

LEADR NZ Complaints and Disciplinary Procedure

Approved by Board of LEADR NZ: 30 March 2010

Effective date: 27 April 2010

1. Definitions

In the interpretation of these procedures unless the context requires otherwise:

“**The Board**“ means the executive committee of LEADR NZ;

“**Complainant**“ means the individual raising a complaint or initiating an investigation;

“**Chairperson**“ means the chairperson of the Board;

“**Disciplinary Committee**“ means the committee delegated powers by the Board to investigate and determine any complaint under these disciplinary procedures;

“**Ethical Standards**“ means the Ethical Standards for Mediators as adopted by LEADR NZ.

“**Executive Officer**“ means the Executive Officer of LEADR NZ appointed pursuant to Rule 21.1.

LEADR NZ – means LEADR New Zealand Incorporated;

Member means any person defined as a member by the Rules and also includes a person attending as a proxy or as a representative of a corporation which is a member;

Respondent means the member who is the subject of a complaint or investigation pursuant to this disciplinary procedure;

Rules means the rules of LEADR NZ for the time being in force under the Incorporated Societies Act 1908.

2. Introduction

2.1 LEADR NZ is committed to the highest possible standards of professional conduct for its members. To this end, it has adopted the Ethical Standards **attached** and the complaints and disciplinary procedure set out below.

2.2 The Rules provide that if any member shall wilfully refuse or neglect to comply with the provisions of the Rules or is guilty of any conduct which in the opinion of the Board is unbecoming of a member or prejudicial to the interests of LEADR NZ or in is breach of the Ethical Standards of LEADR NZ, the Board shall have the power to censure, fine, suspend or expel the member from LEADR NZ.

2.3 This Complaints and Disciplinary Procedure has been adopted by the LEADR NZ Board to ensure that the public and members are aware of the process for making a complaint and the disciplinary procedure that will apply under the Rules.

3. **Complaints**

3.1 Any person may complain to the Executive Office of LEADR NZ about the conduct of a member of LEADR NZ.

3.2 The complaint must be made in writing and contain:

- a. the name of the Member (the Respondent) that is the subject of the complaint;
- b. an outline of the nature of the complaint; and
- c. confirmation that the Complainant consents to the complaint being disclosed to the Respondent.

3.3 The Board may inquire into any matter on its own motion if it has reasonable grounds to suspect that a Member is guilty of any breach of the Rules or the Ethical Standards.

3.4 Upon receipt of a complaint, the Executive Officer will:

- a. acknowledge receipt of the complaint;
- b. provide a copy of the complaint to the Respondent and invite the respondent to respond in writing within 14 days; and
- c. refer the complaint to the Board for an initial investigation.

3.5 Upon receipt, the Board must, as soon as practicable, carry out an initial investigation of the complaint and either:

- a. refer the complaint to a Disciplinary Committee; or

- b. suspend or dismiss the complaint on one of the following grounds:
 - i. the subject matter of the complaint is insufficiently serious to warrant further investigation;
 - ii. the conduct complained of is not within the jurisdiction of the Board to consider;
 - iii. the complaint is the subject of an investigation by the Police or another body;
 - iv. an investigation of the complaint is no longer practicable or desirable given the time elapsed since the matter giving rise to the complaint arose.
- 3.6 The Board may also suspend a Complaint if the Board considers it appropriate to offer the Complainant and Respondent the opportunity to explore an alternative dispute resolution process. If the matter is not resolved by any alternative dispute resolution process either party may refer the matter back to the Board for a decision on the initial investigation.
- 3.7 In carrying out the initial investigation, the Board shall have regard to the written Complaint, any written response received from the Respondent, and any other matter it thinks fit.
- 3.8 The Board must:
- a. notify the Complainant and the Respondent of the result of the initial investigation; and
 - b. if the Board determines that the Complaint should be referred to a Disciplinary Committee, appoint a Disciplinary Committee.
- 3.9 The decision of the Board as a result of an initial investigation is full and final.
- 3.10 In the event that a Complaint is made by or against the Executive Officer or a member of the Board any such party will not participate in the disciplinary process.

4. **Disciplinary Committee**

- 4.1 The Disciplinary Committee shall consist of three (3) members of the Board, including the Board Chair who will also serve as Chair of the Disciplinary Committee. The Board will be responsible for selecting the two remaining members of the Disciplinary Committee who must not have any conflict of interest, bias or appearance of bias in relation to either the complainant or respondent member. If it is not possible to appoint two members of the Board in this manner, the Board may appoint members of the Disciplinary Committee from the LEADR NZ membership or LEADR Australia, in which case such appointees shall have the status of Board members for the duration of their appointment to the Disciplinary Committee.
- 4.2 The Complainant and Respondent will be consulted on the proposed members of the Disciplinary Committee and will have the opportunity to raise any objection on reasonable grounds to any member of the Disciplinary Committee prior to the Board making a final decision as to the composition of the Disciplinary Committee. In the event that the Chair is disqualified from sitting on the Committee then the Vice – Chair of LEADR NZ shall sit as Chair of the Disciplinary Committee.
- 4.3 The function and role of the Disciplinary Committee is;
- a. to consider, investigate and determine Complaints brought before the Disciplinary Committee by ascertaining the facts; and
 - b. make a recommendation to the Board as to the outcome of its determination including, if a Complaint is established, a recommendation as to an appropriate sanction.
- 4.4 The Disciplinary Committee may determine the procedure to be followed. The procedure adopted will comply with the rules of natural justice. However, the strict rules of evidence will not apply.
- 4.5 The Disciplinary Committee will notify the parties in advance of the procedure to be followed.

5. **Disciplinary hearing**

- 5.1 The Disciplinary Committee may conduct a disciplinary hearing.
- 5.2 Any disciplinary hearing will be conducted in private. The Complainant and Respondent may bring any appropriate representative or support person they wish to the disciplinary hearing.
- 5.3 The Executive Officer or other representative of LEADR NZ may attend the disciplinary hearing and prepare a summary of the hearing in note form to be retained as part of the record of the hearing.
- 5.4 The hearing may be held either by teleconference, video conference, in person or by a combination of such means, taking into account the wishes of the parties, but at the ultimate discretion of the Disciplinary Committee.
- 5.5 The decision of the Disciplinary Committee will be determined by majority in the case of any dissent, and the decision as well as the reasons for the decision will be recorded in writing. This decision will serve as the recommendation referred to the Board.
- 5.6 The Disciplinary Committee shall also provide a copy of its recommendation to the Board to the Complainant, the Respondent, and the Executive Officer of LEADR NZ.

6. **Consideration by Board of Disciplinary Committee recommendation**

- 6.1 The Board shall receive the Disciplinary Committee's recommendation and prepare a proposed resolution determining the complaint and the appropriate sanction, if any.
- 6.2 The proposed resolution shall be sent to the Complainant and Respondent. The Complainant and Respondent will, at the same time, be notified of the meeting of the Board at which the resolution may be passed and informed of their right to be heard at the meeting (either orally or in writing) to provide any explanation or defence he or she may think fit.

- 6.3 The Respondent may, by notice in writing lodged with the Executive Officer at least 24 hours before the time of the Board's meeting, elect to refer the matter to a General Meeting of LEADR NZ and, in that event, a General Meeting shall be called to consider and vote on the proposed resolution in accordance with the Rules.
- 6.4 If the Respondent does not elect to refer the matter to a General Meeting, the Board will proceed with the meeting to consider the proposed resolution and any response of the Complainant or Respondent. The Board will pass any such resolution (including any amendment it considers appropriate).
- 6.5 The Board will notify the Complainant and Respondent in writing of any resolution passed and reserves the right to publish to its members and the public any such resolution, including the name of the Respondent if the Board considers it appropriate.
- 6.6 The decision of the Board is full and final.

7. **General**

- 7.1 The parties to the investigation will bear their own costs. Travel and accommodation costs of members of the Board and the Executive Officer will be reimbursed by LEADR NZ.
- 7.2 LEADR NZ indemnifies each member of the Disciplinary Committee against any claim or liability that may arise out of his or her acting honestly and in good faith as a member of the Disciplinary Committee.