

New Zealand Association of Counsellors Professional Codes and Guidelines COMPLAINTS PROCESS

Complainant sends a letter describing their concern to the Ethics Secretary of the NZAC

1.



The Ethics Secretary¹ will check that the person they are concerned about is a Member ('Member' throughout this document refers to all forms of NZAC Membership)

2.



If the person is not a Member, the NZAC cannot act on the concern.

The Ethics Secretary will inform the Complainant of this within 10 working days. They will describe some other possible courses of action which could be taken, e.g. contact the Human Rights Commissioner, another professional body, the Privacy Commissioner or Health and Disability Commissioner. The complaint material will be returned.

3.

If the person is a Member, the Ethics Secretary will inform the Complainant of this within 10 working days.

The Ethics Secretary will also provide the Complainant with:

- Advice about seeking private resolution
- Assistance with presenting the concern
- Access to Procedural Advice
- A description of the Complaints Process
- The consent form (to be completed and returned)

If the consent form is not returned within 20 working days, a reminder will be sent. If the consent form is still not returned within 10 working days, the Complaint will lapse.

4.



Complainant's concern will then be referred to the Convenor of the Ethics Committee.

The Convenor and Secretary will decide, as soon as practicable, whether the behavior complained about is potentially prejudicial to the interests of the Association and/or there is potential evidence of professional misconduct and/or conduct unbecoming a Member.

If required the Ethics Secretary may write to the Complainant seeking more information and this will extend the assessment period.

5.



If it is agreed that the behavior complained about is not potentially professional misconduct, conduct unbecoming a Member and/or prejudicial to the interests of the Association, no further action will be taken. The Ethics Secretary will inform the Complainant of this and describe some other course of action that could be taken, e.g. Human Rights Commission, legal action, Health and Disability Commissioner. A copy of the Complaint will be sent to the Respondent for their information and also stating that no Response is required. The Complainant will be advised of this.

6.



If it is agreed there is potential evidence of professional misconduct, conduct unbecoming a Member of the Association and/or behavior prejudicial to the interests of the Association, it now becomes the Association's Complaint and the person complained about is asked to account to the Association rather than to the Complainant. The Ethics Secretary will inform the Complainant that this will proceed.

The Ethics Secretary will send, by courier, to the Member complained of (Respondent) a copy of the Complaint, a description of the Complaints Process and the availability of Procedural Advice.

The Respondent is asked to respond, in writing, to the Ethics Secretary within 20 working days or such further time as the Convenor decides.

7.

¹At any stage of this complaints process, the Ethics Convenor and Ethics Secretary may delegate their responsibilities, if necessary. The Ethics Convenor's responsibility will be delegated to another member of the Ethics Committee. The Ethics Secretary's responsibility will be delegated to another Ethics staff member or an Ethics Committee member.

As soon as practicable after receipt of the Response, the Convenor, Secretary and one other Ethics Committee member will form an Initial Assessment Group (IAG). They will review all the material submitted and decide how to proceed, namely: no further action/seek further information/ refer to another participant or regulatory body for consideration/resolve through Convenor communication/refer to a Regional Ethics Team/ appoint a Panel to prepare charges and conduct a formal Hearing. If further information is received from the Complainant, it will be forwarded to the Respondent who will have a further 20 working days to respond before the IAG decides its next step.

8.

Take no further action

9.

Seek further information

10.

Refer to another professional or regulatory body for consideration

11.

Resolve through communication with Convenor

12.

Refer to Regional Ethics Team

13.

Hearing: The Ethics Convenor will appoint a Chair and Panel of at least two members of the Ethics Committee, and one layperson.

14.

For a Regional Ethics Process, the Secretary of the Ethics Committee will send a copy of the complaint documentation (Complaint and Response) to the Regional Coordinator who will arrange for two Regional Ethics Team members to meet separately with the Complainant and the Member, accompanied by their Supervisor, to discuss the concerns. The meeting aims to identify, negotiate and recommend any possible outcomes. These may include: no further action; acknowledgement; a particular focus in supervision; further education or training; specialist consultation; and/or reporting back to the RET. The RET may also refer the matter back to the IAG with a recommendation to undertake another option within the process, e.g Communication by Convenor, Hearing.

13A.

In order to prepare for a Hearing the Ethics Panel will:

- Formulate the charges in terms of the material presented and will identify, in writing, the way it considers the behavior to be potentially prejudicial to the interests of the Association or that there is potential misconduct or conduct unbecoming a member.
- Advise the Ethics Secretary who will, as soon as possible, notify the Respondent of the charges.

14A.

In a Hearing:

- The case will be heard by the Ethics Panel at a place and time to be determined by the Ethics Panel.
- A Notice of Hearing, specifying details of the charges and the material to be considered by the Panel at the Hearing, will be sent to the Respondent not less than 20 working days before the Hearing, or in a shorter time if agreed between the Panel and the Respondent.
- The Ethics Secretary will provide the Complainant and the Respondent with details of the Hearing Process.
- The Ethics Panel will consider the material identified in the Notice of Hearing.
- Any additional material the Respondent wishes the Panel to consider is to be provided to the Ethics Secretary no later than 10 working days before the hearing date.
- The Respondent may be assisted by one or more of the following: a Procedural Advisor, support person/s and/or legal counsel.
- The Complainant as a witness for the Association may be assisted by a Procedural Advisor and/or support person/s.
- The procedure adopted at a Hearing shall be at the discretion of the Ethics Panel and shall comply with the principles of natural justice.

14B

The matter will be closed when the outcome is resolved to the satisfaction of the Regional Ethics Team. The Team may instead choose to refer the Complaint back to the IAG to consider alternative action.

13B

The decision of the Panel will be delivered as soon as practicable after the conclusion of the Hearing.

If the Panel finds that there is evidence of professional misconduct, conduct unbecoming a member of the Association and/or behavior prejudicial to the interests of the Association then, before determining what sanctions to impose against the Respondent, the Panel shall:

1. Inquire of the Ethics Secretary whether or not any previous charges of professional misconduct, conduct unbecoming a member of the Association and/or behavior prejudicial to the interests of the Association have been upheld against the Respondent;
2. Provide the Respondent with a copy of any information supplied by the Ethics Secretary in response to its inquiry pursuant to clause 1 above;
3. Invite the Respondent to provide, in writing, within 15 working days of receiving notification of the outcome of the Hearing or within 15 working days of receiving the information provided to the Panel by the Ethics Secretary (whichever is the later) such information as the Respondent wishes the Panel to take into account before it determines the sanctions to be imposed and makes recommendations to the National Executive about publication of the outcome.

14C

If the Panel finds there is evidence of professional misconduct, conduct unbecoming a member of the Association and/or behavior prejudicial to the interests of the Association, responses or sanctions shall be applied from the following, as listed in the NZAC Constitution. The Ethics Panel may:

- i. Warn the Member or Provisional Member;
- ii. Provide educative advice to the Member or Provisional Member;
- iii. Require the Member or Provisional Member to cease and desist from the behavior considered inappropriate or unethical;
- iv. Reprimand the Member or Provisional Member;
- v. Require the Member or Provisional Member to undertake a specified programme of education and/or supervision under the direction of the Ethics Committee;
- vi. Require the Member or Provisional Member to cease working with a particular client group for a specified period of time;
- vii. Require the Member or Provisional Member to undergo a practice audit, under the direction of the Ethics Committee.
- viii. Recommend to the National Executive a change of status from Member to Provisional Member;
- ix. Recommend to National Executive that the Member or Provisional Member be suspended as a member of NZAC until the completion of specified education and/or personal counselling under the direction of the Ethics Committee.
- x. Recommend to the National Executive that the Member or Provisional Member be invited to resign;
- xi. Recommend to the National Executive that the Member or Provisional Member be expelled from the Association.

14D

After consultation, the final decision of the Ethics Panel, including recommendations regarding the publication of these outcomes will be confirmed in writing by the Ethics Secretary as soon as is practicable. The Respondent will receive a full copy of the decision. The Complainant will receive notification and a summary of the outcome.

14E

When a finding is made of professional misconduct, conduct unbecoming a Member of the Association and/or behaviour prejudicial to the interests of the Association, the Ethics Committee will notify the National Executive of the outcome in order for it to be formally received and will include any recommendations to the National Executive regarding publication of the outcome.

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On receipt of information from the Ethics Convenor regarding non-compliance with any duly imposed sanctions iii), v), vi) or vii), this behaviour may be treated as conduct unbecoming, professional misconduct or behaviour prejudicial to the interests of the Association and may be subject to a new complaint lodged by the National Executive against the member.

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