

CONSULTATION ON PROPOSED COMPLAINTS RESOLUTION AND DISCIPLINARY REGULATIONS

When we consulted on changes to our Rules in 2018 and 2019, members told us they would also like to see changes to the way we respond to concerns and complaints. To reflect this feedback, we are proposing some changes to our Disciplinary Regulations.

WHAT IS THE ROLE AND PURPOSE OF OUR DISCIPLINARY REGULATIONS?

All Engineering New Zealand members are required to comply with certain member obligations. These are set out in Rule 4 of the [Engineering New Zealand Rules](#). The Disciplinary Regulations set out our processes for responding to complaints that members have not complied with their obligations.

Having a robust process for managing complaints and upholding professional standards is critical to maintaining public trust and confidence in both the profession and its regulation. The public places significant trust in engineers to self-regulate and we must take this responsibility seriously.

This was recently confirmed by the New Zealand High Court, which has stated that membership of a professional body such as Engineering New Zealand confers a status that signals trustworthiness to the public. The Court said that status reflects both the value that society places upon the training and skill acquired by members and Engineering New Zealand's ability to maintain the standards of its members through ongoing education, training and disciplinary processes.¹ This emphasises the need to tightly regulate our members to maintain high professional standards, including through disciplinary processes where necessary.

WHAT WOULD CHANGE?

The key changes we are proposing include:

- including new clear objectives for the complaints and disciplinary process (new clause 3)

¹ [2018] NZHC 3211 at [55].

- incorporating our early resolution process (new clauses 7 to 11)
- introducing risk management procedures for sharing information with other agencies and suspending members who pose a risk of harm (new clauses 16 to 24 and clause 35). To reflect the seriousness of taking steps to manage risk under these clauses, any action would be decided by the Chief Executive in consultation with the President of the Governing Board.
- allowing complaints to be dismissed by an Adjudicator or Investigating Committee if there is no real prospect of the complaint being upheld (new clause 27.8).
- allowing disciplinary hearings to be heard on the papers, if the parties agree (new clause 47)
- raising the maximum disciplinary fine to \$10,000 (new clause 44.5)
- allowing the Board to specify a fee for appealing a disciplinary decision (new clause 53.3)

These changes to the Disciplinary Regulations only apply to our members, and the amendments will not be made to the Chartered Professional Engineers of New Zealand Act or Rules.

The proposed new regulations are set out below. You can access the current regulations [here](#).

WHAT'S NOT CHANGING?

We are not proposing to change the process for managing formal complaints. While the process is administratively heavy and we would like to change it, it is consistent with the processes for responding to complaints about Chartered Professional Engineers. As most of our complaints are about engineers who are both members and Chartered Professional Engineers, we need to have one consistent and clear process – it would be too difficult for us to try to implement two separate processes.

WHAT'S THE PROCESS FROM HERE?

This is your chance to have a say on those proposed changes. We want to hear what you think. Please send us your feedback by 7 February 2020.

We'll collate all the feedback and share a summary with members. Any final changes to the regulations will be reviewed by external independent lawyers and approved by the Governing Board before coming into force. We'll keep you updated along the way.

COMPLAINTS RESOLUTION AND DISCIPLINARY REGULATIONS

These Regulations set out Engineering New Zealand's procedures for the early resolution, investigation, hearing and determination of concerns and complaints about Engineering New Zealand members. They are made by the Board pursuant to Rules 22 and 11.1 of the Engineering New Zealand Rules.

COMMENCEMENT

1. These regulations come into force on XX

INTERPRETATION

2. In these regulations unless the context otherwise requires:

Adjudicator means a Chair of Investigating Committees acting in the role of Adjudicator;

early resolution means resolving concerns with the consent of the person raising the concerns and the member the concerns relate to;

material conflict of interest means, in relation to any matter, a financial or other interest that is likely to affect a person's judgment on that matter;

member means a person who has attained any class of membership as defined in Rule 6 of the Engineering New Zealand Rules, and in accordance with the procedures set out in Rule 7, unless another interpretation is specified, and includes former members;

notify means send a written notice (by post, email, or other similar means of communication) to the last known address of the person concerned; and

professional development includes but is not limited to undertaking education, training or mentoring, or working under supervision.

OBJECTIVES OF COMPLAINTS AND DISCIPLINARY PROCESS

3. The objectives of Engineering New Zealand's complaints and disciplinary process are to:
 - 3.1 achieve proportionate, fair and transparent outcomes;
 - 3.2 protect the public;
 - 3.3 uphold professional standards; and
 - 3.4 hold members accountable where the standards reasonably expected of them are not met.

RAISING A CONCERN AND EARLY RESOLUTION

How to raise concerns about a member

4. Any person can raise concerns with Engineering New Zealand about the conduct of a member in accordance with this clause and rule 11 of Engineering New Zealand Rules.
5. The concerns must be made in writing and contain the complainant's name and contact details.
6. Engineering New Zealand will give reasonable assistance to enable a person to put their concerns in writing.

Engineering New Zealand will assess suitability for early resolution

7. When Engineering New Zealand receives concerns it will:
 - 7.1 notify the member the concerns relate to, and ask the member to provide a response; and
 - 7.2 assess whether the concerns are suitable for early resolution.
8. If the concerns are assessed as suitable for early resolution, Engineering New Zealand will propose this to the person raising the concerns and the member.
9. If the concerns are resolved by early resolution, Engineering New Zealand will not take any further action in relation to the concerns.
10. If the concerns are assessed as unsuitable for early resolution, or the person raising the concerns and/or the member do not agree to early resolution, the concerns will be treated as a formal complaint and proceed through the formal complaints process.
11. Engineering New Zealand will consider the following factors in assessing whether concerns are suitable for early resolution:
 - 11.1 The seriousness of the alleged conduct, including any safety or public interest concerns;
 - 11.2 The interests of both the person raising the concerns and the member;
 - 11.3 Whether the objectives described at clause 3 can be achieved more effectively through early resolution than through the formal complaints process;
 - 11.4 Any other circumstances of the concerns Engineering New Zealand considers relevant.

Power to refer concerns directly to a Disciplinary Committee

12. Engineering New Zealand may refer concerns directly to a Disciplinary Committee without considering early resolution according to clauses 5 to 11 or investigating the matter according to clauses 25 to 41 where the member –
 - 12.1 Has been convicted, whether before or after they became a member, by a Court or Tribunal of an offence punishable by a sentence of imprisonment or a fine exceeding \$2,000; or
 - 12.2 Has been disciplined under section 21 of the Chartered Professional Engineers of New Zealand Act 2002 or any subsequent amendments to that Act.

OWN MOTION INQUIRIES

Engineering New Zealand can inquire into matters on own motion

13. Engineering New Zealand can inquire into any matter under these regulations if it has reason to suspect that a member has breached the Rules of Engineering New Zealand.
14. If Engineering New Zealand commences an own motion inquiry it —

14.1 will carry out an initial investigation of the matter in accordance with clauses 25 and 26; or

14.2 if a complaint on that matter has already been made, will continue to inquire into the matter even if the complaint is then withdrawn.

15. An inquiry commenced under this clause is deemed to be a formal complaint.

MANAGING RISK

Engineering New Zealand may notify certain persons of risk of harm

16. Whenever Engineering New Zealand has reason to believe that the practice of a member may pose a risk of harm to the public, Engineering New Zealand may give any or all of the following persons or organisations written notice of the circumstances that have given rise to that belief:

- Worksafe
- Another relevant regulator (for example, the New Zealand Transport Agency, the Ministry of Business, Innovation and Employment, the Licensed Building Practitioners Board)
- A relevant building consent authority
- Any person who, to the knowledge of Engineering New Zealand, is the member's employer or who works in partnership or association with the member.

17. Any notice under clause 16 must be approved by the Chief Executive in consultation with the President before it is given.

18. If, after giving notice under clause 16 in respect of a member, Engineering New Zealand forms the view that the practice of the member never posed, or no longer poses, a risk of harm to the public, Engineering New Zealand must promptly notify every recipient of the notice under clause 16 of the current position in respect of the member.

19. Promptly after giving a notice about a member under clause 16, Engineering New Zealand must give a copy of the notice to the member.

Interim suspension of membership pending the outcome of a concerns, complaints or disciplinary process if appropriateness of member's conduct in doubt

20. Whenever, through a concerns, complaints or disciplinary process, a member is alleged to have engaged in conduct that, in Engineering New Zealand's opinion held on reasonable grounds –

- casts doubt on the appropriateness of the member's conduct in their professional capacity, including where a criminal proceeding is pending against the member; and/or
 - poses a risk of serious harm to the public
- then Engineering New Zealand may suspend that member's membership of Engineering New Zealand until the outcome of that process or proceeding.

21. A decision to suspend a member under clause 20 must be approved by the Chief Executive in consultation with the President.

22. Engineering New Zealand may not suspend a member's membership under clause 20 unless it has first –

22.1 Informed the member concerned why it is considering suspending their membership; and

22.2 Given the member a reasonable opportunity to make submissions on the proposed suspension.

23. Engineering New Zealand is not obliged to give a member notice that it intends to suspend a member's membership under clause 20 but it must ensure that the member is given the opportunity to be heard on the matter within 20 working days of the suspension.
24. Subject to any orders of a disciplinary committee, Engineering New Zealand must reinstate the member's membership as soon as practicable after it is satisfied that the appropriateness of the member's conduct in their professional capacity is no longer in doubt and/or the member does not pose a risk of serious harm to the public.

FORMAL COMPLAINTS PROCESS

Initial investigation

25. Engineering New Zealand will, as soon as practicable after commencing a formal complaint process, carry out an initial investigation of the complaint and —
- Refer the complaint to an Investigating Committee; or
 - Dismiss the complaint on a ground in clause 27.
26. Engineering New Zealand may gather any further information from the complainant, the member, or any other party, that it considers necessary to complete an initial investigation of the complaint.

Reasons for not referring a complaint to an Investigating Committee

27. Engineering New Zealand can dismiss a complaint without referring it to an Investigating Committee if an Adjudicator decides, according to clauses 28 to 31, that—
- 27.1 there is no applicable ground of discipline under rule 11 of the Engineering New Zealand Rules; or
- 27.2 the subject matter of the complaint is trivial; or
- 27.3 the alleged breach of rule 4 is insufficiently grave to warrant further investigation; or
- 27.4 the complaint is frivolous or vexatious or is not made in good faith; or
- 27.5 the person alleged to be aggrieved does not wish action to be taken or continued; or
- 27.6 the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- 27.7 an investigation of the complaint is no longer practicable or desirable given the time elapsed since the matter giving rise to the complaint; or
- 27.8 there is no real prospect of the complaint being upheld by a Disciplinary Committee.

How a decision to refer complaint to an Investigating Committee is made

28. After carrying out an initial investigation Engineering New Zealand will: —
- 28.1 appoint an Adjudicator to determine if the complaint should be dismissed on a ground contained in clause 27, referred to alternative dispute resolution, or be referred to an Investigating Committee; and
- 28.2 make a recommendation to the Adjudicator whether the complaint should be dismissed on a ground contained in clause 27, referred to alternative dispute resolution, or be referred to an Investigating Committee.
29. The Adjudicator or Engineering New Zealand can seek to verify information in the complaint by requesting a statutory declaration by the complainant or member.

30. After considering Engineering New Zealand's recommendation, the Adjudicator can explore (with the complainant and the member) the possibility of the complaint being referred to an alternative dispute resolution process for 60 days or any other time period that the Adjudicator thinks fit.
31. If alternative dispute resolution is not used or it does not resolve the dispute within the requisite time period, the Adjudicator will decide whether the complaint should be:
- 31.1 referred to an Investigating Committee; or
 - 31.2 dismissed on a ground in clause 27.

Engineering New Zealand will notify and implement decision of Adjudicator

32. Engineering New Zealand will —
- 32.1 notify the complainant and the member of the Adjudicator's decision under clause 31 and the reasons for the decision.
 - 32.2 if the Adjudicator's decision is to refer the matter to an Investigating Committee, Engineering New Zealand will appoint an Investigating Committee under clause 86 and refer the complaint to that Committee.

INVESTIGATION

Investigating Committee will decide whether to refer complaint to a Disciplinary Committee

33. An Investigating Committee will, as soon as practicable after receiving a complaint referred by an Adjudicator, investigate the matter and—
- 33.1 refer it to a Disciplinary Committee; or
 - 33.2 dismiss it on a ground in clause 27.

Powers of an Investigating Committee

34. Subject to clauses 80 and 81, an Investigating Committee can—
- 34.1 make, or appoint a person to make, any inquiries it considers necessary;
 - 34.2 engage counsel to advise the Committee on matters of law, procedure, and evidence;
 - 34.3 request the member complained about or the complainant to provide to the Committee, within a specified period of at least 14 days or any other period that the Committee thinks fit, any documents, things, or information that are in the possession or control of the person and that are relevant to the investigation;
 - 34.4 take copies of any documents provided to it;
 - 34.5 request the member complained about or the complainant to appear before the Committee, at that person's own cost, on at least 14 days' notice;
 - 34.6 receive any evidence that it thinks fit;
 - 34.7 request a person giving evidence to verify a statement by statutory declaration; and
 - 34.8 provide information to assist the complainant and the member about obtaining counsel or other advocacy assistance.
35. If, at any time in the course of investigating a complaint about a member, an investigating committee has reason to believe that the member's practice poses a risk of serious harm to the public, the committee —
- 35.1 must immediately notify Engineering New Zealand of that belief and the reasons for it; and

35.2 if, in the committee's opinion, those reasons justify suspending the member's membership under clause 20, may recommend that Engineering New Zealand suspend the member's membership.

Investigating Committee can explore alternative dispute resolution for complaints

- 36. Before making its decision under clause 33, the Committee can explore, with the complainant and the member, the possibility of the complaint being referred to an alternative dispute resolution process.
- 37. If a complaint is referred to an alternative dispute resolution process under clause 36 and the complainant and member do not resolve the dispute within 60 days of the referral, or within any other time period the Committee thinks fit, the Committee will make a decision according to clause 33 on the complaint.

Investigating Committee will give member complained about opportunity to respond

- 38. If an Investigating Committee's provisional decision is to refer a complaint to a Disciplinary Committee, the Investigating Committee will—
 - 38.1 Give the member a copy of its provisional decision; and
 - 38.2 Give the member a reasonable opportunity to make submissions on the provisional decision.

How an Investigating Committee's decision is made

- 39. An Investigating Committee will make its decision as soon as practicable. However, it can delay making the decision until the outcome is known of any other legal proceedings that could affect its findings.
- 40. If the Investigating Committee is not unanimous, the majority decision is the decision of the Investigating Committee (although dissenting Committee members can issue dissenting views).

Engineering New Zealand will notify and implement decision of an Investigating Committee

- 41. Engineering New Zealand will—
 - 41.1 notify the complainant and the member of the Investigating Committee's decision, the reasons for the decision, including any dissenting views; and
 - 41.2 if the Investigating Committee's decision is to refer the complaint to a Disciplinary Committee, it will appoint a Disciplinary Committee in accordance with clause 88 and refer the matter to that Committee.

DISCIPLINARY PROCESS

Disciplinary Committee will determine complaint

- 42. A Disciplinary Committee will, as soon as practicable after receiving a complaint, hear the matter and decide whether there are grounds for disciplining the member under rule 11 of the Engineering New Zealand Rules.
- 43. If the Committee decides that there are no grounds for disciplining the member, it will dismiss the complaint.
- 44. If the Committee decides that there are grounds for disciplining the member, it will decide whether and how to exercise Engineering New Zealand's powers under rule 11, by imposing one or more of the following penalties on the member including —
 - 44.1 removing their membership;
 - 44.2 suspending their membership for any period;

- 44.3 suspending their membership until such time as they fulfil requirements for professional development, as specified by the Committee;
- 44.4 suspending their membership for a period of time if, by a prescribed date, the member does not fulfil requirements for professional development specified by the Committee;
- 44.5 fining them an amount not exceeding \$10,000;
- 44.6 censuring them;
- 44.7 ordering them to pay a portion of the costs and expenses of, and incidental to, the inquiry by Engineering New Zealand;
- 44.8 naming them, publishing a copy of the Committee's decision on Engineering New Zealand's website, or publicising the Committee's decision in any other manner.

Powers of a Disciplinary Committee

- 45. A Disciplinary Committee has the same powers as an Investigating Committee under clauses 34 and 35
- 46. Additionally, subject to clauses 80 and 81, a Disciplinary Committee can—
 - 46.1 Request the Investigating Committee to provide its report into the complaint and copies of the evidence it considered; and
 - 46.2 Request that one or more members of the Investigating Committee appear before the Disciplinary Committee, on at least 14 days' notice.

How a Disciplinary Committee considers a complaint

- 47. A Disciplinary Committee will hear the complaint by way of an in-person hearing, unless the Committee and the parties to the complaint agree that an in-person hearing is not required.
- 48. Before making the decision on a complaint under clause 42, the Committee will —
 - 48.1 send details of the complaint to the complainant and member;
 - 48.2 invite the member to respond in writing to the complaint within a specified period (at least 14 days); and
 - 48.3 give the complainant, the member, and any other person alleged to be aggrieved (if not the complainant) at least 28 days' notification of—
 - i the time and place of the hearing;
 - ii the right to be heard and represented, and to present evidence at the hearing; and
 - iii request they notify the Committee within a specified period (at least 14 days) if they want to be heard or to present evidence (including the calling of witnesses) at the hearing.
- 49. The complainant, the member, and any person alleged to be aggrieved have the right to be heard and represented, and to present evidence at the hearing.

How a Disciplinary Committee's decision is made

- 50. A Disciplinary Committee will make its decision as soon as practicable. However, it can delay making the decision until the outcome is known of any other legal proceedings that could affect its findings.
- 51. If the Committee is not unanimous, the majority decision is the decision of the Committee (although dissenting Committee members can issue dissenting views).

Engineering New Zealand will notify and implement decision of a Disciplinary Committee

- 52. Engineering New Zealand will—

52.1 notify the complainant and the member of the Committee's decision under clause 42 the reasons for that decision, any dissenting views, and their rights of appeal under the Rules of Engineering New Zealand and these regulations; and

52.2 subject to any request for an appeal, implement the Committee's orders, at least 28 days after notifying the complainant and the members of the decision before an order made under Rule 11 of the Engineering New Zealand Rules takes effect.

APPEALS

Lodging of appeals

53. Either the complainant or the member can lodge a request for an appeal against the decision or any penalty imposed by a Disciplinary Committee, provided that—

53.1 the request for the appeal is lodged in writing with the Chief Executive within 28 days of notification of the decision of the Disciplinary Committee; and

53.2 the ground for the appeal is provided with the request; and

53.3 the party making the application pays any appeal application fee as specified by the Board.

Appeal Committee will decide whether to hear an appeal

54. An Appeal Committee will, as soon as practicable after receiving a request to hear an appeal against a decision of a Disciplinary Committee, decide whether:

54.1 there are grounds for hearing an appeal under clause 55; or

54.2 the request for an appeal to be heard should be dismissed.

Grounds for granting a request to hear an appeal

55. An Appeal Committee will grant a request to hear an appeal against a Disciplinary Committee decision if it considers that one or more of the following grounds exist:

55.1 new evidence of a decisive nature that could not reasonably have been available at the time of the Disciplinary Committee hearing is now available;

55.2 the Disciplinary Committee did not follow the procedures set out in these regulations;

55.3 the penalty imposed by the Disciplinary Committee is unfair in light of the gravity of the breach concerned;

55.4 the decision reached by the Disciplinary Committee is manifestly at odds with the evidence presented at the hearing.

Notification of decision to allow appeal to be heard

56. Engineering New Zealand will notify the complainant and the member of the Appeal Committee's decision on whether it will hear the appeal.

Determination of appeal

57. An Appeal Committee:

57.1 will, as soon as practicable after it makes its decision to hear an appeal under clause 54.1, hear the matter and decide whether to confirm, vary, or reverse the decision or any order of the Disciplinary Committee; and

57.2 can also make any decision or order that the Disciplinary Committee was empowered to make, as well as an order for the payment of the costs of the appeal, and refund of any appeal application fee paid as it thinks fit.

Powers of an Appeal Committee

58. Subject to clauses 80 and 81, an Appeal Committee has the same powers as a Disciplinary Committee.

Way in which Appeal Committee must consider appeal

59. Before making the decision under clause 57 on an appeal, the Appeal Committee must—

59.1 give the complainant, the member, and any person alleged to be aggrieved (if not the complainant) at least 28 days' notification of—

- i the time and place of the hearing; and
- ii the right of those persons to be heard and represented at the hearing; and

59.2 advise each of the persons in clause 59.1 that they must notify the Committee within a specified period (at least 14 days) if the person wishes to be heard by the Committee on the appeal.

60. The complainant, member, and any person alleged to be aggrieved have the right to be heard and represented at the hearing and to make written submissions.

61. Unless the Appeal Committee otherwise directs—

61.1 it is not permissible to recall witnesses who gave evidence before the Disciplinary Committee or to call other witnesses, and

61.2 the material before the Appeal Committee must be the record of the proceedings of the Disciplinary Committee and its report and any documents that supported it, together with any additional submissions made in respect of the appeal.

Way in which Appeal Committee's decision must be made

62. The Appeal Committee's decision under clause 57 on an appeal is made in the same way as a Disciplinary Committee under clauses 50 and 51.

63. Appeal Committee hearings are private.

64. An appeal is a rehearing (which means that the Appeal Committee's decision will be made as if the case were before the Disciplinary Committee at that time, rather than at the time of the original hearing). However, it is not a complete rehearing. The record of the evidence heard by the Disciplinary Committee will be placed before the Appeal Committee and it is not permissible to call witnesses unless the Appeal Committee otherwise directs.

Engineering New Zealand must notify and implement decision

65. Engineering New Zealand must:

65.1 notify the complainant and the member of the Appeal Committee's decision under clause 57; and

65.2 take the steps necessary to implement any orders made.

66. The Appeal Committee's decision is final and binding.

NOTIFICATION AND IMPLEMENTATION OF ORDERS

Notification of orders to the Board

67. In all cases where any order(s) are made under these regulations, the Chief Executive must report to the Board, with particulars of the order(s).

Payment of fines and costs

68. Any fine or costs ordered to be paid under these regulations are immediately due and recoverable as a civil debt. The order continues to apply whether or not a member is suspended or expelled under these regulations, or resigns before or after the order is made.

69. The existence of a debt described in clause 68 is sufficiently proved by the production of:

69.1 the Rules of Engineering New Zealand and these regulations; and

69.2 the declaration of the member on their form of application for membership (if available); and

69.3 a copy of either—

- i the decision or order(s) of the Disciplinary Committee setting out the fine or costs to be paid, such decision or order(s) to be certified as a true and correct record by affixing to it the signatures of a majority of members of the Disciplinary Committee (including the Chairperson), present when the decision or order was made; or
- ii in the case of an appeal, the decision of the Appeal Committee duly certified as a true copy by the Chief Executive of Engineering New Zealand.

Grants towards costs

70. Engineering New Zealand is not liable for any expense by way of travelling, engagement of counsel, calling of any witness or in any other matter connected with the investigation, incurred either by the member whose conduct is under investigation nor by the complainant; but the Board can, at its discretion, and without being deemed to make any admission of liability by so doing, make a grant to a member or complainant to cover the whole or any part of such expense.

Enforcement of orders

71. If a member against whom an order has been made fails to comply with that order within a period of 30 days from the date at which proceedings under these regulations are complete, or such other time as specified by the Chief Executive as reasonable in the circumstances for the particular order, the Chief Executive can suspend the Engineering New Zealand member until the order is complied with.

72. If the Engineering New Zealand member against whom the order is made fails to comply within a further period of 30 days from the date at which the period specified in clause 71 has expired, the Chief Executive can remove the Engineering New Zealand member from membership of Engineering New Zealand.

73. The Chief Executive can publish the fact of any action taken under this clause and the name of the member.

DELEGATIONS

Persons carrying out delegated functions and powers under these regulations

74. The Board can delegate to the following persons the functions and powers given to those persons by these regulations:

74.1 Chairs of Investigating Committees appointed under clause 84;

74.2 Investigating Committees appointed under clause 86;

74.3 Chairs of Disciplinary Committees appointed under clause 84;

74.4 Disciplinary Committees appointed under clauses 88 to 90;

74.5 Appeal Committees appointed under clause 92; and

74.6 Chief Executive, in respect of organisational and notification actions required to implement these regulations in an effective manner.

75. The Board can delegate the authority to appoint persons to roles under clause 74 to either a single member of the Board or the Chief Executive.

Regulations do not limit the Board's power to carry out delegated functions and powers

76. The fact that these regulations give a function or power to a person does not prevent the Board from performing the function or exercising their power.

General provisions about appointments, revocations of appointments and resignations

77. The Board can appoint a person to a role under these regulations by written notice to that person.

78. The Board can, at any time —

78.1 Revoke a person's appointment to a role under these regulations by written notice to that person;

78.2 Require a person appointed to a role under these regulations not to participate in a matter if the Board considers that, due to a material conflict of interest or otherwise, it would be inappropriate for that person to continue in their role in respect of that matter;

78.3 Reconstitute any body of persons appointed under these regulations by written notice to that body.

79. Any person appointed under these regulations can resign the appointment to that role by written notice to the Chief Executive.

General provisions about procedures

80. Every person or body appointed under these regulations must—

80.1 give reasons for its decisions under these regulations; and

80.2 observe the rules of natural justice.

81. Except as otherwise provided in the Rules of Engineering New Zealand or these regulations, a person or body of persons appointed under these regulations can regulate their own procedure as they think fit.

Engineering New Zealand must keep list of persons who can be members of Committees

82. Engineering New Zealand must keep a list of persons who can be members of Investigating Committees and Disciplinary Committees.

83. Engineering New Zealand must select persons for the list who are Members, Chartered Members or Fellows and, in selecting persons, must have regard to—

83.1 the extent of their experience in, and knowledge of professional engineering; and

83.2 their experience in competency assessments; and

83.3 their experience in investigating and hearing complaints in professional engineering or other professions.

Chairs of Investigating and Disciplinary Committees

84. Engineering New Zealand must appoint persons from the list kept under clause 82 to be—
- 84.1 Chairs of Investigating Committees; and
 - 84.2 Chairs of Disciplinary Committees.
85. An appointment—
- 85.1 Is for the term specified by Engineering New Zealand on making the appointment, up to a maximum term of two years; and
 - 85.2 Can be renewed but no person can be appointed for more than three consecutive two-year terms.

Investigating Committee

86. Engineering New Zealand can appoint, for a particular case or class of cases, an Investigating Committee consisting of—
- 86.1 A Chair of Investigating Committees; and
 - 86.2 Two other persons from the list kept under clause 82.
87. In appointing a member to a Committee for a case or class of cases, Engineering New Zealand must endeavour to ensure that the member does not have a material conflict of interest on the case or class of cases.

Disciplinary Committee

88. Engineering New Zealand can appoint, for a particular case or class of cases, a Disciplinary Committee consisting of—
- 88.1 A Chair of Disciplinary Committees; and
 - 88.2 one other person from the list kept under clause 82; and
 - 88.3 one person who—
 - i is not an engineer; and
 - ii is nominated by a body that Engineering New Zealand considers to be representative of consumer interests.
89. Engineering New Zealand can appoint a further two persons to a Disciplinary Committee for a particular case or class of cases if it considers it appropriate or necessary in the circumstances.
90. Any two persons appointed under clause 89 must consist of—
- 90.1 one person from the list kept under clause 82; and
 - 90.2 one person who—
 - i is not an engineer; and
 - ii is nominated by Engineering New Zealand.
91. In appointing a member to a Disciplinary Committee for a case or class of cases, Engineering New Zealand must endeavour to ensure that the member does not have a material conflict of interest on the case or class of cases.

Appeal Committee

92. Engineering New Zealand can appoint for a particular case or class of cases, an Appeal Committee consisting of—

92.1 Two Engineering New Zealand representatives, being either the President and one Past President, or two Past Presidents; and

92.2 A barrister of the High Court of New Zealand.

93. In appointing an Appeal Committee for a case or class of cases, Engineering New Zealand must endeavour to ensure that the Committee members do not have a material conflict of interest on the case or class of cases.

Indemnity

94. Persons undertaking duties on behalf of Engineering New Zealand, pursuant to these regulations, are indemnified in the discharge of their duties under these regulations, provided that each person so indemnified has immediately disclosed any actual or perceived conflict of interest to Engineering New Zealand.

Draft for consultation