

ACE NZ // REGULATIONS

Dispute Resolution Procedures

**Regulations to set the procedures
ACE will follow when considering any
dispute raised about an ACE member,
Board member, or ACE New Zealand.**

These regulations set out ACE New Zealand's procedures for receiving and managing complaints and disputes about ACE New Zealand, its officers, and members.

ACE New Zealand membership sets a standard for the competency and practise of professional services consulting in Aotearoa New Zealand. To that end, in respect of their business practices, members are expected to comply with the obligations and duties set out in the ACE New Zealand Rules. These regulations allow for ACE New Zealand to respond to any allegation that a member is not meeting their obligations under the Rules, to protect the ACE New Zealand membership brand.

The Incorporated Societies Act 2022 requires ACE New Zealand to have procedures that set out how a complaint may be made and resolved regarding the conduct of ACE New Zealand officers and the society, and these regulations provide those procedures.

These regulations are made by the ACE New Zealand Board pursuant to Rules 10.1 and 18.1 of the ACE New Zealand Rules.

1 Commencement

1.1 These regulations come into force on 1 November 2023.

2 Interpretation

2.1 In these regulations, unless the context otherwise requires:

- a. "Act" means the Incorporated Societies Act 2022
- b. "Board" means the Governing Board of ACE New Zealand
- c. "Committee" means a Disciplinary Committee or a Complaints Committee appointed under these regulations
- d. "Complaints Committee" means a committee appointed by the President or the Deputy President pursuant to clause 6.2.5 or 6.3.4.
- e. "Constitution" means the Rules of ACE New Zealand
- f. "Chief Executive" means the Chief Executive of ACE New Zealand
- g. "Disciplinary Committee" means a committee formed by the Board pursuant to clause 5.4.1
- h. "Member" means a person or firm that is a Member, Retired Member, or Honorary Member of ACE New Zealand under the Rules.
- i. "Officer" means a person acting in their capacity as an Officer of ACE New Zealand, and includes Board members and the Chief Executive
- j. "Parties" means the complainant and the person responding to the complaint (whether that be a member, an officer, or the society).
- k. "President" means the President of ACE New Zealand.

- l. "Rules" means the Rules of ACE New Zealand.
- m. "Regulations" means this document
- n. "Society" means ACE New Zealand, the incorporated society under the Incorporated Societies Act 2022

3 Objectives of the dispute resolution procedures

3.1 The objectives of ACE New Zealand's dispute resolution procedures are to:

- 3.1.1 uphold professional standards within the society, its officers, and members,
- 3.1.2 facilitate the growth or education of the society, its officers, and members, and
- 3.1.3 achieve proportionate, fair and transparent outcomes to complaints about members, officers, and the society.

4 Decision-making Procedures for Board and committees

4.1 Decision making procedures for Board and committees

- 4.1.1 A Committee or the Board making any decision under these Regulations will make its decision on the complaint as soon as practicable. However, it can delay making the decision until the outcome is known of any other legal or professional disciplinary proceedings that could affect its findings.
- 4.1.2 If a Committee or the Board is not unanimous, the majority decision is the decision of the Committee or Board, although dissenting Committee or Board members may issue dissenting views.
- 4.1.3 A Committee or the Board making any decision under these Regulations must give reasons for its decisions and observe the rules of natural justice.
- 4.1.4 Except as otherwise provided in the Rules or these regulations, a Committee or the Board making any decision under these Regulations can regulate its procedure as it thinks fit.
- 4.1.5 The Chief Executive is responsible for maintaining all records associated with the complaint in accordance with legal requirements and good complaints management practices.

4.2 No further action

- 4.2.1 At any time, the Board or a Committee established under these regulations may decide to take no action or no further action on a complaint if, having regard to all the circumstances, the Board or Committee considers that any action or any further action is unnecessary or inappropriate.
- 4.2.2 The Board or Committee's decision to take no action or no further action on a complaint under clause 4.2.1 may consider (but is not limited to) any of the following matters:
 - a. The length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made,
 - b. Whether the subject matter of the complaint is trivial, vexatious, frivolous, or not made in good faith,
 - c. Whether the alleged conduct is insufficiently grave to warrant further investigation,
 - d. Whether the person alleged to be aggrieved does not want any action taken or continued or the complainant does not have a sufficient personal interest in the subject matter of the complaint,
 - e. There is a more appropriate organisation to consider and resolve the complaint,
 - f. Whether there is in all the circumstances a more appropriate remedy or right of appeal that it would be reasonable for the complainant to exercise.

4.2.3 Where the Board or Committee decides to take no action or no further action on a complaint, it will notify the parties of its decision and the reasons.

4.3 Alternative dispute resolution

4.3.1 At any time, the Board or a Committee may decide to recommend that a complaint be referred to alternative dispute resolution, for example mediation, facilitation, or a tikanga-based practice.

4.3.2 The Board or Committee will consider the following factors in assessing whether the complaint is suitable for alternative dispute resolution:

- a. The seriousness of the alleged conduct,
- b. The preferences of the parties,
- c. Whether the objectives of ACE New Zealand's dispute resolution procedures under clause 3.1 can be achieved more effectively through alternative dispute resolution than through an investigation by a Committee, and/or
- d. Any other factors the Board or Committee considers relevant.

4.3.3 In recommending that a complaint be referred to alternative dispute resolution, the Board or Committee will also recommend which type of alternative dispute resolution process it considers appropriate in the circumstances, and which party should fund that process.

4.3.4 Where the Board or Committee refers a complaint to alternative dispute resolution, the Chief Executive will advise the parties of the decision, the reasons for it, and Board or Committee's direction on process and how it should be funded, and will seek the parties' agreement to the process.

4.3.5 If one or both of the complainant and the member do not agree to the proposed alternative dispute resolution process, or the complaint is not resolved following the alternative dispute resolution process:

- a. Where the Board recommended that the complaint be referred to alternative dispute resolution, the Board will decide whether to take no further action on the complaint in accordance with clause 4.2 or whether to refer the complaint for investigation by a Disciplinary Committee in accordance with clause 5.4.
- b. Where a Committee recommended that the complaint be referred to alternative dispute resolution, the Committee will continue its investigation into the complaint.

4.3.6 If the parties agree to an alternative dispute resolution process, the Chief Executive will liaise with them to facilitate the process as per the direction of the Board or Committee.

4.3.7 If the complaint is resolved through the alternative dispute resolution process to the satisfaction of ACE New Zealand and the parties, ACE New Zealand will not take any further action on the complaint.

5 Complaints about members

5.1 How to raise a complaint about an ACE New Zealand member

5.1.1 In accordance with Rule 10, any person can complain to ACE New Zealand that a member has:¹

- a. Breached, or is likely to breach, their obligations or duties under the Rules, regulations or the Act, and/or
- b. Behaved in such a way so that another member's rights or interests as a member or members' rights or interests generally have been damaged, and/or
- c. Has otherwise engaged in misconduct.

¹ For the avoidance of doubt, a member or members may make a complaint about another member.

5.1.2 The complaint must be made orally or in writing and contain the complainant's name and contact details. Where a complaint is made orally, ACE New Zealand will assist the complainant in recording the complaint in writing. ACE New Zealand will be deemed to have received the complaint when it has been recorded in writing.

5.1.3 ACE New Zealand can inquire into matters on its own initiative under these regulations if it has reason to suspect that a member has breached, or is likely to breach, their obligations or duties under the Rules and/or has otherwise engaged in misconduct. An inquiry commenced under this clause is deemed to be a complaint and will be managed accordingly under these regulations and the Rules.

5.2 Assessment of jurisdiction

5.2.1 When ACE New Zealand receives a complaint about a member, the Chief Executive will consider whether ACE New Zealand has jurisdiction to respond to the complaint under Rule 10.

5.2.2 If the complaint is not within jurisdiction, the Chief Executive will:

- a. notify the member to whom the complaint relates that the complaint was received and that ACE New Zealand will not be taking any action because the complaint is not within jurisdiction,
- b. notify the complainant that the complaint is not within jurisdiction and ACE New Zealand will not be taking any action on it, and
- c. notify the Board of the complaint and the assessment that it was not within jurisdiction at the next scheduled Board meeting.

5.2.3 If the complaint is within jurisdiction, the Chief Executive will carry out a preliminary assessment of the complaint in accordance with clause 5.3.

5.3 Preliminary assessment of complaint

5.3.1 If the Chief Executive determines that a complaint is within jurisdiction, the Chief Executive:

- a. Will notify the member to which the complaint relates that the complaint has been received;
- b. May request any other relevant information from the complainant or any other person involved that the Chief Executive considers is relevant to ACE New Zealand's assessment of the complaint;
- c. Will provide any information gathered under clause 5.3.1(b) to the member to which the complaint relates; and
- d. Will request the member to whom the complaint relates provides the Chief Executive their response to the complaint within a reasonable period specified by the Chief Executive in the request.

5.3.2 Following review of a complaint, response, and any other information gathered under clause 5.3.1(b), the Chief Executive will recommend to the Board that the Board:

- a. Take no further action on all or part of the complaint, for one of the reasons set out in clause 4.2.2 or any other reason, or
- b. Refer all or of part the complaint to an alternative dispute resolution process in accordance with clause 4.3, or
- c. Form a Disciplinary Committee to investigate all or part of the complaint in accordance with clause 5.4.

5.4 Investigation of complaints about members

5.4.1 Where the Board decide to investigate a complaint about a member, it will appoint a Disciplinary Committee under Rules 10.7 and 14.7 to lead the investigation and determine the complaint. The Disciplinary Committee will have at least three members and no more than five members.

5.4.2 The Disciplinary Committee must include one member who is a lay person, and the Board will appoint one member of the Disciplinary Committee to the role of Chair. No person may be appointed to a Disciplinary Committee if there are reasonable grounds to believe they may not be or may not appear to be impartial or able to consider the matter without a predetermined view.

5.4.3 The Board may delegate to the Chief Executive the authority to carry out any organisational and notification actions required to support the Disciplinary Committee through its process, and to implement these regulations in an effective manner.

5.4.4 The Board may remunerate the lay member of the Disciplinary Committee and may offer an honorarium to any ACE New Zealand member that serves on the Disciplinary Committee.

5.4.5 The fact these regulations give a function or power to a person or Disciplinary Committee does not prevent the Board from performing the function or exercising their power. However, the Board will not make any findings or orders in relation to a complaint or complaint raising substantially similar issues from the same circumstances about a member that is the subject of an investigation by a Disciplinary Committee or will be inconsistent with a completed investigation by a Disciplinary Committee (unless in the Board's reasonable opinion the Disciplinary Committee is no longer able to make a decision). The Board will not make any orders under Rule 10 in relation to an upheld complaint if the Disciplinary Committee has made any orders under Rule 10 in relation to the same complaint or a complaint raising substantially similar issues from the same circumstances or has considered whether to make any orders under Rule 10 and has decided not to (unless in the Board's reasonable opinion the Disciplinary Committee is no longer able to make a decision).

Notify the investigation

5.4.6 As soon as practicable after the Board forms a Disciplinary Committee, the Chief Executive, on behalf of the Disciplinary Committee, will:

- a. notify the complainant and the member of the decision to investigate the complaint and the matters to be investigated with sufficient particularity identifying the specific conduct that is alleged to give rise to the breach of the member's obligations or duties under the Rules and/or misconduct,
- b. notify the complainant and the member of the membership of the Disciplinary Committee,
- c. advise both the complainant and the member of their right to provide any additional response or evidence to the Disciplinary Committee, their right to be heard by the Disciplinary Committee, and their right to be represented during the Disciplinary Committee's process, and
- d. notify the member of the findings that the Board or Disciplinary Committee could make at the conclusion of the investigation, the orders the Board or Disciplinary Committee could make if the complaint is upheld, and that whether or not the member provides evidence for the investigation the Board or Disciplinary Committee will make a decision on the basis of the evidence available to it.

Powers of the Disciplinary Committee

5.4.7 Subject to clauses 4.1.3 and 4.1.4, a Disciplinary Committee can, when it is investigating a complaint –

- a. Take any material it considers relevant into account, and is not bound by the rules of evidence,
- b. Make, or appoint a person to make, any inquiries it considers necessary to assist with the investigation,
- c. Engage counsel to advise the Disciplinary Committee on matters of law, procedure, and evidence,
- d. Request the member complained about or the complainant to provide to the Disciplinary Committee, within a specified period of at least 14 days or any other period the Disciplinary Committee thinks fit, any documents, things, or information in the possession or control of the person relevant to the investigation,
- e. Take copies of any documents provided to it,
- f. Receive any evidence it thinks fit from any person,

- g. Request a person giving evidence to verify a statement by statutory declaration, and/or
- h. Provide information to assist the complainant and the member about obtaining counsel or other advocacy assistance.
- i. Convene one or more oral hearings to hear evidence in relation to the complaint, in which case it will:
 - i. Provide reasonable notice of at least 14 days to the member complained about and the complainant of the time and location of the hearing; and
 - ii. Make reasonable arrangements to allow a representative of the member complained about and the complainant to attend, at that person's own cost, the oral hearing either in person or virtually by audio-visual link or telephone if requested.

5.4.8 If at any time in the course of investigating a complaint about a member, the Disciplinary Committee forms the belief on reasonable grounds that the member's practice may pose a risk of harm to the public, the Disciplinary Committee must immediately notify the Board of its belief and the grounds for that belief.

Decision of the Disciplinary Committee

5.4.9 After providing the complainant and the member a reasonable opportunity to respond to the investigation and to be heard by the Disciplinary Committee, the Disciplinary Committee must assess all the relevant information from its investigation and decide whether to:

- a. Uphold the complainant, or
- b. Dismiss the complaint.

5.4.10 The Disciplinary Committee will notify the parties of the decision and the reasons for it.

5.4.11 Where the Disciplinary Committee has decided to uphold the complaint, it will advise the parties of their right to provide the Disciplinary Committee with submissions on any orders to be made under Rule 10.8.

5.4.12 After considering any submissions on orders to be made from the parties, the Disciplinary Committee may make any one or more of the orders under Rule 10.8. The Disciplinary Committee must notify the parties of any orders made and the reasons for making the orders. Where the Disciplinary Committee orders the member to do a particular thing under Rule 10.8(c), (d) of the Rules, it must also specify a reasonable timeframe of not less than 30 days by which the member must comply with the order.

Implementation of any orders

5.4.13 ACE New Zealand will implement any orders made by the Disciplinary Committee under rules 10.8(a), (b), (e) or (g) of the Rules, and the decision and orders made will be notified to the Board at the next scheduled Board meeting.

5.4.14 Any costs ordered under rule 10.8(f) of the Rules are immediately due and recoverable as a civil debt. The order continues to apply whether or not a member is suspended or expelled under these regulations, or resigns before or after the order is made.

5.4.15 The existence of a debt described in clause 5.4.14 is sufficiently proved by the production of:

- a. The ACE New Zealand Rules and these regulations, and
- b. Evidence of the member's membership of ACE New Zealand, and
- c. The decision or order(s) of the Disciplinary Committee setting out the costs to be paid.

5.4.16 ACE New Zealand is not liable for any expense by way of travelling, engagement of counsel, calling of any witnesses or in any other matter in connection with the consideration of a complaint or investigation of a complaint, incurred either by the member whose conduct is subject to the complaint nor by the complainant, but the Board can, at its discretion, make a grant to a member or complainant to cover the whole or part of any such expense.

Enforcement of any orders

5.4.17 If a member against whom an order has been made fails to comply with that order within the period stipulated in the order the Board can suspend the ACE New Zealand member's membership until the order is complied with.

5.4.18 If the ACE New Zealand member against whom the order is made fails to comply within a further period of 30 days from the date at which the period specified in clause 5.4.17 has expired, the Board can remove the ACE New Zealand member from membership of ACE New Zealand.

5.4.19 The Chief Executive can publish the fact of any action taken under clauses 5.4.17 and 5.4.18 and the name of the member.

5.5 Managing risk

Power to notify risk of harm

5.5.1 Whenever ACE New Zealand has reason to believe that the practice of a member may pose a risk of harm to the public, (including because a Disciplinary Committee has notified the Board that it has formed a belief that the practice of a member may pose a risk of harm to the public) ACE New Zealand may give any or all of the following persons or organisations written notice of the circumstances that have given rise to that belief:

- a. Worksafe
- b. Another relevant regulator
- c. A relevant building consent authority

5.5.2 Any notice given under clause 5.5.1 must be approved by the President of ACE New Zealand in consultation with the Board, before it is given.

5.5.3 If, after giving notice under clause 5.5.1 in respect of a member, ACE New Zealand forms the view that the practice of the member never posed, or no longer poses, a risk of harm to the public, ACE New Zealand must promptly notify every recipient of the notice under clause 5.5.1 of the current position in respect of the member.

5.5.4 Promptly after giving a notice about a member under clause 5.5.1, ACE New Zealand must give a copy of the notice to the member.

Power to suspend a member pending the outcome of a complaints process

5.5.5 Whenever a member is alleged to have engaged in conduct that, in the Board's opinion held on reasonable grounds –

- a. is relevant to a criminal, civil, or disciplinary investigation or proceeding pending against the member and casts doubt on the appropriateness of the member's conduct as a member of ACE New Zealand, and/or
- b. poses a risk of serious harm to the public.

then the Board may suspend that member's membership of ACE New Zealand until the outcome of that process or proceeding is known.

5.5.6 A decision to suspend a member under clause 5.5.5 may be notified on the ACE New Zealand member register and/or to any of the persons or organisations listed in clause 5.5.1.

5.5.7 The Board may not suspend a member's membership under clause 5.5.5 unless it has first informed the member concerned why it is considering suspending their membership and after having given the member a reasonable opportunity to make submissions on the proposed suspension.

5.5.8 No member that has been suspended under these regulations may claim or imply membership of the Board during the term of that suspension.

5.5.9 Subject to any orders of a Disciplinary Committee, the Board must reinstate the member's membership as soon as practicable after it is satisfied that the appropriateness of the member's conduct is no longer in doubt and/or the member does not pose a risk of serious harm to the public.

6 Raising a complaint about the society or its officers

6.1 How to raise a complaint about ACE New Zealand or its officers

6.1.1 Any person can complain to ACE New Zealand about the society or any officer(s), and any officer can raise a complaint with ACE New Zealand about the society or any other officer(s), where the complaint is that:

- a. an officer or officers, acting in their capacity as an officer(s) of ACE New Zealand, has engaged in misconduct, or
- b. an officer or officers, acting in their capacity as an officer(s) of ACE New Zealand, has breached, or is likely to breach, a duty under the society's Rules or regulations, or the Incorporated Societies Act 2022,
- c. ACE New Zealand has breached, or is likely to breach, a duty under the Rules or regulations, or the Incorporated Societies Act 2022, or
- d. ACE New Zealand or an officer or officer(s) of the society has damaged the rights or interests of a member or the rights or interests of members generally.

6.1.2 A complaint made in accordance with clause 6.1.1 should be made in writing to either the Chief Executive or the President and must include the complainant's name and contact details.

6.1.3 ACE New Zealand, through the President, may instigate a complaint about an officer in accordance with clause 6.1.1 by giving the officer written notice of the complaint. Where the complaint is about the President, the Deputy President may instigate the complaint on behalf of ACE New Zealand.

6.2 Procedure for responding to a complaint about an officer

6.2.1 Where a complaint is about the Chief Executive or other staff member of ACE New Zealand, the complaint will be referred to the ACE New Zealand Performance and Remuneration Committee for investigation in accordance with all applicable employment laws and obligations.

6.2.2 Where a complaint is about a member of the Board or other officer of ACE New Zealand that is not a staff member, the processes in clauses 6.2.3 to 6.2.16 will apply.

Assessment of jurisdiction

6.2.3 Where a complaint is received about an officer of the society, the President will decide whether ACE New Zealand has jurisdiction to respond to the complaint under these Regulations, the Rules, and the Incorporated Societies Act 2022. Where the complaint is about the President, the Deputy President will make this assessment and decision.

6.2.4 If the complaint is not within jurisdiction, the President (or in the case of a complaint about the President, the Deputy President) will:

- a. Notify the officer that the complaint was received and that ACE New Zealand will not be taking any action because the complaint is not within jurisdiction,
- b. Notify the complainant that the complaint is not within jurisdiction and ACE New Zealand will not be taking any action on it, and
- c. Notify the Board of the complaint and the assessment that it was not within jurisdiction at the next scheduled Board meeting.

Assessment of the complaint

6.2.5 If the complaint is within jurisdiction, the President (or in the case of a complaint about the President, the Deputy President) will appoint a Complaints Committee to investigate and decide the complaint. The Complaints Committee will be comprised of no less than three and no more than five members, and will include:

- a. at least one current officer who is not the subject of the complaint,
- b. one former officer of ACE New Zealand, and
- c. one lay member.

6.2.6 No person may be appointed to a Complaints Committee if there are reasonable grounds to believe they may not be or may not appear to be impartial or able to consider the matter without a predetermined view.

6.2.7 If the application of clause 6.2.6 means that it is impossible to form a Complaints Committee in accordance with clause 6.2.5, then the Board will appoint an independent and external third party dispute resolution provider to consider the complaint. Where an independent and external third party dispute resolution provider is appointed, it will follow the process that the Complaints Committee would follow from rules 6.2.9 to 6.2.15.

6.2.8 The lay member will Chair the Complaints Committee. The Chief Executive will provide administrative support to assist the Complaints Committee with their process.

6.2.9 Where the complainant is ACE New Zealand, the Board may delegate the rights of the complainant to one of its members who is not an officer to whom the complaint relates.

6.2.10 Once the Complaints Committee has been appointed, it must:

- a. notify the officer that is the subject of the complaint that the complaint has been received, that a Complaints Committee has been formed to investigate the complaint and the membership of the Complaints Committee, and the matters to be investigated,
- b. notify the complainant that the complaint has been assigned to the Complaints Committee for investigation and the membership of the Complaints Committee, and the matters to be investigated,
- c. provide both the officer and the complainant a reasonable opportunity to provide any response, information, or evidence to the Complaints Committee for its consideration, and
- d. advise both the officer and the complainant of their right to be heard by the Complaints Committee, and their right to be represented during the Complaints Committee's process.

6.2.11 Subject to clauses 4.1.3 and 4.1.4, the Complaints Committee can –

- a. Take any material it considers relevant into account, and is not bound by the rules of evidence,
- b. Make, or appoint a person to make, any inquiries it considers necessary to assist with the investigation,
- c. Engage counsel to advise the Complaints Committee on matters of law, procedure, and evidence,
- d. Request the officer complained about or the complainant to provide to the Complaints Committee, within a specified period of at least 14 days or any other period the Complaints Committee thinks fit, any documents, things, or information in the possession or control of the person relevant to the investigation,
- e. Take copies of any documents provided to it,

- f. Receive any evidence it thinks fit from any person,
- g. Request a person giving evidence to verify a statement by statutory declaration, and/or
- h. Provide information to assist the complainant and the officer about obtaining counsel or other advocacy assistance.
- i. Convene one or more oral hearings to hear evidence in relation to the complaint, in which case it will:
 - i. Provide reasonable notice of at least 14 days to officer complained about and the complainant of the time and location of the hearing,
 - ii. Make reasonable arrangements to allow the officer complained about and the complainant to attend the oral hearing either in person or virtually by audio-visual link or telephone if requested.

Decision of the Complaints Committee

6.2.12 After providing the complainant and the officer a reasonable opportunity to respond to the investigation and to be heard by the Complaints Committee, the Complaints Committee must assess all the relevant information from its investigation and decide whether to:

- a. Refer the complaint to alternative dispute resolution in accordance with clause 4.3, or
- b. Take no further action on the complaint in accordance with clause 4.2, or
- c. Dismiss the complaint, or
- d. Uphold the complainant.

6.2.13 Where the Complaints Committee decides to refer the complaint to alternative dispute resolution, it will follow the process set out in clause 4.3.

6.2.14 Where the Complaints Committee decides to dismiss or take no further action on the complaint, it will notify the parties of its decision and the reasons for it.

6.2.15 Where the Complaints Committee decides to uphold the complaint, it will advise the parties of the decision and the reasons for it and seek their submissions on whether the officer should be removed from office in accordance with Rule 13.7, or whether some other order or response is appropriate.

6.2.16 After considering any submissions on potential orders from the parties, the Complaints Committee will recommend to the Board and the Board will agree any order or response to the complaint, including whether the officer should be removed from office in accordance with Rule 13.7.

6.2.17 The parties will be notified of the Board's decision in clause 6.2.16. If a Board member or regional chair is removed from office as a result of a complaint upheld against them, a casual vacancy arises in respect of their position and the Board may appoint a person to fill that casual vacancy in accordance with the Rules.

6.3 Procedure for responding to a complaint about ACE New Zealand

6.3.1 Where a complaint is made about the Society, the President and Deputy President will meet with the complainant and attempt to resolve the complaint on behalf of the Society.

6.3.2 Where the President and Deputy President are unable to resolve the complaint directly with the complainant, they will appoint an independent and external third party dispute resolution provider to assess whether the complaint is within jurisdiction under these Regulations, the Rules, and the Act.

6.3.3 The independent and external third party dispute resolution provider will advise the complainant and the Board of their assessment of jurisdiction and their reasons for their assessment. If the assessment of the independent and external third party dispute resolution provider is that the complaint is not within jurisdiction, the Board can decide to take no action on the complaint.

Assessment of the complaint

6.3.4 If the independent and external third party provider assesses that the complaint is within jurisdiction, the Board will appoint a Complaints Committee to investigate and decide the complaint. The Complaints Committee will be comprised of no less than three and no more than five members, and will include:

- a. at least one current officer,
- b. one former officer of ACE New Zealand, and
- c. one lay member.

6.3.5 No person may be appointed to a Complaints Committee if there are reasonable grounds to believe they may not be or may not appear to be impartial or able to consider the matter without a predetermined view.

6.3.6 Where clause 6.3.5 means it is impossible to appoint a Complaints Committee in accordance with clause 6.3.4, then the Board will appoint an independent and external third party dispute resolution provider to consider the complaint. Where an independent and external third party dispute resolution provider is appointed, it will follow the process that the Complaints Committee would follow from clauses 6.3.8 to 6.3.14 and it has the powers of the Complaints Committee for the purposes of investigating and determining the complaint.

6.3.7 The lay member will Chair the Complaints Committee. The Chief Executive will provide administrative support to assist the Complaints Committee with their process.

6.3.8 Once the Complaints Committee has been appointed, it must:

- a. notify the complainant that the complaint has been assigned to the Complaints Committee for investigation and the membership of the Complaints Committee, and the matters to be investigated,
- b. provide both the Society (through the President) and the complainant a reasonable opportunity to provide any response, information, or evidence to the Complaints Committee for its consideration, and
- c. advise both the Society (through the President) and the complainant of their right to be heard by the Complaints Committee, and their right to be represented during the Complaints Committee's process.

6.3.9 Subject to clauses 4.1.3 and 4.1.4, the Complaints Committee can –

- a. Take any material it considers relevant into account, and is not bound by the rules of evidence,
- b. Make, or appoint a person to make, any inquiries it considers necessary to assist with the investigation,
- c. Engage counsel to advise the Complaints Committee on matters of law, procedure, and evidence,
- d. Request the Society or complainant to provide to the Complaints Committee, within a specified period of at least 14 days or any other period the Complaints Committee thinks fit, any documents, things, or information in the possession or control of the person relevant to the investigation,
- e. Take copies of any documents provided to it,
- f. Receive any evidence it thinks fit from any person,
- g. Request a person giving evidence to verify a statement by statutory declaration, and/or
- h. Provide information to assist the complainant and the Society about obtaining counsel or other advocacy assistance.
- i. Convene one or more oral hearings to hear evidence in relation to the complaint, in which case it will:
 - i. Provide reasonable notice of at least 14 days to the Society and the complainant of the time and location of the hearing, and
 - ii. Make reasonable arrangements for a representative of the Society and the complainant to attend the oral hearing either in person or virtually by audio-visual link or telephone if requested.

Decision of the Complaints Committee

6.3.10 After providing the complainant and the Society a reasonable opportunity to respond to the investigation and to be heard by the Complaints Committee, the Complaints Committee must assess all the relevant information from its investigation and decide whether to:

- a. Refer the complaint to alternative dispute resolution in accordance with clause 4.3, or
- b. Take no further action on the complaint in accordance with clause 4.2, or
- c. Dismiss the complaint, or
- d. Uphold the complainant.

6.3.11 Where the Complaints Committee decides to refer the complaint to alternative dispute resolution, it will follow the process set out in clause 4.3.

6.3.12 Where the Complaints Committee decides to dismiss or take no further action on the complaint, it will notify the parties of its decision and the reasons for it.

6.3.13 Where the Complaints Committee decides to uphold the complaint, it will advise the parties of the decision and the reasons for it, and any recommendations the Complaints Committee proposes to make to the Society, and seek their submissions on the proposed recommendations.

6.3.14 After considering any submissions from the parties, the Complaints Committee will report its decision and any recommendations to the Board.

6.3.15 The Board will consider the Complaints Committee report and recommendations, and decide what further action, if any, it will take in response to that report and recommendations. The Board will promptly notify the parties of its decision under this clause and the reasons for it.

6.3.16 Any complaint made about the Society that is upheld by a Complaints Committee must be reported to the membership at the next General Meeting.

Indemnity

6.3.17 Persons undertaking duties on behalf of ACE New Zealand, pursuant to these regulations, are indemnified in the discharge of their duties under these regulations, provided that each person so indemnified has immediately disclosed any actual or perceived conflict of interest to ACE New Zealand.