



# Naturopaths & Medical Herbalists of New Zealand (Inc)

## COMPLAINTS PROCEDURE AND POLICY

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## Introduction

The Naturopaths & Medical Herbalists of New Zealand (the Society) is a self-governing body, that has developed standards to provide protection and reduce risk to the public.

This document explains the process for complaints made against Naturopaths and Medical Herbalists who are members (Members) of the Society.

## Complaints

The Society accepts written complaints from any person. A letter of complaint should contain enough information to enable the Society to decide what action, if any, should be taken about the complaint. The letter of complaint should be sent to the Society Administrator; [admin@naturopath.org.nz](mailto:admin@naturopath.org.nz). If the complaint does not include sufficient detail, the person making the complaint may be asked to provide further information in writing.

The Society has a form available that can be completed but will accept any written complaint. Anonymous complaints will not be investigated unless further inquiry provides information that raises questions about a Member's conduct or safety to practise.

The Society may refer a matter to a Complaints Committee for investigation without a complaint having been made if it has in its possession information that raises questions about the appropriateness of the Member's conduct or safety to practise. Complaints about a Member's practice or conduct that do **not** affect a health consumer will be referred directly to the Complaints Committee. Where it is deemed that the law of New Zealand has been breached, the matter will be passed to police for investigation.

## Health and Disability Commissioner

All complaints received by the Society that allege a Member's practice or conduct has affected a health consumer will be referred to the Health and Disability Commissioner (HDC). The HDC may refer complaints to the Society when the competence of a Member, his or her fitness to practise or the appropriateness of his or her conduct may be in doubt.

## Initial assessment

The Society will make an initial assessment and decide whether the matter is regarding health, conduct or competency of the Member. The Society also considers the HDC's opinions to decide whether there are any professional issues that require further action such as a review of a Member's competence or health.

## Referral to the Complaints Committee

### Grounds for referral

If the complaint is sufficiently serious and within the Society's jurisdiction it will be referred to a Complaints Committee. Employment issues between a Member and his or her employer or between colleagues or complaints that do not reflect on a Member's professional conduct will generally be outside the Society's jurisdiction.

### Interim suspension pending investigation

If a Member is alleged to have engaged in conduct relevant to a pending criminal proceeding or an investigation by the HDC or the Complaints Committee, and the Society believes the conduct casts doubt on the appropriateness of the Member's conduct in his or her professional capacity, the

Society may suspend the Member's membership or include conditions in his or her scope of practice. The Member will be given the opportunity to make oral and written submissions before this occurs.

### Early advice letter

Once a decision has been made to refer a complaint to a Complaints Committee, the Member and complainant will be informed, and the Member will be given a copy of the letter of complaint or the substance of the complaint excluding the contact details of the complainant.

The Member may choose, and is encouraged, to seek the representation or support of a legal representative, professional advisor or support person through this process.

### Appointment of a Complaints Committee

A Complaints Committee is appointed by the Society for each complaint from a panel of Members and laypersons. Complaints Committees are separate from the Society, but a Complaints Committee may have a Society member appointed when this is appropriate. Each Complaints Committee comprises two Members, one of whom has experience in the same general area of practice as the Member under investigation, and a layperson. If the Member is a Maori or of another ethnic group or is a male Member, this will be reflected in the makeup of the Complaints Committee. One of the Complaints Committee members chairs the meeting. A copy of the letter of complaint is sent to the proposed Complaints Committee members before their appointment by the Society to enable them to declare any conflict of interest. If there is a conflict of interest the Society will appoint another Complaints Committee member.

### Appointment of legal advisor and investigator

Each Complaints Committee appoints an investigator and may appoint a legal advisor, where required, at the Society's expense. The investigator investigates the complaint on the Complaints Committee's behalf.

The legal advisor provides legal advice to the Complaints Committee and attends the hearing to advise the Complaints Committee on any on matters of law, procedure and evidence, but is not present during the Complaints Committee's deliberations.

### Membership of the Complaints Committee and legal advisor

A letter is also sent to the Member and complainant with the names of the proposed Complaints Committee members and the name and contact details of the Complaints Committee legal advisor, where one has been appointed. The Member and complainant may make a written request for changes to the Complaints Committee membership and should outline their reasons for this. They must make this request within five working days of being informed of the proposed Complaints Committee membership. The Society must consider the request but need not comply with it.

### Particulars of the complaint

The Member must receive details of the complaint within 14 days of it being referred to a

Complaints Committee by the Society. A Complaints Committee may also investigate any additional matter when the Society believes that matter should form part of the investigation. The Member must receive details of any such additional matter within 14 days of its referral to a Complaints Committee.

## Complaints Committee process

### Investigation

The appointed Complaints Committee investigator contacts the complainant to organise interviews with witnesses and to collect other information. The investigation involves taking witness

statements and collecting any information relevant to the complaint. Statements are then prepared and sent to the witnesses for amendment, approval and signature.

A Complaints Committee does not just accept allegations made by the complainant about the Member or accept the results of a complainant's own investigation. A Complaints Committee may receive evidence that would not normally be admissible in court, but the information must be relevant to the complaint.

The Member is not interviewed during this part of the investigation but is given the opportunity at the Complaints Committee meeting to respond to the information.

### Notice to provide information

A Complaints Committee may ask a Member to produce any items it believes are necessary for the investigation. The Complaints Committee will make a written request for the information and will provide a reasonable timeframe for its delivery. If the person does not comply with the request, a formal notice is sent asking for the information. Non-compliance with this notice without reasonable excuse may result in permanent exclusion from the Society.

### Disclosure of information

The investigation is carried out in private. The Complaints Committee keeps any information gathered during the investigation confidential to those involved. A Complaints Committee does not make any public comment during an investigation and strongly recommends the parties involved do the same during the process.

### Interim suspension of Membership during an investigation

If, during the investigation of the complaint, the Complaints Committee believes the Member's practice poses a risk of serious harm to the public, it must notify the Society and provide reasons for this belief and a formal notification is lodged with the HDC.

If a Complaints Committee raises concerns related to fitness to practice because of health, competency or conduct concerns, it may recommend the Society take appropriate action.

If a Complaints Committee notifies the Society of health concerns, interim suspension of the individual's membership may occur without notice until a medical assessment has been completed. If the complaint or investigation raises competency or conduct concerns, the Member will be given an opportunity to make written and/or oral submissions to the Society before it decides whether to suspend the Member from membership or include conditions in his or her scope of practice.

### Meeting date

Once the investigation is nearing completion a Complaints Committee meeting date is proposed. This is then agreed upon by the Member, his or her legal representative, the complainant and the Complaints Committee. Any requests for an adjournment, together with the reasons why, should be directed to the Complaints Committee. A request for adjournment may not necessarily be accepted by the Complaints Committee.

### Meeting process

The Complaints Committee meeting is a relatively informal process. However, because a Complaints Committee is considering what action, if any, to take on a complaint, a degree of formality, including full documentation of the meeting is required.

The Member is invited to forward any information he or she would like the Complaints Committee to consider in advance. The meeting is minuted and a copy will be provided to the Member.

## Terms of reference

The complaints process must be fair and transparent. To protect the interests of people who may be adversely affected by a decision, those people must be given the opportunity to respond to the information gathered during the investigation.

The Complaints Committee and Member receive the same information before the meeting. It also means a Complaints Committee, or the Society must:

- act within the scope of its power
- not be motivated by an improper purpose
- take account of relevant matters only
- be influenced by correct evidence
- not use a pre-determined policy
- fully independent and not influenced by other parties
- act fairly and reasonably
- be unbiased

## Recommendations and Determinations

The Complaints Committee deliberates at the end of its meeting and may provide an oral decision shortly after the hearing if it is able to do so. The Complaints Committee must make recommendations and/or determinations in relation to the complaint within 14 days of the meeting.

A Complaints Committee must give written notice of any recommendations or its determination, with explanation, to the Society, the Member and complainant. The decision of the Complaints Committee is full and final.

### Recommendations

A Complaints Committee may recommend the Society does one or more of the following:

- Rescind the membership of the individual
- Review the Member's competencies
- Review the Member's Continuing Education history
- Recommend further education/upskilling to support the member to address their shortcomings
- Counsels the Member regarding areas of personal and professional development and conduct. This may include a recommendation for professional counselling and/or professional supervision.

Any recommendations are referred to the Society to decide what action, if any, it will take. The Society must consider the recommendations promptly but does not need to follow them. The Member will be provided with an opportunity to make submissions on those recommendations before a decision is made.

### Determinations

A Complaints Committee may also determine that:

- No further steps be taken in relation to the matter of the investigation
- The complaint be referred for conciliation.

## Conciliation

A Complaints Committee may appoint a conciliator to assist a Member and complainant to resolve a complaint. The costs for this will be paid by the Member (all Members are recommended to have Professional Liability Insurance).

The conciliator must report in writing to the Complaints Committee and Society outlining whether the complaint has been successfully resolved by agreement within a reasonable timeframe after the conciliator's appointment.

The Complaints Committee considers the conciliator's report and, if it believes the complaint has not been successfully resolved by agreement, will decide whether to:

- make a recommendation to the Society
- recommend private litigation proceedings, or
- take no further steps.

## Appeal

Decisions of Complaints Committees are not subject to appeal.

## Timeframes

Although Complaints Committees conduct their investigations as quickly as they reasonably can, investigations may take some time to complete.

## Enquiries

Any enquiries about the complaints process should be addressed to the investigators/legal advisors of the Society.

