

Dispute Resolution Guidelines for the Acoustical Society of New Zealand Incorporated

This document has been created to guide complainants to write clear, concise and factual complaints for consideration by the Acoustical Society of New Zealand (ASNZ or Society).

The ASNZ takes all concerns, disagreements, disputes and complaints against the Society or our members of the Society seriously. The ASNZ Council consists of senior members of the Society, who manage a process for reviewing and resolving concerns and complaints against the Society's members.

The procedures for dealing with complaints are outlined in the Rules of Conduct, Dispute Resolution and Disciplinary Measures document as part of the ASNZ Constitution.

First steps

If you have a concern about an ASNZ member, we advise that you let them know and try to resolve it directly with them first. This may be by writing to them raising your concerns, asking for a response, or seeking a particular outcome you would like. Alternatively, you could request to meet in person to talk through the matter, which can include a third party to help facilitate discussions and outcomes.

If you cannot resolve your concerns directly with the member, or chose not to, then you may wish to raise the matter with us. The ASNZ can receive a complaint of alleged misconduct, incompetence or behaviour of an individual member, but not against firms or organisations. The ASNZ also cannot consider any dispute or concern regarding commercial or contractual matters, fees, payment, and employment issues.

There are certain prescribed conditions that must be met prior to the ASNZ considering a complaint, which include:

1. Any complaint must be made by the person directly involved with the matter (e.g., property owner or individual that commissioned the ASNZ member to perform works/services) and not by a third party.
2. The matter must not be in the process of being heard by any other legal or regulatory body (e.g., a Crown Entity, New Zealand Police, Courts of New Zealand, Regional or District Councils, Engineering New Zealand and the like).

3. The conduct, incident, event or issue giving rise to the complaint must not have already been investigated and dealt with under the ASNZ Constitution.

To ensure all ASNZ members are treated with dignity and respect, any act of aggression, intimidation and/or violent behaviour towards our members will not be tolerated under any circumstances. The ASNZ retains the right to refuse to deal with a complaint if it considers the complainant to act in such manner at any time.

The process

Our dispute resolution and disciplinary measures process is focused on resolution, appropriate accountability, education and industry development. We cannot help you achieve compensation or reparation, and we cannot instruct any member to undertake specific action in relation to a project. Steps in our process, in part or full, include:

- *Initial evaluation* – to confirm the complaint for investigation meets the required prescribed conditions, in accordance with the Incorporated Societies Act 2022.
- *Investigation by Disciplinary Panel* – this Panel generally comprises of three or more Officers (of the ASNZ Council) who will consider all available information and may gather more information. It is important to ensure that both the complainant (person who made the complaint) and affected member are given reasonable opportunity to tell their side of the story by providing written statements or submissions for consideration by the Panel.
- *Referral of alternative dispute resolution processes* – the Panel at any stage may explore with the complainant and affected member any alternative dispute resolution processes including, but not limited to, conciliation, facilitation, mediation and arbitration.
- *Decision by the Disciplinary Panel* – the Panel, at its sole discretion after due consideration of all evidence will decide to either dismiss or uphold the complaint. Where the complaint is upheld, various disciplinary measures may be imposed.
- *Appeals* – an appeal can be lodged by either the complainant or the affected member (appellant) where they disagree with the decision made by the Disciplinary Panel, and the appellant provides new evidence that could materially change the outcome of the decision. Where this occurs, the Council will appoint an Appeals Panel who will reassess the evidence. The decision of the Appeals Panel is final and binding.

The ASNZ strive to resolve any dispute dealt with under the Constitution in a fair, efficient and effective manner, which usually takes 3 to 4 months. However, the process may take longer where there are more multifaceted concerns, technical complexity, or where any decisions are appealed.

Our process is confidential to the parties involved, to protect people's privacy and encourage parties to participate in an open and honest way. We will only share information relating to the complaint in accordance with our Rules of Conduct, Dispute Resolution and Disciplinary Measures document as part of the ASNZ Constitution, and applicable New Zealand legislation.

Next steps

To raise your concerns and make a complaint, which formally starts the procedure for resolving a dispute in accordance with the ASNZ Constitution and Rules of Conduct, Dispute Resolution and Disciplinary Measures document, we need to receive adequate information from you in writing. This is done by filling in and submitting the online form known as the ASNZ Complaints Pro Forma with supporting any material; available on our website www.acoustics.org.nz or email: disputeresolution@acoustics.org.nz.

We will send you an email to confirm receipt of your submission. From there, our dispute resolution and disciplinary measures process shall commence. You should receive a progress update by email in 1 to 3 weeks' time.

What information do I need to provide?

The ASNZ Complaint Pro Forma requires the following information to be provided:

1. Your contact details including full name, address, phone number and email address.
2. The affected members details.
3. What works or services the affected member had been commissioned to provide.
4. Exactly what happened, and a timeline of events.
5. What ASNZ Rules of Conduct (improper conduct, competence or behaviour) you consider that have been breached (or will be breached) by the affected member. This must reference the specific Rules of Conduct clause(s) as outlined in the Rules of Conduct, Dispute Resolution and Disciplinary Measures document.
6. Who else was involved, and whether they may be able to provide further information.
7. Supporting documentation including relevant reports, correspondence, photos, contracts, statements from other people involved, copies of determinations, decisions issued, and the like.
8. How the matter impacted yourself or others.
9. Any prior steps you have already taken to resolve your concerns.
10. What outcome you want to achieve by raising this complaint.

Declaration

By submitting the ASNZ Complaint Pro Forma, you will be declaring the following:

- ✓ I understand that by signing this declaration and submitting the ASNZ Complaints Pro Forma that I am starting a procedure for resolving a dispute in accordance with the ASNZ Constitution and the Rules of Conduct, Dispute Resolution and Disciplinary Measures document. I acknowledge that I understand the dispute resolution and disciplinary measures process, and its potential consequences.
- ✓ I agree to all documentation relating to this complaint being shared with the member(s) in question and any other parties involved where necessary for the resolution of my concerns, and at the full discretion of the ASNZ.
- ✓ I declare the information I have supplied in this form is true, accurate and correct to the best of my knowledge and belief.
- ✓ I have not knowingly omitted any relevant information or misrepresented any of the facts concerning my complaint. I understand that providing false or misleading information may have serious consequences.
- ✓ I understand that the ASNZ is subject to the NZ Privacy Act 2020 and information may only be collected, used, stored and disclosed in accordance with that Act.
- ✓ I am aware that ASNZ's dispute resolution and disciplinary measures process for complaints received is confidential, and I agree to comply with reasonable directions from the ASNZ regarding confidentiality and name suppression.
- ✓ I agree that the ASNZ has no liability for any loss or injury suffered by myself, affected member, or any other parties involved, as a result of any decision made by the ASNZ in good faith under the Constitution.
- ✓ I understand that as the complainant, I may withdraw my complaint in writing to the President of the ASNZ at any time. I understand that the ASNZ may choose to continue its consideration of the complaint if it is deemed in the public interest to do so, and all reasonable steps will be taken not to disclose my identify. Otherwise, no further action will be taken.

VERSION HISTORY

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