

MEMBER REPRESENTATION POLICY & PROCEDURE

1. Purpose

The purpose of this policy is to document the level of assistance (information, advice, advocacy or representation) that SASMOA/ ASMOF (SA) will provide to members and provide clarity to members and staff about expectations of service.

2. Policy Details

2.1 Issues

SASMOA/ASMOF (SA) membership provides many benefits which are funded by union fees paid by members. This includes expert industrial support by specialist legal staff on a range of matters like workplace rights, disciplinary processes, termination of employment, workplace discrimination, performance reviews, workplace injuries and illness, workplace health and safety, and restructures.

2.2 Level of Assistance

SASMOA/ASMOF (SA) will assess each case on its industrial merits. After discussion and consultation with the member(s) SASMOA/ASMOF (SA) will advise of the appropriate course of action in relation to the matter.

To guarantee the most effective use of resources for all members, SASMOA/ASMOF (SA) reserve the right to determine the level and extent of the service that will be provided in respect of each case.

We reserve the right not to pursue any matter which we believe to be unreasonable, lacking in substance, unlawful, frivolous, vexatious or has no reasonable prospects of success.

All decisions to withdraw or not provide industrial services to existing members will be made by the Senior Industrial Officer on behalf of the Council.

Information	All members are entitled to contact SASMOA/ ASMOF (SA) for information related to their workplace rights and referrals to external agencies. Information may take the form of telephone information, fact sheets and referrals to external agencies regarding employment and work life matters
Advice	Advice is the provision of information and how that information applies to a member's situation. Advice includes interpretation about how Awards, Enterprise Agreements and other industrial instruments apply to members. All members are entitled to contact SASMOA/ ASMOF (SA) for information related to their workplace rights.
Advocacy	Advocacy is an extension of an advice service and may include, writing documents, completing forms and making phone calls on behalf of members. Advocacy is part of a continuum of assistance to resolve matters at the local level but which may progress to the SA Employment Tribunal. Advocacy may also include face to face support by an industrial officer at a workplace meeting.
External or Court Representation	SASMOA/ASMOF (SA) retains the ultimate discretion regarding representation before external Courts or Tribunals.

2.3 Court or Tribunal Representation

The decision to take an industrial dispute or grievance, or any other application, to the South Australian Employment Tribunal (SAET) or other jurisdiction is wholly reserved to SASMOA/ASMOF (SA) and is not the decision of an individual member or members.

All applications to the SAET must be in SASMOA/ASMOF (SA) name and not the name of the individual member unless explicitly agreed by the Senior Industrial Officer. Some matters may be required to be filed in the individual's name. For example, matters relating to unfair dismissal.

Normally, SASMOA/ASMOF (SA) will not act for an individual member beyond a conciliation conference within the SAET, or another jurisdiction.

2.4 Discontinuance and cessation of support

In representing the Union's members, SASMOA/ASMOF (SA) will provide the highest quality service in a professional and courteous manner. However, SASMOA/ASMOF (SA) reserves the right to withdraw or limit support for members in certain circumstances. This can include, but is not limited to:

- ignoring or acting contrary to the advice which is provided
- making unreasonable demands on staff
- not providing SASMOA/ASMOF (SA) with all relevant information
- seeking alternative advice or representation, at the same time as seeking our advice, without our authorisation
- where the member has been dishonest to us about the facts and circumstances of their matter
- where the matter has no reasonable prospects of success
- the cost is prohibitive and/or not in the best interest of SASMOA membership

SASMOA/ASMOF (SA) member can, in their own right and at their own expense, commence or join proceedings in any legal jurisdiction.

2.5 Legal Costs

The decision to engage a solicitor for advice or representation is wholly at the discretion of SASMOA/ASMOF (SA). This decision will be final.

The final decision and instructions to a solicitor representing SASMOA/ASMOF (SA), will be determined by the Senior Industrial Officer in collaboration with the Principal Industrial Advisor who has care and carriage of the matter.

A member and/or members may express a view, and this must be reasonably considered by the Principal Industrial Advisor and/or Senior Industrial Officer in regards to any instructions provided to the firm/solicitor acting on behalf of SASMOA/ASMOF (SA).

Should the SASMOA/ASMOF (SA) decide to engage a solicitor in a matter before the SAET or other jurisdiction, SASMOA/ASMOF (SA) will pay half of the costs associated with the proceedings, up to a maximum amount of \$15,000 unless waived by the Senior Industrial Officer.

All remaining costs of proceedings will be the responsibility of the member.

Costs of proceedings may include fees charged by courts, doctors, experts and barristers.

2.6 Legal advice

SASMOA/ASMOF (SA) industrial staff provide quality industrial advice about workplace related issues. They do not provide legal advice.

Members are advised that it is their choice as to whether they choose SASMOA/ASMOF (SA) industrial staff, or someone else such as a lawyer (at their own expense), to act as their representative. They cannot have two representatives for the same matter with their employer. This avoids possible conflicts.

If a member has a legal matter SASMOA/ASMOF (SA) may refer them to our preferred provider. However, once the referral is made the carriage of the matter and any resultant costs/action etc. is entirely a matter between the member and the law firm.

A Principal Industrial Advisor may provide information to the acting Solicitor regarding details known to the Principal Industrial Advisor but, only if the SASMOA/ASMOF (SA) member has provided written permission to the Principal Industrial Advisor to provide such information and the extent of the information.

No documentation held on SASMOA's files will be released unless with the express permission of the Senior Industrial Officer and/or SASMOA/ASMOF (SA) Executive, where appropriate.

No assistance should be rendered to the SASMOA/ASMOF (SA) member and their solicitor if it is contrary to, and not in the best interests of, the overall SASMOA/ASMOF (SA) membership.

Members should be aware of the option to approach their medical indemnity provider for assistance.

The final decision on determining what information to provide to the Solicitor acting on behalf of the member will be decided by the Principal Industrial Advisor and, where necessary, with the assistance of the Principal Industrial Advisor's direct line manager.

2.7 Applicants with pre-existing problems

Resolving individual matters can use up a lot of SASMOA/ASMOF (SA) resources and the union would be financially unviable if members only joined when they had problems to be resolved.

The underlying principle is that income derived from SASMOA/ASMOF (SA) fees should be spent on members who are committed to unionism and not on people who join the Union for convenience purposes only.

Applicants with a pre-existing issue may receive general advice, but will not be entitled to advocacy in relation to their matter.

In very rare and extenuating circumstances, SASMOA/ASMOF (SA) may agree to advocate for a member with a pre-existing issue. The level of assistance will be at the complete discretion of the Senior Industrial Officer (or delegate) and the decision will be final.

2.8 Unfinancial Members / non members

Under SASMOA/ASMOF (SA) rules a member whose subscription is three months in arrears shall be deemed to be, and remain, an un-financial member until payment of the amount in arrears is made.

Un-financial members and non-members shall not be entitled to any of the benefits and privileges of membership.

2.9 Complaints in relation to industrial assistance

SASMOA/ASMOF (SA) takes its commitment to providing quality representation to members very seriously and therefore has a mechanism for resolving situations where members may be dissatisfied with the industrial assistance they have received.

Where a member has issues with the service provided to them by the Union then they can refer the issue to the Senior Industrial Officer for review.

2.10 Conduct

A positive collaborative approach facilitates communication between members and SASMOA/ASMOF (SA) staff.

SASMOA/ASMOF (SA) staff will treat all members with dignity and respect, likewise, SASMOA/ASMOF (SA) staff expect to be treated with dignity and respect by members. Abusive, hostile or threatening behaviour towards union staff will not be tolerated, nor will sexual harassment of SASMOA/ASMOF (SA) staff.

Industrial assistance for a member may be withdrawn if it is considered the member's conduct towards SASMOA/ASMOF (SA) staff is inappropriate.

2.11 Financial advice

SASMOA/ASMOF (SA) Industrial staff cannot give financial advice to members in any circumstance. Members should contact their Superannuation fund or other financial institution or financial planner for financial advice.

2.12 Specialist College Matters

SASMOA/ASMOF (SA) industrial staff do not act or provide advocacy for members in relation to any College related matters.

2.13 University Matters

SASMOA/ASMOF (SA) industrial staff do not act or provide advocacy for members in relation to any University related matters.

2.14 AHPRA Matters

SASMOA/ASMOF (SA) industrial staff do not act or provide advocacy for members in relation to any AHPRA related matters. However, should SASMOA/ASMOF (SA) industrial staff be made aware of such matters then members will be strongly encouraged to seek advice from their medical indemnity provider and will assist and work in partnership with your provider wherever possible.

2.15 Coronial Matters

SASMOA/ASMOF (SA) industrial staff do not act or provide advocacy for members in relation to any Coroner related matters. However, on occasion the attendance of SASMOA/ASMOF (SA) staff at a coroner's inquiry to provide moral support will be considered.

2.16 Freedom of Information (FOI) Requests

Normally, should an individual member seek to discover documents from an agency it will be at their own expense and the application will be in the member's name and submitted by the member.