

ELINZ Complaints Policy

Making a complaint

A complaint about a Member must be made in writing and sent to our “Complaints Officer” at complaints@elinz.org.nz.

The Complaints Officer may be the Secretary or any other person on the Executive Committee whom the President or Vice President has delegated.

The complaint must include the name of the Member that the complaint is about, details of the specific concerns, and when they were alleged to have occurred. Ideally, the Complainant will also identify which rule/rules of the ELINZ “Code of Conduct” the Complainant alleges the Member has breached.

A copy of the Code of Conduct can be found on the ELINZ website: <https://elinz.org.nz/elinz-code-of-conduct/>

Upon receipt of a complaint, an automated acknowledgment will be sent to confirm the complaint is received, which states a further update will be sent within fourteen business days of the complaint being made.

The Complaints Officer will review complaints in consultation with the President or Vice-President (and Secretary if they are not the person receiving) to ensure the complaint relates to a current Member and that the complaint includes sufficient details to understand the concerns.

The Complaints Officer reserves the right to ask the Complainant for more and/or specific information about the complaint and, if necessary, to also ask the Complainant to review the ELINZ Code of Conduct and specify the relevant clauses.

As membership of ELINZ is an individual membership and the obligations apply to the individual Member, we cannot investigate complaints about a company or organisation.

The Complaints Officer has the discretion to forward the complaint to the Respondent Member and to seek preliminary information from them before deciding whether formal action needs to be taken. The Complaints Officer should provide the Member with a timeframe for when they can expect a reply.

Upon subsequent receipt of information from the Member, the Complaints Officer reserves the right to make a recommendation to the President or Vice President as to whether formal action should be taken or if the preliminary matter can be closed.

The President or Vice President reserves the right to make this decision without referring to the “Complaints Review Committee” (CRC) or the Executive Committee.

- If the matter can be closed, the Complaints Officer will email the Complainant and Member to advise of such.
- If formal action should be taken, the President should forward the matter to the Complaints Review Committee.

- At this point, the matter should also be communicated to the ELINZ Executive Committee. This can be done by emailing the Secretary and asking them to agenda the matters at the next Executive meeting.
 - In this instance, the Complaints Officer will email the Complainant and Member to advise of such.

Membership of the Complaints Review Committee

After the complaint has been considered by the Complaints Officer and the President or Vice President, the matter should be forwarded by the Complaints Officer to the standing Complaints Review Committee.

The CRC will consist of three or more members, with up to a maximum of five. One Member of the CRC will be appointed as the Chair and will be the liaison between the CRC, the Complainant, and the Member.

The CRC must be made up of at least two Executive Committee members and may include an ELINZ Member of good standing.

Process

Upon receiving a complaint, the CRC may, in its discretion:

- (a) Inquire further into the complaint from both the Complainant and/or Member;
- (b) Seek information from potential witnesses;
- (c) Encourage the parties to explore the possibility of resolving the complaint through dialogue and/or negotiation.
- (d) Decide to take no action on the complaint.

Inquiry into the complaint

If the CRC decides to inquire into a complaint, the Member concerned will be notified in writing that the complaint is being progressed, and the Complainant and the Member will be told what will happen next.

The CRC should provide a brief Terms of Reference (ToR) to accompany their response.

If any members of the CRC are conflicted with the matter (e.g. they know the Member to the extent they feel they may not be able to be impartial), they shall disclose the conflict, and if in the opinion of the CRC the member is indeed considered to be conflicted to that extent, they shall remove themselves from the matter.

The CRC will set reasonable deadlines for the Member to respond to the complaint.

The response will be provided in writing, but if the Member would prefer, a meeting may be arranged. Given the geographical spread of ELINZ members, this may occur via video conferencing. Any cultural

considerations will be taken into account, but the Member must advise the CRC as soon as possible so that suitable arrangements can be made.

The Complainant will be given the opportunity to comment on any explanation the responding Member provides.

The CRC will deal with complaints as fairly, efficiently, and effectively as possible. Their investigation is impartial and must not give legal advice to either the Complainant or the Member.

An appointed representative of the CRC may contact the Complainant and the Member involved to clarify issues.

An appointed representative of the CRC may contact any potential witnesses involved to clarify issues.

When the investigation is complete, the CRC considers all the information and recommends to the Executive Committee as to what should happen. This may be communicated by the CRC Chair (at the next Executive meeting) or via other discussion platforms and methods as deemed appropriate.

The Complainant and the Member are to be kept informed of progress along the way by the CRC Chair or other delegated CRC member.

Investigation Report

The CRC will produce a written report of its findings and make recommendations to the Executive Committee. Before completing its written report, the CRC should consider all the information available to it. Such assessment should be completed consistently with the rules of natural justice.

The assessment is to be made on the balance of probabilities, which means the conduct was more probable than not and must include:

- (a) The identification of the rule that has been breached;
- (b) The nature and gravity of the Member's conduct including:
 - i. whether there are multiple breaches;
 - ii. the nature of the rule and its importance in maintaining high standards;
 - iii. whether the conduct was repeated or prolonged;
 - iv. whether the conduct was intentional, reckless, negligent or the result of a genuine mistake;
 - v. the impact of the conduct (was there any harm or loss caused by the conduct);
 - vi. whether dishonesty was involved.

This list is not exhaustive.

The written report will remain confidential except where the Executive Committee decides publication is necessary or desirable in the public interest or to uphold the standards of the profession.

ELINZ is not required to share the written report with the Member, Complainant, or Witnesses. However, at the President's sole discretion, a summary may be provided to these relevant parties.

The Executive Committee may decide that the facts of a complaint and its outcome be published. The identity of the Complainant and Member will remain confidential and not subject to publication.

Recommendations by the Complaints Review Committee

The CRC may recommend no further action if the investigation indicates that further action is unnecessary or inappropriate.

The CRC may recommend other actions be taken, including but not limited to:

- i. the Member completing specific upskilling or education
- ii. to provide an apology to the Complainant
- iii. to make a public or private correction
- iv. to cease a particular behaviour
- v. to provide an undertaking that the particular behaviours will not be repeated
- vi. to temporarily suspend the Members ELINZ membership
- vii. that future membership to ELINZ be denied for a specified period
- viii. to cancel the Members ELINZ membership.

This list is not exhaustive.

If the Executive Committee decides to suspend or cancel a Members ELINZ membership, there shall be no entitlement to any reimbursement of fees paid.

If a member resigns from ELINZ after a complaint has been made, then the CRC may choose to complete the investigation and make findings and recommendations, irrespective of that person's subsequent membership status. The Complainant should be kept informed of any change in the Members membership status.

The Executive Committee will decide whether to accept any or all of the CRC's recommendation(s). If the Executive Committee decides to take no action, the Complainant and the Member will be told the reasons. The Executive Committee's decision is final.

Any proposed outcome will be communicated to the parties, and parties will be provided an opportunity to comment before it is finalised.

Sanctions

Consistency of actions to address unsatisfactory conduct of a Member is important. Any recommendations made by the CRC to the Executive Committee should be comparable to those in previous cases for similar conduct, considering the nature and gravity of the conduct and the personal circumstances of the Member.

Encourage the parties to explore the possibility of resolving the complaint through dialogue and/or negotiation.

If the CRC decides that it is most appropriate to encourage the parties to first explore possible resolution together, the CRC will outline this in writing, providing the reasons why the CRC recommends this approach.

If the parties do not agree, or if this is not successful, the Complainant can refer the matter back to the CRC to reconsider the complaint and take the appropriate next steps. The next steps could include inquiring into the complaint or not taking any further action.

While the parties seek alternative resolutions, the complaint will be placed on hold, and no further action will be taken. It is the responsibility of the Complainant to notify the CRC if the matter has not been resolved and they wish to continue with the complaint.

If the CRC is not provided an update by the Complainant within three (3) months of the complaint being made, the complaint will be considered withdrawn.

Decide to take no action on the complaint.

Upon reviewing a complaint, the CRC may recommend that no action be taken on a complaint. This could be because:

- (a) The complaint has been made so long after the issues arose that the CRC determines it is not practical or desirable to investigate it.
- (b) The CRC strongly believes the complaint is trivial, frivolous, or vexatious or was not made in good faith.
- (c) The person affected does not want the complaint to proceed.
- (d) The person who makes the complaint does not have sufficient personal interest in it.
- (e) Some other alternate remedies are available.

If the complaint does not proceed, this will be confirmed in writing to the Complainant, and no further action will be taken.

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