charter, it is that the ACCMC should be able to impose any other sanctions, it deems appropriate.

Clause 5.5(b) of the Charter allows suspension by the AFTA Board with immediate effect – somewhat arbitrary, see my earlier Recommendation (10) about safeguards and appeal to ACCMC,

AFTA REJECTED.

Recommendation (16)

Clause 5.7 of the Charter. Should require that AFTA informs fair trading authorities in relation to expulsion or suspensions of ATAS members.

AFTA REJECTED.

The Code of Conduct

Recommendation (17)

The Code sets the professional and ethical standards that ATAS members are expected to meet. It is also the basis for complaints.

However, whilst in the Charter there is a list of Eligible complaints that can be pursued by the Complaints Manager and the ACCMC, the Code does not set out such criteria. This seems to be an oversight.

It is expected that the following conduct would be in breach of the Code,

- breach of the Australian Consumer Law – this is in the Deed Poll signed by members but needs to be part of the Code as well.;
- unreasonably failing or refusing to provide information to the Compliance Officer or ACCMC. (we feel this is addressed adequately in the Charter already)
- conflict of interest
- lack of care, skill and due diligence, and
- failing to deal in good faith with consumers and other ATAS members.

The Code needs to be amended to include the above and maybe add a catch all category of unethical /unprofessional conduct.

AFTA TO ADOPT

Recommendation (18)

An ATAS participant needs to be vicariously liable for the actions of their staff or representatives.

AFTA TO ADOPT

ACCMC Terms of Reference

Recommendation (19)

That the ACCMC should have a strong and independent role.

AFTA TO ADOPT

Recommendation (20)

Clause 1 of the ACCMC TOR should be simplified and that only Clause 1.6 be retained. The Reviewer agrees with a recommendation made in a submission as it simplifies issues but believes that either here or elsewhere that it is stated that the ACCMC is independent of AFTA and that its formal decisions cannot be overruled by the AFTA Board.

AFTA TO ADOPT

Recommendation (21)

Clause 2.1 (a)(iv) provides for the AFTA Board to seek a review of a determination of the ACCMC. The reviewer has recommended that this be removed.

AFTA TO ADOPT

Recommendation (22)

Clause 2.1 (i) provides that recommendations by the ACCMC to the AFTA Board on disciplinary process should be independent and the power should be to direct that the AFTA board take the suggested disciplinary action. This is somewhat along the lines with what a submission made to the Review but goes further.

AFTA TO ADOPT IN PART

Recommendation (23)

Clause 2.1 (h)- to provide that sanctions that can be imposed by ACCMC to include a monetary contribution to AFTA for non co operation or actions adding to costs.

AFTA REJECTED.

Recommendation (24)

Clause 3.1 - consideration might be given to add a provision whereby even where a matter is dismissed that some orders can be made to foster future compliance.

AFTA TO ADOPT

Recommendation (25)

Clause 5.1 (c))- add 'legal or public administration' to criteria.

AFTA TO ADOPT

Recommendation (26)

Clause 5.1 (d)- -in order for the ACCMC to be at arm's length to AFTA the CEO of AFTA should not be an ex- officio member, but can attend at the request of ACCMC Chair, as can the Compliance Manager.

AFTA REJECTED

Recommendation (27)

Clause 5.3(c) – that the clause adds “the member has been guilty of misconduct in the view of the Board and the Chair of ACCMC”.

AFTA TO ADOPT

Recommendation (28)

Clause 7- that consideration be given to a proper indemnity for ACCMC members and perhaps the Compliance Manager.

AFTA TO ADOPT

Recommendation (29)

Clause 8.7- A submission suggests that this be changed to make it clear that decisions can be made by circular resolution or in person where a quorum is present. In addition, a submission suggestion would also delete Clause 8.6 and leave it to the Chair how and where meetings are conducted, Modern technology facilitates many options.

AFTA TO ADOPT