



# THE NEW ZEALAND AUDIOLOGICAL SOCIETY INCORPORATED

## COMPLAINTS BOARD Rules for Complaints Procedure

The following rules apply to the proceedings of the New Zealand Audiological Society (NZAS) Complaints Board (CB) in dealing with complaints involving members (including full, provisional and honorary members) and Associates (including Students) of the NZAS.

### **Preamble:**

Complaints must be received in writing by the EXECUTIVE OFFICER of the NZAS and will immediately be forwarded to the Complaints Board.

Records of all correspondence received and entered into and any action taken by the CB in respect to complaints against members of the NZAS will be kept by the EXECUTIVE OFFICER.

In all cases of complaints made by a member of the NZAS against another member, the complainant will be encouraged in the first instance to try to resolve the complaint at a personal level where this is feasible and appropriate in keeping with Principle V, Rule G of the NZAS Code of Ethics.

In all cases the CB must observe the requirements of administrative law such that the CB must:

- i) Act within the powers granted by the Constitution of the Society and the Code of Ethics.
- ii) Act for proper purposes
- iii) Observe the principles of natural justice when making decisions that affect the interests of individuals such that the person who is the subject of a complaint:
  - a) Must be able to know with reasonable accuracy the precise nature of the complaint.
  - b) Must have an opportunity to present his or her position on the allegations constituting the complaint.
  - c) Should have the opportunity to be heard in person and to be represented by counsel if they wish.
  - d) Should be judged fairly on the basis of objective evidence.
  - e) Has a legitimate expectation that he or she would be told of the intended decision of the body hearing the case and be given an opportunity to comment.
- iv) Act reasonably and fairly.

### **RULES:**

- 1) If a complainant wishes to make a complaint against two or more members of the NZAS the complaint against each member should be recorded in a separate document. The CB may ask a complainant to reformulate any complaint that fails to comply with this rule.

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- 2) The CB may act unsolicited in circumstance where the C B believes that there has been an ethical violation but no formal complaint by a member has been made. The CB may also act unsolicited in cases where a complaint initiated by a member is later withdrawn.
- 3) Upon receiving a complaint the CB will immediately notify the complainant in writing that the complaint has been received by the CB and is being considered.
- 4) The CB upon receiving a complaint shall inform in writing the person who is the subject of the complaint about the precise nature and unless there are good reasons for not doing so, which are accepted by the CB in its sole discretion, source of the complaint, including the identity of the complainant, and call for, receive and consider the subject's response in writing to the complaint within a reasonable stipulated period of time (usually being two weeks). The CB may in its sole discretion provide a copy of any complaint to the subject of that complaint. The CB may do so without reference to the complainant.
- 5) The person who is the subject of the complaint ,may request to be heard in person and to be represented by counsel if they wish.
- 6) The person who is the subject of the complaint shall be informed as to the membership of the CB who will be considering the complaint and will be notified of their right to reasonably request that any member or members of the CB who may, in the opinion of the subject of the complaint, not be free from bias in considering the complaint be replaced by another Member.. This Member is to be selected by the Executive Council or by the remaining body of the CB.
- 7) If the subject of the complaint chooses not to respond to the complaint the CB will act to resolve the complaint on the basis of the information which it has received and its own investigations.
- 8) The CB shall be entitled to collect information from third parties and/or persons affected by, or connected with, the subject matter of the complaint. In particular the CB may verify or investigate the circumstances giving rise to the complaint. In doing so, the CB shall have regard to the position of the subject of the complaint, and the CB shall endeavour to make its enquiries into investigation in a manner which respects the confidentiality of the parties to the complaint, but without limiting the right of the CB to seek and obtain such information as it requires to make an informed decision on the matter the subject of the complaint.
- 9) If any member of the CB is the complainant or the subject of the complaint or has a special interest in the complaint or relationship with any of the parties involved such that they cannot maintain impartiality in the complaints procedure then the CB shall at its discretion absolve that member from participation in the complaints resolution proceedings of the CB. The Committee may also in this instance, at its discretion, appoint another Member to act as a temporary member of the CB for the time taken to resolve the complaint.
- 10) The CB will make every reasonable effort to investigate and resolve the complaint within as short a period of time as possible.



- 11) Resolution of complaints will be attempted through mediation and dialogue whenever possible. Such mediation and dialogue may be either written or verbal and may include meetings for the purposes of arbitration or mediation between the complainant, the subject of the complaint and one or more members of the CB.
- 12) In keeping with the principles of natural justice, the CB shall notify in writing the person who is the subject of the complaint of its intended decision and suggested course of action regarding the complaint and shall offer the subject of the complaint opportunity to respond to that decision and suggested course of action.
- 13) The CB will recommend to the Executive Council of the NZAS in writing any action which it recommends be taken against a member of the NZAS arising from any complaint. Such recommendations may include but are not limited to the following sanctions:
  - a. Reprimand. Notification of reprimand is limited to the subject of the complaint and the complainant.
  - b. Cease and Desist Order. The subject of a complaint will be required to cease non-compliant behaviour and to demonstrate that such behaviour has been reformed. Such demonstration of reformed behaviour may take place from time to time through peer review and/or audit or by such other means as the CB may recommend. The subject of the complaint may be required to sign a Cease and Desist Order, which specifies the non-compliant behaviour and the terms of the Order. Notification of a Cease and Desist Order will be made to the subject of the complaint and the complainant and may on the recommendation of the CB and at the absolute discretion of the Executive Council be reported in an official publication of the Society.
  - c. Suspension of Membership. Suspension may range from a minimum of three (3) months to a maximum of twelve (12) months. Suspension of membership will usually be notified in an official publication of the Society. Notification of the suspension will be made to Government agencies which require Membership of the Society for Audiologists rendering services on their behalf. No refund of membership dues shall accrue to the suspended individual.
  - d. Revocation of Membership. Revocation of Membership is considered the maximum punishment for violation of the Code of Ethics. Revocation of membership will be notified in an official publication of the Society. Notification of the revocation of membership will be made to Government agencies which require Membership of the Society for Audiologists rendering services on their behalf. Individuals whose membership has been revoked will not be entitled to a refund of membership dues.
- 14) Sanctions against members may be recommended to the Executive Council by the CB depending on the severity of the violation of the Code of Ethics as determined by the CB following its investigations into a complaint. Direct disciplinary action against NZAS members culminating in revoking of Society membership will be recommended to the Executive Council of the NZAS by the CB only as a last resort in cases where a member is found to be at fault and is intransigent in their offending behaviour or defiant of the CB's attempt to resolve the complaint or in cases of gross misconduct. Such action by the CB may be undertaken following the failure of a member who is the subject of a complaint to reasonably comply with the recommendations of the CB for resolution of the complaint according to these rules, followed by two written warnings