



**Standing Orders relating to the Complaint Procedures of the Aotearoa
New Zealand Association of Social Workers, effective 01 September
2018**

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Application

1. Reference in these Complaint procedures to a Rule or Rules is a reference to the Constitution of the Aotearoa New Zealand Association of Social Workers (Inc.) (“the Association”).
2. Pursuant to Rules 2(p) and 16, the following Complaint procedures apply with effect from 01 September 2018.

Purpose, Interpretation and Principles

1. Purpose

The purpose of the Complaint procedures is to provide a framework for managing complaints about Members of the Aotearoa New Zealand Association of Social Workers, which fall outside the Social Worker’s Registration Board complaints procedures relating to registered Social Workers.

2. Scope of the Standing Orders

These complaint procedures apply when a complaint is made about any Member:

- (i) Who is not a Registered Social Worker and is alleged to have committed a Disciplinary Offence; or
- (ii) Who is a registered Social Worker; and
 - a. is alleged to have acted improperly or inappropriately in the course of carrying out any role or function for the Association and the Chief Executive determines a complaint to the Social Worker’s Registration Board is not warranted; or
 - b. is alleged to have committed a Disciplinary Offence and the Social Worker’s Registration Board has elected not to take any action in relation to the alleged Disciplinary Offence.

3. Interpretation

In these complaint procedures, unless the context otherwise requires:

Association means The Aotearoa New Zealand Association of Social Workers

Chief Executive means the person appointed to the position of Chief Executive of the Aotearoa New Zealand Association of Social Workers, and any person for the time being appointed by the Board to act in that position.

Convenor means the Complaints Convenor appointed by the Chief Executive to administer these complaint procedures, and any person

for the time being appointed by the Chief Executive to act in that position.

Due Process means fairness of proceedings, and incorporates the principles of natural justice.

Board means the duly elected Board of the Aotearoa New Zealand Association of Social Workers.

Mana Enhancing means

- i. Respecting the dignity of the person;
- ii. Valuing the cultural, spiritual, human and natural contexts within which the person develops identity and self-respect;
- iii. Recognising that individual human value is not defined by the mistakes people make;
- iv. Providing opportunities for reconciliation, restoration and forgiveness.

Member means a member of the Aotearoa New Zealand Association of Social Workers, including: Full members; non-practicing members; members under Conditions; Associate members; Student members; Life members; and Provisional members; but excluding applicants for membership.

Principles of Natural Justice include:

- i. The right to representation; and
- ii. The right to full and timely information of complaints relating to oneself; and
- iii. The right to reasonable opportunity to comment on the information and to have such comment considered and taken into account in reaching any determination about the complaint; and
- iv. The right to forewarning of probable outcome(s) and to be able to comment on those proposed outcome(s) before they are adopted; and
- v. The right to proceedings free of bias and predetermination.

Want of Form means any defect, irregularity or omission in the application of the procedures which does not impact adversely on the outcome or does not lead to a miscarriage of justice.

Working Day means any day of the week other than: a Saturday; a Sunday; Statutory Holidays, Anniversary Days; and any day in the period from and inclusive of 20 December in any year and 15 January in the following year.

4. Principles governing Procedures

1. Any person exercising any function in relation to these complaint procedures shall be guided by the following principles:
 - i. The clients of Members and the general public are entitled to protection from inappropriate or harmful conduct and/or practice;
 - ii. Members are entitled to know that a complaint has been made about them at the earliest possible point in the proceedings;

- iii. Members are entitled to the expeditious resolution of complaints relating to them, subject to the demands of due process;
 - iv. All actions taken under these procedures shall reflect the application of the principles of natural justice;
 - v. All actions taken under these procedures shall reflect the application of mana enhancing principles.
2. No person shall participate as Convenor, Investigator, or member of a Board appeal body unless he or she has read and signed the Association's guideline relating to conflict of interest and bias.

Duties of the Chief Executive

5. Chief Executive to Oversee Procedures

The Chief Executive shall be responsible for the oversight of these complaint procedures and issuing any supplementary guidance for the effective administration of the procedures, whether at the direction of the Board or on the recommendation of the Convenor. The Chief Executive shall report annually to the Board in relation to the administration of the complaint procedures and statistical data arising.

6. Chief Executive to Appoint Convenor

The Chief Executive shall appoint a Convenor who shall be accountable to the Chief Executive for the proper administration of these Complaint procedures.

7. Chief Executive to Establish Complaint Advisory Group

The Chief Executive shall appoint up to four (4) Full Members of the Association with knowledge of ethics and professional standards as the Complaint Advisory Group, at least two of whom are female, one of whom is male and two of whom are Maori. Where the Convenor is required to consult with the Complaint Advisory Group, it will be sufficient for the Convenor to do so with any two, three or four Members, one of whom may be Tangata Whenua, and must be Tangata Whenua where the Member subject to the complaint is Tangata Whenua.

Appointment to the Complaint Advisory Group shall be for a period of two (2) years, such period to coincide with the financial year of the Association provided however that a member of the Complaint Advisory Group shall continue to hold office until replaced or reappointed or resignation whichever first occurs.

8. Chief Executive to provide executive services for Convenor

The Chief Executive shall:

- i. Provide all necessary clerical functions in relation to the duties and responsibilities of the Convenor;

- ii. Coordinate the provision of such legal advice as the Convenor may require at any stage of the complaint procedures; and
- iii. Provide such training and supervision as is required to enable the Convenor to carry out his or her duties and responsibilities.

Offences

9. Disciplinary Offences

A Member is guilty of a disciplinary offence in circumstances where he or she:

- i. has been guilty of conduct that:
 - a. is unbecoming of a Member; and/or
 - b. reflects adversely on the Member's fitness to practice; or
- ii. has been convicted by a court (in New Zealand or elsewhere) of an offence that:
 - a. is punishable by imprisonment for a term of 3 months or longer; and
 - b. was committed in circumstances that reflect adversely on the Member's fitness to practice;
- iii. has failed to comply with any standard, negotiated or imposed condition on his or her membership of the Association; or
- iv. takes any action or fails to take any action and such action or inaction brings either the profession or the Association or another Member into disrepute.

Complaints

10. Limitation on pursuing complaint action

The following provisions apply:

- i. A complaint may be raised by any person at any time, whether a Member or not, and for the avoidance of doubt may be raised by the Chief Executive at any time if the Chief Executive considers that a Member may have committed a disciplinary offence.
- ii. A complaint must not be investigated in respect of a disciplinary offence:
 - a. already investigated and addressed by an appropriate legal person, commission or other relevant organisation (including for the avoidance of doubt the Social Workers' Registration Board); or
 - b. for an offence for which the Member was convicted if, when he or she became a Member, the Association was aware of the disciplinary offence or conviction and was adequately informed of the circumstances of the offence, and allowed the Member to become a Member with that knowledge.
- iii. Complaints about matters that occurred;
 - a. before the Member was a Member; or

- b. more than seven (7) years prior to the receipt of the complaint,
shall not activate these procedures.

11. Procedure when a complaint should be determined outside of these complaint procedures

When it appears to the Chief Executive that a complaint should be determined by the Social Workers' Registration Board or by any other legal person, commission or organisation, the Chief Executive shall:

- i. Refer the complainant to the Social Workers' Registration Board or relevant legal person, commission or organisation for investigation and determination of the complaint;
- ii. Advise the Member that a complaint to the Association has been received and has been referred to the Social Workers' Registration Board or to any other relevant legal person, commission or organisation for investigation and determination of the complaint; and
- iii. Arrange with the Social Workers' Registration Board or any relevant legal person, commission or organisation for details of any investigation and/or determination made about the complaint to be forwarded to the Association.

12. Procedure when a complaint is received which should be determined by these complaint procedures

When it appears to the Chief Executive that a complaint should be investigated and determined in accordance with these complaint procedures the Chief Executive shall:

- i. Notify the complainant and the Member that the complaint has been made and should be investigated and determined under these complaint procedures; and
- ii. Refer the complaint to the Convenor.

13. Procedure when Complainant withdraws

Where a complainant withdraws their complaint after the complaint process is initiated, or is unable or unwilling to proceed with the complaint, the Convenor shall have the sole and absolute discretion to:

- i. Close the complaint and notify all relevant parties accordingly; or
- ii. Continue the complaint process and reach a finding of fact about the complaint within 30 working days of the complainant's withdrawal, as though the complainant had not withdrawn the complaint; and
- iii. Issue a Determination of the complaint, making any order pursuant to Schedule II of these procedures.

14. Procedure when Member resigns

If a Member resigns during any stage of the complaint process, the Convenor shall have the sole and absolute discretion to:

- i. Close the complaint and notify all parties accordingly; or
- ii. Continue the complaint process and reach a finding of fact about the complaint, within 30 working days of the Member's resignation, as though the Member had not resigned; and
- iii. Issue a Determination of the complaint, making any order pursuant to paragraphs 2, 3, or 4 of Schedule II of these procedures.

Complaint Resolution Processes

15. Procedure when Convenor receives complaint made or referred by the Chief Executive

On receipt of a complaint made or referred by the Chief Executive, the Convenor shall as soon as practicable:

- i. Discuss the matter with the complainant and the Member and the Complaint Advisory Group and;
 - a. Determine whether the complaint has sufficient substance to proceed; and
 - b. Determine whether or not the circumstances of the complaint, the interests of the Member, the interests of the public or any member of the public or the interests of the Association, require the membership of the Member concerned to be suspended during the complaint resolution process, and if so, upon what terms.
- ii. If after discussing the complaint with the complainant, the Member and the Complaint Advisory Group the Convenor forms the opinion that:
 - a. the matter is frivolous, vexatious or malicious; or
 - b. the complaint has insufficient substance to proceed,

the Convenor shall be entitled to close the complaint and notify the complainant, the Member and any other person considered appropriate, in writing, of this fact and the reasons for the decision, along with information about appeal provisions.

16. Convenor to seek resolution by consent of the parties

Where the Convenor forms the opinion that the complaint is not frivolous, vexatious or malicious and has sufficient substance to proceed, the Convenor shall seek to resolve the complaint informally by consent of the parties through any process the Convenor thinks fit and which is consistent with the principles in paragraph 4. Any Member shall cooperate with the Convenor in

all reasonable attempts to seek an early resolution by consent of the parties, whether the Member is a complainant or the subject of a complaint. For the avoidance of doubt, the parties to such a process shall not be bound only to the potential outcomes or actions as outlined in Schedule II.

17. Procedure when resolution by consent unsuccessful

Where for any reason the Convenor is unable to resolve the complaint by consent of the parties, the Convenor shall:

- i. Undertake, or cause to have undertaken, a full investigation into the complaint consistent with the principles in paragraph 4;
- ii. following that investigation, make a formal determination of the complaint and after appropriate legal advice, impose outcomes or actions as outlined in Schedule II; and
- iii. notify the parties, the Chief Executive and the Board of the determination.

18. Convenor to Monitor Determinations

The Convenor shall monitor consented and imposed determinations to ensure that any outcomes or actions are undertaken by the relevant Member or party to the complaint.

Appeals

19. Appeals

Any person who is dissatisfied with the whole or any part of any decision or order of the Convenor may appeal to the Board against that decision or order. Notices of Appeal must be served on the Chief Executive and the Convenor within twenty (20) working days of notification of the decision or order.

20. Provisions relating to appeals

- i. The Board (or any Appeal Board which may be delegated by the Board to do so) shall conduct the appeal in any manner in which it sees fit, provided that in doing so the principles of natural justice and the principles as set out in paragraph 4 above are adhered to.
- ii. In the ordinary course, it is intended that any such appeal will be conducted by way of a review of the papers and any written submissions made by the Appellant and the Convenor. In conducting any such appeal however, the Board (or any appeal committee which may be delegated by the Board to do so) shall be entitled to (but not bound to) convene a formal appeal hearing if it wishes to do so.

- iii. The powers of the Board in determining appeals are as set out in Schedule III.

Miscellaneous Provisions

21. *Independence of the Convenor*

In carrying out the duties and responsibilities of the Convenor prescribed in these procedures, the Convenor shall act independently.

22. *Dispute between the Chief Executive and the Convenor.*

In the event that a dispute arises between the Chief Executive and the Convenor in relation to the exercise of the duties and responsibilities of each of them, which cannot be resolved by them, the dispute shall be referred to the Board for resolution.

23. *Suspension*

The Convenor shall have the power to suspend membership and some of the rights of membership, and reinstate membership which has been suspended by the Convenor, from time to time and at any time during the Complaints Resolution Process, as set out in Schedule I, or during any disciplinary proceedings concerning a Member conducted by the Social Worker's Registration Board.

24. *Notification of Suspensions and Determinations to other bodies*

The Chief Executive shall provide a copy of any decision to suspend a Member or any final determination (whether a consented determination or an imposed determination) to:

- i. the Member;
- ii. any complainant;
- iii. the Board;

and, where the Chief Executive reasonably believes it is necessary to do so;

- iv. the member's employer;
- v. any legal person, commission or other relevant organisation that has an interest in the matter.

25. *Service of notifications or documents*

Any notification or document required to be given or served to any person may be given or served:

- i. by personal service;
- ii. by e-mail;
- iii. by physically leaving it at the person's last known place of business or residence;
- iv. by posting it by registered post or by ordinary letter addressed to the person's last known place or business or residence (in the case of ordinary post, service shall be deemed in the absence of evidence to the contrary, to have been effected on the 5th working day after posting); or
- v. in such other manner as may be determined by the Governance Board.

26. *Limitation on liability*

No person exercising functions relating to these Procedures, nor any employee or agent of any of them, shall be under any criminal or civil or other liability in respect of anything done or omitted to be done, or of any words spoken or written, at or for the purposes of any investigation or resolution process or otherwise during the course of acting under these procedures, unless it is proved to the satisfaction of the Court or tribunal before which any proceedings are taken that the defendant in the proceedings acted in bad faith or maliciously.

27. *Want of Form*

No processes or proceedings under these procedures shall be quashed or set aside or held invalid by reason only of want of form, or failure to comply strictly with any provisions in these procedures if despite the deficiencies due process was followed.

28. *Timeframes*

The Chief Executive may, for sufficient reason on the application of any relevant person, extend any time prescribed or allowed under these complaint procedures.

Schedule I

Convenor Powers affecting Membership during the Complaint Resolution Process

1. The Convenor shall have the power to suspend membership and/or some of the rights of membership, and/or reinstate membership rights wholly or partially which have been suspended by the Convenor, from time to time and at any time during these complaint procedures or during any disciplinary proceedings concerning a Member conducted by the Social Worker's Registration Board.
2. When any suspension is proposed, the Convenor shall:
 - i. notify the Member and the Chief Executive of the proposal about suspension and the reasons for it;
 - ii. invite the Member to provide a response to any proposal about suspension of membership; and
 - iii. consider any such response before reaching a final determination about suspension.
3. Suspension shall not entitle the Member to any refund of any unexpired subscription monies.
4. Suspension of membership may include any one or more of the following:
 - i. Suspension of the right to attend Association meetings except where such meetings are open to the public;
 - ii. Suspension of the right to vote on Association matters;
 - iii. Suspension of the right to represent oneself as an officeholder of the Association;
 - iv. Suspension of the right to represent oneself as a Member of the Association;
 - v. Suspension of access to Member Only publications.

Schedule II

Determination Orders

1. If the Convenor makes a determination about any complaint the Convenor may order any of the following:
 - a. That no further action is required;
 - b. That the Member shall be formally censured by the Association;
 - c. That the Member shall be required to undergo a specified programme of training;
 - d. That the Member shall undertake additional supervision at the Member's expense, by a person nominated by the Association (and where the Member is not self-employed, agreed by the Member's employer) for a specified period;
 - e. That the Member shall undertake mentoring at the Member's expense, by a person nominated by the Association (and where the Member is not self-employed, agreed by the Member's employer) for a specific period;
 - f. That the Member is restricted from practicing in any specified field of practice or with any specified type of client, for a specified period;
 - g. That the Member shall apologise in writing to any legal person, commission or other relevant organisation, or to any complainant, or to their employer, or to any professional colleague, within or by a specified time;
 - h. That the Member shall pay a sum not exceeding \$500.00 to the complainant within or by a specified time;
 - i. That the Member shall pay a sum towards the costs of complaint resolution within or by a specified time;
 - j. That the Member shall pay a sum not exceeding \$500.00 to the Association within or by a specified time;
 - k. That the membership of the Member shall be suspended for a specified period;

- I. That the Determination be referred to the Chief Executive recommending termination of the Member's membership of the Association.
2. The Convenor shall have the power to make any order in relation to publication, either on the Association's website or any other media, of:
 - (i) the identity of the Member; and/or
 - (ii) the complaint, including whether the matter was resolved by consent or by imposition of orders,for such time and on such terms as the Convenor deems appropriate and to vary or revoke any such order from time to time.
3. Unless the Convenor determines there are grounds not to do so, the Convenor shall make an order suppressing the identity of the complainant.
4. Where the Convenor determines it is proper to do so, having regard to the interests of any person or to the public interest, the Convenor may:
 - a. Make an order prohibiting the publication of the whole or any part of any books, evidence or documents given or produced during the resolution process;
 - b. Make an order prohibiting the publication or report of any part or the whole of the resolution process
 - c. Make an order prohibiting the publication of the name or any particulars which might identify any Member involved, or any other person involved in the resolution process;
 - d. Vary or revoke any such order from time to time;
 - e. Make any such order permanent, or for such time or on such terms as the Convenor deems appropriate.

Schedule III

Powers of the Board in relation to Appeals

The following provisions apply in event of appeal against any decision or order of the Convenor:

- (i) The Board may, on notification from the Chief Executive that an appeal has been lodged:
 - a. Elect an Appeal Board of between 3 to 5 Board members, and co-opt any person or persons with specialist knowledge as appropriate, to carry out the functions of the Board in relation to the appeal; and
 - b. Appoint a legal advisor.

- (ii) The Board (or the Appeal Board) shall, subject to compliance with the principles of natural justice and as set out in paragraph 4 of the complaint procedures, have the absolute discretion to regulate its procedure in relation to any appeal as it sees fit.

- (iii) The Appeal Board shall have the power to:
 - a. confirm the whole or any part of the decision and/or all/any of any order/s against which the appeal has been lodged;
 - b. modify or reverse the whole or any part of the decision and/or all/any or any order/s; or
 - c. order any appellant to pay such sum towards the costs, if any, of and incidental to the appeal.

- (iv) All decisions of the Appeal Board shall be final and given in writing with reasons.