

**NEW ZEALAND CHRISTIAN COUNSELLORS'
ASSOCIATION**



**NZCCA COMPLAINTS
PROCEDURE**

Revised: AUGUST 2023

INTRODUCTION

When dealing with complaints, the aim of the Association is to ensure the highest standard of counselling, safe and sensitive care for anyone bringing a concern, a process that is consistent with the principles of natural justice and conducted in a way that brings clarification, healing, restoration, and reconciliation wherever possible. Because the Association is founded on and embraces the Christian tradition in all aspects of its life, complaints will, as far as possible, be processed according to Christian values, aiming to be supportive, and maintain the dignity of all parties concerned.

We appreciate that bringing a complaint is never easy for the Complainant, and also that matters of this nature can have serious professional ramifications for a counsellor. The Association may seek legal advice at any point during any complaints process.

The process will be conducted as expeditiously as circumstances allow. However, all parties should be aware that a complaints process can be a prolonged affair.

Counsellors/Therapists (hereinafter referred to as the Respondent) are encouraged to view the process in two distinct parts. Firstly, there is the initial investigation leading to a determination on the matter of the complaint. Secondly, following the determination, where issues have been identified in the Respondent's professional practice, it is likely that a lengthy process of remedial action will be required, to support the addressing of these issues, and the development of the Respondent's professional practice.

Generally, NZCCA will not investigate a complaint while another investigation (with another professional body [e.g., The Health and Disability Commissioner]) into the same matter is underway or completed. In such cases, NZCCA will notify its interest in the investigation and await its outcome before determining how to respond.

In case of the same Complainant making a complaint to two associations, as the counsellor is a member of both associations (like NZAC and NZCCA), due consideration will be taken that the expectation is that both associations follow through with their investigations (with possible different outcomes).

NZCCA also retains the right to decline investigating any incident based on the time between when the alleged incident took place and the complaint being made. This will ordinarily mean a six-year limitation period for bringing an action or claim (Limitation Act 2010).

NZCCA does not hear complaints against Affiliates, as they are not part of the Association's membership. The same is the case with Student Affiliates of NZCCA as this is the responsibility of their training provider(s).

The Respondent putting their NZCCA membership on hold does not remove the obligation of the member to participate in the complaint or to the implementation of any consequences imposed as a result of the complaint. If a Respondent has resigned their NZCCA membership the NZCCA Ethics Committee reserves the right to complete the investigation.

If a Respondent resigns, or places their membership on hold, and later reapplies or wishes to reactivate their membership, any incomplete remediation as a result of a complaints process remains in force. This remediation must be completed as part of the reapplication process. Any outcomes and incomplete remediations will be noted in the Respondent's

membership file at the time of resignation/placing membership on hold. The Ethics Committee reserves the right to re-evaluate incomplete remediations on a case-by-case basis.

NOTE: If a complaint is open at the annual practicing certificate renewal time, NZCCA Ethics Committee reserves the right to request the NZCCA Membership Committee to renew the member's annual practicing certificate for 3-months at a time until the complaint is resolved.

COSTS: NZCCA is not responsible for travel costs or any other expenses relating to any stage of the complaint incurred either by the Complainant or the Respondent who is the subject of the complaint. This includes any Complainant or Respondent costs related to formal hearings. Neither is NZCCA responsible for any loss or potential loss of earnings during this process or as a result of this process.

In addition, NZCCA has no capacity to order one party in a complaint to pay the other party's costs or compensation.

COMPLAINTS PROCEDURE: COMPLAINT ASSESSMENT

The Complainant makes initial contact with the NZCCA Association Co-ordinator to discuss a possible complaint. The NZCCA Association Co-ordinator directs them to the NZCCA Complaints Procedure and Complaints Template.

1. The NZCCA Association Co-ordinator confirms whether the Respondent concerned is a current member of NZCCA (full, provisional, academic, life or retiree) and whether they were a member at the time the event(s) occurred, or is the complaint one of a 'continuing nature'?

(NOTE: NZCCA has no jurisdiction over anyone who is not a current member of the Association, or over events that occurred prior to commencement of membership with NZCCA.)

YES (is or was a member at time of events)	NO
The Complainant is sent a copy of the NZCCA Complaints Procedure and Complaints Template for completion and submission to the Ethics Committee via email to info@nzcca.org.nz for initial assessment.	The Complainant is advised that NZCCA can take no further action and other possible courses of action are advised e.g. Health & Disability Commission (HDC), Privacy Commissioner, other Associations).

2. Is the Complainant the client?	
YES	NO
<ul style="list-style-type: none"> • The Complainant is sent a consent form for disclosure of their health information for the purposes of processing the complaint. (The consent form explains the implications of not allowing consent.) 	<p>Before accepting the complaint:</p> <ul style="list-style-type: none"> • The client is always informed a complaint has been raised involving their counselling. • The client is requested to notify the Association if the Respondent is in contact with them following

<p>Proceed as per Complaints Procedure below.</p>	<p>notification of the complaint.</p> <p>The following information may be requested from the client if, in the opinion of the Ethics Committee the information requested is necessary to enable due processing of the complaint:</p> <ol style="list-style-type: none">a) The client is sent a consent form for disclosure of their health information for the purposes of processing the complaint.b) Check whether the client gives consent to appear as a witness should a hearing be required.c) If the client signs consent form for disclosure of their health information, then proceed as per belowd) If the client signs consent to appear as a witness should a hearing be required, then proceed as per below. <p>NOTE:</p> <ul style="list-style-type: none">● The client MUST be informed they are under no compulsion to engage with the Association and the requests made are as a courtesy.● If the client(s) cannot be located or do/does not wish to be involved in the complaint, then the Ethics Committee will reassess the material to decide if the matter can proceed.
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3. Do either the Complainant or the Respondent reside outside of NZ?	
YES	NO
<p>If the Complainant resides overseas:</p> <ul style="list-style-type: none"> • Advise that NZCCA is obliged to work within constraints of NZ law and natural justice. • Advise that we are obliged to work within the NZCCA Complaints Procedure. <p>If the Respondent resides overseas:</p> <ul style="list-style-type: none"> • Check that the Respondent’s professional practice was based in NZ at the time the event occurred (ie. they are / were operating under NZ law). • Check whether membership with NZCCA is current or on hold. If their membership is ‘on hold’ AND the issues raised in the complaint occurred while their membership is on hold, the Respondent is NOT deemed to have current membership and therefore, NZCCA does not pick up the complaint. • If the Respondent’s membership is current, then proceed as per Complaints Procedure below. 	Proceed as per Complaints Procedure below.

4. Are either the Complainant or the Respondent a member of either or both the current NZCCA Executive, Membership or Ethics Committees? Or, do the majority of the Ethics Committee need to recuse themselves due to a conflict of interest?	
YES	NO
<ul style="list-style-type: none"> • Direct Complainant to take the complaint to HDC to avoid any real or perceived conflict of interest. 	<ul style="list-style-type: none"> • Proceed as per Complaints Procedure below.

5. Has the complaint come to the Association via another agency (eg. HDC)?	
YES	NO
<ul style="list-style-type: none"> ● Advise the agency that NZCCA does not follow up a complaint while that complaint is being dealt with by another organisation. ● If the agency is a Govt agency (eg. HDC) complete an OIA request for the outcome of their investigation. ● If the agency is not a Govt agency, await confirmation of their investigation and request documentation under the Privacy Act re: outcome. ● Advise Respondent that NZCCA Ethics Committee has been advised of a complaint and that the Ethics Committee will be requesting a copy of the report and outcome from the Agency concerned. ● When the report is received, the Ethics Committee will decide whether or not to take up the matter on a case-by-case basis. ● If the Ethics Committee decides to not follow up the complaint, the Respondent will be advised in writing that we have received the complaint, and we are not pursuing it. The Respondent will be advised they will need to fulfil their requirements for APC renewal indicating a complaint has been made against them. ● If the Ethics Committee decides to follow up the complaint, the Ethics Chairperson(s) will lay a complaint against the Respondent in the case and the process will start as per below. 	<ul style="list-style-type: none"> ● Proceed as per Complaints Procedure below.

COMPLAINTS PROCEDURE IN FLOW CHART FORM

Once a complaint is received, the Ethics Committee determines whether anyone on the Committee has a conflict of interest and makes this known to the other Committee members, and where appropriate removes themselves from participation in the process.

The Ethics Committee determines the most appropriate two Ethics Committee members to take up the process. One member will take responsibility for communicating with the Complainant and one will take responsibility for communicating with the Respondent. Either of these two Committee members will be nominated to be the Ethics Committee Case Co-ordinator.



At this stage, the complaint becomes the concern of the Ethics Committee. If the Complainant decides to withdraw the complaint, the Ethics Committee retains the right to continue their investigation.

NOTE: In circumstances where, in the opinion of the Ethics Committee the continued membership of the Respondent poses a serious (or grave) risk to an individual, the public generally, or brings the Association into disrepute, and the identified risk may be mitigated by restriction or suspension of the Respondent's membership, then:

- a) the Ethics Committee may recommend restriction to the Respondent's practice pending determination of the complaint; Or
- b) the Ethics Committee recommends the NZCCA Executive (hereinafter referred to as the Executive) suspend the Respondent's membership pending determination of the complaint. If this situation is evident the following will apply:
 - The Executive will be required to ratify the recommendation for suspension.
 - The decision must be given in writing and furnished to the Respondent within 3-days.
 - The Respondent will be given the right to seek a review of such decision directly to the Executive.



<p>Ethics Committee reviews the complaint:</p> <ul style="list-style-type: none"> ● Is the issue potentially a breach of the NZCCA Code of Ethics, ie. professional misconduct, conduct unbecoming a member of the Association and/or behaviour prejudicial to the interests of the Association? 	
<p>YES</p>	<p>NO. There is no indication of a potential breach</p>
<p><i>The Complainant:</i></p> <ul style="list-style-type: none"> ● The Complainant is notified that the Association is pursuing the complaint. ● The Complainant may be contacted for points of clarification. ● The Complainant is advised that any new information pertaining to the complaint will only be accepted at the discretion of the Ethics Committee. <hr/> <p><i>The Respondent:</i></p> <ul style="list-style-type: none"> ● The Respondent is contacted by phone and e-mail to inform them of the following: <ul style="list-style-type: none"> i) That a complaint has been made against them; ii) The name(s) of the Complainant; iii) That the Ethics Committee has met and decided that further investigation is merited. ● The Respondent is then supplied with the letter of Complaint (including all supporting evidence), the NZCCA Complaints Procedure documents along with the Ethics Committee's initial response. ● The Respondent is required to respond in 	<p><i>The Complainant:</i></p> <p>The Complainant is advised, that having reviewed the complaint that the NZCCA does not consider the complaint to fit the NZCCA criteria for further investigation. Other possible courses of action may be suggested, e.g. HDC, Privacy Commissioner, other Associations.</p> <hr/> <p><i>The Respondent:</i></p> <p>As the complaint does not fit the criteria for further investigation and the Respondent has not been notified of the complaint to date, there is no need to notify the Respondent of the complaint.</p>

writing to the complaint within 28 calendar days of the discussion, as per the letter sent to the Respondent. (The 28-day response requirement may vary if the complaint is submitted between 20 November and 1 February in any given year).

- The Respondent must **not** solicit and / or include any client testimonials from current or former clients in their response.

At this stage, the following applies:

- Respondents in private practice are requested to notify their supervisor(s), any contracting organisations, and insurer about the complaint, even in situations where the complaint is unlikely to progress to a formal hearing.
- Respondents who are employed by an agency are requested to notify their supervisor(s), insurer (where applicable) and employing agency.
- All Respondents are encouraged to check their contracts regarding any further obligations relating to complaints.
- Respondents are entitled to, and may seek legal advice, if they deem that necessary.
- Respondents must notify their supervisor(s) of the fact and nature of the complaint and provide verification within 14-days that this has been done. In the absence of verification, the Ethics Committee may contact the supervisor directly as to the existence and nature of the complaint. Such notification is captured by the essential confidentiality of the entire Complaints Process.
- Respondents will be required to submit a report from each Clinical Supervisor they have been working with during the 6 months to the receipt of the complaint, with the reports submitted within the 28-days. The focus of this report needs to reflect the discussion had in supervision around each of the issues raised in the complaint. This report is at the cost of the Respondent.

NOTE: Under the provision of the Privacy Act, even where the Complainant has not consented release of their health information, Respondents are permitted to provide limited disclosure of client information in order to support their response to a complaint.



Having received the Respondent's response along with the Supervisor's report(s), the Ethics Committee may deem it necessary to gain further clarification. In this event, the Ethics Committee may:

- a) directly contact the Respondent's supervisor(s) for additional information.
- b) offer face-to-face meetings with the Complainant and the Respondent (either in person or on zoom).

NOTE:

- i) If an offer is made to one party, the same offer must be made to the other party.
- ii) Any face-to-face meeting with the Respondent **must** also include their supervisor).
- iii) Any face-to-face meeting with the Complainant(s) **must** include their support person.
- iv) Any face-to-face meetings will be conducted by the two Ethics Committee members managing the complaint.

The Ethics Committee reviews all information provided by both parties and makes a decision regarding the outcome of this investigation and any further remedial* action required (eg. further education / training or a particular focus in supervision).

It may be that the situation warrants a Formal Hearing before coming to a final decision. If that is the case, the process is outlined below in a separate section.



**Note: These remedial actions are intended to strengthen the respondent's professional practice in areas identified as being in need of development, as a result of the complaint. We acknowledge the distress of both the complaint process and the potential duration of the remedial process. The time frames of the remediation are intended to support strengthening practice, embedding new learning, and provide opportunity to evidence this learning.*

COMPLAINT OUTCOMES AND ACTIONS	
OUTCOME	ACTION
<p>i. The issue being complained about is not upheld and no further action is to be taken</p>	<ul style="list-style-type: none"> ● No further investigation or sanctions imposed. ● The Ethics Committee makes written contact with the Complainant and the Respondent to advise findings. ● The Complainant and the Respondent are advised that no further correspondence will be engaged in.
<p>ii. The issue being complained about is viewed as poor or ill-advised practice but not upheld as professional misconduct, conduct unbecoming a member of the Association and/or behaviour prejudicial to the interests of the Association.</p>	<ul style="list-style-type: none"> ● The Ethics Committee may choose to suggest remedial supervision, personal counselling and/or discuss further professional development with an agreed timeframe. ● The Ethics Committee makes written contact with the Complainant, the Respondent, and the Respondent's supervisor to advise the findings of the Ethics Committee and any required remedial actions with associated timeframes. ● The Complainant and Respondent are additionally advised that no further correspondence will be engaged in.
<p>iii. The issue being complained about is considered a breach of the Code of Ethics: professional misconduct, conduct unbecoming a member of the Association and/or behaviour prejudicial to the interests of the Association</p>	<ul style="list-style-type: none"> ● This case may require a Formal in-person hearing. (Refer Further Processes Warranted: Formal In-Person Hearing below). ● The Respondent has the right to request an in-person formal hearing. In this case the Ethics Committee will

	<p>consider the request in the light of the nature of the material received, and whether or not there are factual differences of such significance that 'inquiry' into those matters is called for.</p> <ul style="list-style-type: none">● The Association has the right to require a formal in-person hearing● If a formal in-person hearing is not deemed necessary (refer Grounds for a Hearing under Further Processes Warranted: Formal Hearing) by the Ethics Committee. Actions as described in ii) above will be applied.
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Additionally initial information to the complainant will make it clear that once the Ethics Committee accepts the complaint, the complaint belongs to the Association.

The complainant is advised that the Respondent's response is available to them if they want it. However, in certain circumstances, the Ethics Committee reserves the right to withhold the response.

If the complainant requests the response:

- a. They are advised that this process is confidential and subject to the Privacy Act (note the Privacy Act may require aspects of the response to be redacted), and
- b. That they will be similarly bound to confidentiality.
- c. The response is watermarked 'CONFIDENTIAL' and supplied to the complainant in PDF format.
- d. No further correspondence will be engaged in.



Further Processes Warranted: FORMAL IN PERSON HEARING

- Grounds for a hearing include the following:
 - a) gravity of the complaint;
 - b) gravity of potential outcome;
 - c) costs associated with a hearing.
- The Ethics Committee will frame the charges from the complaint document by identifying:
 - a) the part of the NZCCA Code of Ethics and Practice potentially breached;
 - b) the part of the complaint that leads to the view the NZCCA Code of Ethics and Practice may have been breached;
 - c) the evidence the Complainant has provided to support the potential breach.
- The Ethics Committee will convene a panel consisting of two experienced NZCCA Ethics Committee members, one experienced practitioner (who may or may not be a member of NZCCA) and one lay person (who has current membership with a professional body) from outside the counselling profession. The panel will be supported by the NZCCA legal representative.
- It may not be appropriate for members of the Ethics Committee to sit on the panel. In such circumstances, the Ethics Committee will convene a panel which sits outside the Ethics Committee, but for which they are seconded onto the Ethics Committee for the purpose of the hearing and associated process. The panel will consist of two experienced members, one experienced practitioner, (who may or may not be a member of NZCCA), and one lay member from outside the profession. The panel will be supported by the NZCCA legal representative.
- The Ethics Committee will set a date for the hearing.
- The Complainant, Respondent and panel members will be notified of the date and all parties will be invited to bring a support person and/or legal representative to the hearing if they choose to do so.
- The Complainant is invited to attend the hearing as a witness. Where there are multiple witnesses, it is important witnesses attending provide first-hand testimony to aspects of the complaint.
- The Respondent and the Panel will be sent a copy of the charges, a copy of the complaint, the Respondent's response and all additional information relevant to the hearing.
- The panel may request further information to be supplied before the hearing.
- The procedure for the hearing will be at the discretion of the panel, and will be in accordance with natural justice, Christian principles, dignity and respect.
- The panel will record the hearing either as transcript, audiotape or other forms of technology.



THE FORMAL HEARING DECISION:

- The panel may decide that it requires further information prior to making a decision. In this event the panel will specify the information requested and establish a timeline for acquiring and assessing the information provided.
- In the light of any further information and discussion made possible by a formal hearing, the panel may decide on a range of possible outcomes (refer 'The Hearing Outcomes' below).
- The panel will endeavour to reach a decision on the issue soon after the end of the hearing and the decision and recommended outcomes will be communicated to the Ethics Committee within 21 days of the hearing.
- Once a decision is determined by the Panel, the decision and recommended outcomes will be communicated to the Respondent.
- The Respondent will be given 14 days from the date of the notification of the outcome of the hearing to provide the Panel (via the Ethics Committee) such information as the Respondent wishes the Panel to take into account before it recommends the outcomes to be imposed by the Executive.



THE FORMAL HEARING OUTCOMES:

Outcome	Action
<p>i. The issue being complained about is not upheld and no further action is to be taken.</p>	<ul style="list-style-type: none"> ● No further investigation or sanctions imposed. ● The Ethics Committee makes written contact with the Complainant and the Respondent to advise findings. ● Both the Complainant and the Respondent are advised that no further correspondence will be engaged in.
<p>ii. The issue being complained about is viewed as poor or ill-advised practice but not upheld as professional misconduct, conduct unbecoming a member of the Association and/or behaviour prejudicial to the interests of the Association</p>	<ul style="list-style-type: none"> ● The panel may choose to recommend remedial supervision, personal counselling, and/or discuss further professional development with an agreed timeframe,
<p>iii The issue is upheld as professional misconduct, conduct unbecoming a member of the Association and/or behaviour prejudicial to the interests of the Association</p>	<p>Possible sanctions in the event of this outcome:</p> <p>a) The Respondent is censured and may be required to do any or all of the following:</p> <ul style="list-style-type: none"> ● Undertake further training or professional development designated by the Ethics Committee ● Restrict his/her practice in certain ways for a designated timeframe ● Increase supervision for a designated period or change supervisor ● Demonstrate a higher level of accountability, meeting prescribed requirements within the specified timeframe. <p>b) The Respondent has his/her membership downgraded or suspended (i.e. he/she may not use NZCCA Membership descriptors) until such time as the requirements of the Ethics Committee are met.</p>

	<p>The requirement may be any of those listed under (a) above. A timeframe for completing the requirements and arrangements for review would be made clear.</p> <p>c) The Respondent's membership in NZCCA may be withdrawn.</p> <p>d) The Respondent may be invited to resign.</p> <p>e) Other outcomes, at the discretion of the Ethics Committee or the Executive.</p> <p>f) The Executive reserves the right, in the case of a finding of serious misconduct, to publicise the outcome in the NZCCA's newsletter and website. In such a case, the Executive will seek legal counsel and input from the Ethics Committee before doing so. In this event, the name of the Respondent, the broad terms of the complaint, and the outcome could be made known. Before publishing, the Respondent will be given the opportunity to be heard on the issue of publication. Any details of the case that might lead to identification of the Complainant would be withheld.</p> <p>Factors which might be brought into consideration in making a decision whether or not to publish include, but are not limited to:</p> <ul style="list-style-type: none">• The seriousness of the misconduct (noting that the finding of serious misconduct will already have been made)• Whether or not, in the Committee's opinion, the actions of the Respondent do, or might, pose a risk to the public.• What, if any, remedial steps have been taken by the Respondent to mitigate harm caused.• Such other matters as the Committee considers relevant.
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Note:

- The decision of the panel shall be communicated to the Executive as soon as possible after the hearing, and ratified at the next meeting of the Executive. Only in exceptional circumstances would the Executive not ratify the outcome. The outcome is not final until it has been ratified.
- The ratified decision is final and there is no appeal process.
- Both the Complainant and the Respondent will be notified of the ratified decision. Any reply received from the Respondent in response to a complaint may be made available to the Complainant, subject to limitations of confidentiality.

No matter the outcome of this process, the Ethics Committee remains committed to work with care for all concerned, to work towards restoration and reconciliation wherever possible, and to maintain the dignity of all parties concerned.

Matthew 7:12 (NIV) "So in everything, do to others what you would have them do to you, for this sums up the Law and the Prophets."

Psalms 25:21(NIV) "May integrity and uprightness protect me, because my hope, Lord, is in you."