

RSCDS New Zealand Branch Dispute Resolution Procedures (Adopted January 2023)

The Branch Constitution refers to the process set out in the Incorporated Societies Act 2022, which may change as the Act is amended. This copy is up to date as at 1 January 2023 and amended to refer to the Branch.

1 How complaint is made

(1) A Branch member or an officer may make a complaint by giving to Management Committee a notice in writing that—

- i. states that the member or officer is starting a procedure for resolving a dispute; and
- ii. sets out the allegation to which the dispute relates and whom the allegation is against; and
- iii. sets out any other information reasonably required by the Branch.

(2) The Branch may make a complaint involving an allegation against a Branch member or an officer by giving to the member or officer a notice in writing that—

- i. states that the Branch is starting a procedure for resolving a dispute in accordance with the Branch's constitution; and
- ii. sets out the allegation to which the dispute relates.

(3) The information given under subclause (1)(ii) or (2)(ii) must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

2 Person who makes complaint has right to be heard

(1) The person who makes the complaint has a right to be heard before the complaint is resolved or any outcome is determined. If the Branch made the complaint, an officer may exercise this right on behalf of the Branch.

(2) Without limiting the manner in which the member, officer, or Branch may be given the right to be heard, they must be taken to have been given the right if—

- i. they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
- ii. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
- iii. an oral hearing (if any) is held before the decision maker; and
- iv. the member's, officer's, or Branch's written statement or submissions (if any) are considered by the decision maker.

3 Person who is subject of complaint has right to be heard

(1) This clause applies if a complaint involves an allegation that a member, an officer, or the Branch (the **respondent**)—

- i. has engaged in misconduct; or
- ii. has breached, or is likely to breach, a duty under the society's constitution or bylaws or this Act; or
- iii. has damaged the rights or interests of a member or the rights or interests of members generally.

(2) The respondent has a right to be heard before the complaint is resolved or any outcome is determined.

(3) If the respondent is the Branch, an officer may exercise the right on behalf of the Branch.

(4) Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if—

- i. the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
- ii. the respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
- iii. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
- iv. an oral hearing (if any) is held before the decision maker; and
- v. the respondent's written statement or submissions (if any) are considered by the decision maker.

4 Investigating and determining dispute

(1) The Branch must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance Clause 12.1, ensure that the dispute is investigated and determined.

(2) Disputes must be dealt with in a fair, efficient, and effective manner.

5 Branch may decide not to proceed further with complaint

Despite Clause 12.4, the Branch may decide not to proceed further with a complaint if—

- 1) the complaint is trivial; or
- 2) the complaint does not appear to disclose or involve any allegation of the following kind:
 - i. that a member or an officer has engaged in material misconduct;
 - ii. that a member, an officer, or the society has materially breached, or is likely to materially breach, a duty under the society's constitution or bylaws or this Act;
 - iii. that a member's rights or interests or members' rights or interests generally have been materially damaged;
- 3) the complaint appears to be without foundation or there is no apparent evidence to support it; or
- 4) the person who makes the complaint has an insignificant interest in the matter; or
- 5) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with in some other manner; or
- 6) there has been an undue delay in making the complaint.

6 Branch may refer complaint

(1) The Branch may refer a complaint to:

- i. a subcommittee or an external person to investigate and report; or
- ii. a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.

(2) The Branch may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

7 Decision makers

A person may not act as a decision maker in relation to a complaint if 2 or more members of Management Committee or a complaints subcommittee consider that there are reasonable grounds to believe that the person may not be—

- 1) impartial; or
- 2) able to consider the matter without a predetermined view.