



## **CONSTITUTION**

of

## **NEW ZEALAND INSTITUTE OF QUANTITY SURVEYORS INCORPORATED**

This is a true and correct record of the new Constitution adopted at an Extraordinary General meeting of the New Zealand Institute of Quantity Surveyors on 15 October 2020

## Contents

<b>INTRODUCTION</b> .....	3
1. <b>Name</b> .....	3
2. <b>Interpretation</b> .....	3
3. <b>Registered Office</b> .....	5
<b>PURPOSES AND POWERS</b> .....	5
4. <b>Purposes</b> .....	5
5. <b>Powers</b> .....	5
<b>MEMBERSHIP</b> .....	6
6. <b>Membership Categories</b> .....	6
7. <b>Rights and Obligations of Members</b> .....	6
8. <b>Admission of Members</b> .....	6
9. <b>Register of Members</b> .....	7
10. <b>Fees</b> .....	7
11. <b>Cessation of Membership</b> .....	8
<b>GOVERNANCE</b> .....	9
12. <b>Board</b> .....	9
13. <b>President and Vice President</b> .....	9
14. <b>Past President</b> .....	9
15. <b>Branch Representatives</b> .....	10
16. <b>Functions and Powers</b> .....	10
17. <b>Board Meetings</b> .....	10
18. <b>Cessation of Board Membership</b> .....	12
19. <b>Branches</b> .....	13
20. <b>Register of Interests</b> .....	13
<b>EXECUTIVE DIRECTOR</b> .....	14
21. <b>Executive Director</b> .....	14
<b>FINANCES</b> .....	14
22. <b>Use of monies and other assets</b> .....	14
23. <b>Balance Date</b> .....	15
24. <b>Accounting Records</b> .....	15
25. <b>Financial Statements</b> .....	15
<b>GENERAL MEETINGS</b> .....	16
26. <b>Annual General Meeting</b> .....	16
27. <b>Special General Meetings</b> .....	16

28.	<b>Notice of Institute Meetings</b> .....	17
29.	<b>Institute Meeting Procedure</b> .....	17
30.	<b>Motions</b> .....	18
31.	<b>Voting</b> .....	18
	<b>COMPLAINTS AND GRIEVANCES</b> .....	19
32.	<b>Complaints and Grievances</b> .....	19
	<b>ADMINISTRATION</b> .....	19
33.	<b>Amendments to Constitution</b> .....	19
34.	<b>By-laws</b> .....	19
35.	<b>Code of Conduct</b> .....	19
36.	<b>Winding Up</b> .....	20
37.	<b>Notices</b> .....	20
38.	<b>Certificates and Awards</b> .....	21
39.	<b>Common Seal</b> .....	21
40.	<b>Indemnity and Insurance</b> .....	21
41.	<b>Matters Not Provided For</b> .....	22
	<b>SCHEDULE 1</b> .....	23
	<b>SCHEDULE 2</b> .....	24
	<b>SCHEDULE 3</b> .....	25
	<b>SCHEDULE 4</b> .....	34

## CONSTITUTION

New Zealand Institute of Quantity Surveyors Incorporated

### INTRODUCTION

#### 1. Name

1.1 The name of the society is New Zealand Institute of Quantity Surveyors Incorporated.

#### 2. Interpretation

2.1 **Definitions:** in this Constitution, unless the context otherwise requires:

**Act** means the Incorporated Societies Act 2022 (as anticipated to be enacted as at the date this Constitution is adopted);

**Annual General Meeting** means a meeting convened in accordance with rule 26;

**Applicant** means a person applying to become a member of the Institute under rule 8;

**Board** means the committee (as that term is defined in the Act) of the Institute constituted in accordance with rule 12;

**Board Meeting** means a meeting convened in accordance with rule 17;

**Board Member** means a member of the Board in accordance with rules 12 to 15;

**Branch** means a branch of the Institute established in accordance with rule 19;

**Branch Chairperson** means the chairperson of a Branch elected in accordance with rule 19.4;

**Branch Committee** means the members elected and appointed to manage the affairs of a Branch of the Institute constituted in accordance with rule 19;

**Branch Member** means a Member who resides within the geographical boundaries of the relevant Branch and pursuant to rule 19.2;

**Branch Vice Chairperson** means the vice chairperson of a Branch elected in accordance with rule 19.4;

**Code of Conduct** means the code of conduct issued by the Board in accordance with rule 35;

**Employee** means an employee of the Institute;

**Executive Director** means the Executive Director of the Institute appointed in accordance with rule 21;

**Institute** means New Zealand Institute of Quantity Surveyors Incorporated;

**Institute Meeting** means an Annual General Meeting or a Special General Meeting;

**Member** means a person admitted by the Board to be a member of the Institute;

**Officer** means an officer of the Institute and includes any person holding any office or appointment provided for in this Constitution;

**Past President** means the immediately previous president of the Institute;

**President** means the president of the Institute;

**Purposes** means the purposes of the Institute set out in rule 4.1;

**Register of Interests** means the register described in rule 20;

**Register of Members** means the register described in rule 9;

**Registered Office** means the registered office of the Institute determined in accordance with rule 3;

**Registrar** means the Registrar of Incorporated Societies;

**Special General Meeting** means a meeting convened in accordance with rule 27;

**Vice President** means the vice president of the Institute;

**Voting Member** means a Member who is within a membership category that is eligible to vote as prescribed by by-laws and who is not in arrears under rule 10.4; and

**Working Day** has the meaning given to it by section 29 of the Interpretation Act 1999.

## 2.2 **Interpretation:** in this Constitution:

2.2.1 a gender includes all other genders;

2.2.2 the singular includes the plural and vice-versa;

2.2.3 any reference to legislation includes any regulation, order-in-council, or other instrument issued or made under that legislation, and any modification or re-enactment of that legislation, or any legislation enacted in substitution of that legislation;

2.2.4 any reference to a section of the anticipated Incorporated Societies Act is a reference to a clause of the draft Incorporated Societies Bill as at the date this Constitution is adopted;

2.2.5 any agreement includes that agreement as modified, supplemented, innovated, or substituted from time to time;

2.2.6 a reference to persons includes bodies corporate;

- 2.2.7 a reference to a person includes the legal personal representatives, successors, and permitted assigns of that person; and
- 2.2.8 headings are for reference only and are to be ignored in construing this Constitution.

### 3. **Registered Office**

- 3.1 The Registered Office of the Institute will be at such place as the Board determines from time to time.
- 3.2 The Executive Director must give the Registrar notice of any change to the Registered Office as soon as practicable after any such change is made.

## **PURPOSES AND POWERS**

### 4. **Purposes**

- 4.1 The purposes of the Institute are to:
  - 4.1.1 support and promote the interests of all persons engaged in quantity surveying in New Zealand;
  - 4.1.2 promote and represent the status and interests of the quantity surveying profession;
  - 4.1.3 improve and elevate the knowledge of persons engaged, or about to engage, in quantity surveying;
  - 4.1.4 confer appropriate titles on persons engaged, or about to engage, in quantity surveying;
  - 4.1.5 promote a high standard of integrity and effectiveness in the quantity surveying profession;
  - 4.1.6 represent the interests of quantity surveyors among education providers and accredit suitable tertiary education courses for membership qualifications;
  - 4.1.7 promote the use of industry standards and best practices in the construction industry generally and contribute to their use and development; and
  - 4.1.8 do anything conducive or incidental to the attainment of the above purposes.

### 5. **Powers**

- 5.1 The Institute has full capacity to carry on or undertake any activity, do any act, or enter into any transaction, both within and outside New Zealand that the Board may deem to be conducive or incidental to the attainment of the purposes of the Institute.

- 5.2 For the purposes of rule 5.1, the Institute has full rights, powers, and privileges, subject only to the restrictions contained in rule 5.3.
- 5.3 The Institute's powers are restricted only to the extent:
  - 5.3.1 provided in rule 22 as to finances; and
  - 5.3.2 required by law.

## **MEMBERSHIP**

### **6. Membership Categories**

- 6.1 Membership may comprise different categories as prescribed in by-laws issued by the Board from time to time. The Board may issue by-laws providing for:
  - 6.1.1 different membership categories;
  - 6.1.2 qualifications or requirements for admission to membership categories;
  - 6.1.3 entitlements for membership categories, including the use of designatory letters, titles, and logos; and
  - 6.1.4 any other matter relating to membership and membership categories.

### **7. Rights and Obligations of Members**

- 7.1 Members have the rights and obligations set out in this Constitution.
- 7.2 Members must not bring the Institute into disrepute.

### **8. Admission of Members**

- 8.1 To become a Member, an Applicant must:
  - 8.1.1 complete and submit an application form as prescribed by the Board;
  - 8.1.2 supply any other information the Board requires;
  - 8.1.3 pay any admission fee; and
  - 8.1.4 consent to be a Member.
- 8.2 The Board may interview an Applicant when considering membership applications.
- 8.3 The Board has complete discretion in deciding:
  - 8.3.1 whether or not to allow the Applicant to become a Member; and

- 8.3.2 the Applicant's membership category.
- 8.4 The Board must advise the Applicant of its decision and that decision is final.
- 8.5 The Board may appoint a subcommittee to consider membership applications, interview Applicants, and make admission recommendations to the Board.
- 8.6 The Board may delegate the task of interviewing Applicants and any of its other powers and responsibilities under this rule to Branches.
- 8.7 The Executive Director must as soon as practicable after the admission of a new Member:
  - 8.7.1 notify that Member of their admission;
  - 8.7.2 cause that Member's details to be entered into the Register of Members.

## 9. **Register of Members**

- 9.1 The Executive Director must maintain and keep up-to-date a Register of Members containing each Member's:
  - 9.1.1 name, postal and email address, and telephone number(s);
  - 9.1.2 membership category; and
  - 9.1.3 date of admission as a Member.
- 9.2 If a Member's details in rule 9.1.1 change, that Member must promptly advise the Executive Director of the new name, postal or email address, or telephone number (as the case may be). The Executive Director must then update the Register of Members as soon as practicable.
- 9.3 Each Member must provide all other details the Board reasonably requires.
- 9.4 An Officer of the Institute may access the Register of Members only to the extent necessary for the performance of the Officer's functions or the exercise of the Officer's powers.
- 9.5 A Member may make a request to the Executive Director for access to the Register of Members. The Executive Director will provide access to the extent that Members have consented to access to information about themselves on the Register of Members being granted, and must at all times comply with the requirements of the Privacy Act 1993.

## 10. **Fees**

- 10.1 The Board may from time to time issue by-laws determining the fees due and payable by Members to the Institute, including:
  - 10.1.1 membership fees;



- 10.1.2 applications fees; and
- 10.1.3 any other fees the Board deems appropriate.
- 10.2 The Board may determine at its discretion the due dates and methods for payment of fees.
- 10.3 The Board must ensure that fee information is appropriately communicated to Members.
- 10.4 If a Member has not paid a fee or any other monies owing to the Institute within 90 days of the due date for payment then the Board may suspend that Member's membership by giving the Member notice of the outstanding fee or other monies. A Member whose membership is suspended is not entitled to exercise or enjoy any right, privilege, or advantage of membership until every outstanding fee or other monies have been paid, unless otherwise determined by the Board.

## 11. Cessation of Membership

- 11.1 A Member's membership of the Institute ceases upon the happening of any of the following circumstances:
  - 11.1.1 Resignation as described in rule 11.2.
  - 11.1.2 Termination for default as described in rule 11.3.
  - 11.1.3 Termination as result of disciplinary action as described in rule 32.
  - 11.1.4 Termination by notice in accordance with rule 11.4.
- 11.2 A Member may resign from their membership by giving written notice to the Executive Director. A resignation is effective when it is received by the Executive Director or at a later time specified in the notice. However, resignation:
  - 11.2.1 does not relieve the resigning Member from liability for the payment of any monies due to the Institute at the time of resignation; and
  - 11.2.2 may be refused where the member is the subject of a contemplated or on-going disciplinary investigation.
- 11.3 A Member may have their membership terminated by the Board if any monies are due and owing to the Institute for a period of 6 months or longer after the date of any notice requiring the Member to pay the outstanding monies has been given to the Member by the Institute. Any such Member is not relieved from liability for the payment of any monies owing to the Institute at the time of termination, unless waived by the Board.
- 11.4 Where the Institute has been unable to establish contact with a Member for a period of at least 90 days, the Board may terminate a Member's membership by giving the Member 7 days' notice of the Board's intention to terminate the Member's membership.

## **GOVERNANCE**

### **12. Board**

12.1 The Institute must have a Board consisting of:

12.1.1 the President;

12.1.2 the Vice President;

12.1.3 the Past President;

12.1.4 1 representative from each Branch; and

12.1.5 any other person co-opted in accordance with rule 12.2.

12.2 The Board may co-opt any person as a Board Member from time to time as deemed necessary by the Board. Co-opted Board Members do not have the right to vote at a Board Meeting.

12.3 Board Members who are not co-opted must be eligible for election to the Board in accordance with the membership categories prescribed in bylaws under rule 6.

### **13. President and Vice President**

13.1 The Members must decide by majority vote at an Institute Meeting who is elected to the positions of President and Vice President.

13.2 Nominations for the positions of President and Vice President must be called for by the Executive Director at least 30 Working Days before an Institute Meeting at which nominations will be considered. Candidates must be proposed and seconded by Members in writing to the Executive Director at least 15 Working Days before the Institute Meeting.

13.3 The President and Vice President are elected for a term of 2 years commencing on the day they are elected, or such other period decided by majority vote of the Members. Members elected to the positions of President and Vice President must retire from those positions at the end of their term but are eligible to be re-elected for 1 subsequent term.

13.4 If the position of President or Vice President is vacated during their term, the Board must call a Special General Meeting at which nominations will be considered and voted on.

### **14. Past President**

14.1 The Past President will be a Board Member unless otherwise decided by majority vote of the Members at an Institute Meeting.

## 15. **Branch Representatives**

- 15.1 Each Branch Committee must appoint 1 of its Branch Committee members to the Board as a representative of that Branch. Notice of such appointments must be provided to the Executive Director in writing at least 5 Working Days before the relevant Institute Meeting.
- 15.2 Board Members appointed under rule 15.1 are appointed to the Board for a term of 2 years, or such other period decided by the appointing Branch Committee and agreed to by the Board, such term commencing on the date of the relevant Institute Meeting.
- 15.3 A Branch Committee may terminate an appointment made under rule 15.1 by giving written notice to the Board appointing another of its Branch Committee members to the Board.
- 15.4 If an appointed Board Member ceases to be a Board Member during their term, the relevant Branch Committee must appoint another of its Branch Committee members to the Board.
- 15.5 If an appointed Board Member is unable to attend a Board Meeting, the relevant Branch Committee may temporarily appoint another of its Branch Committee members to the Board for the purpose of that Board Meeting.

## 16. **Functions and Powers**

- 16.1 Subject to this Constitution, the Board's functions are to manage, direct, and supervise the operation and affairs of the Institute.
- 16.2 The Board has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of the Institute. The Board's powers are restricted only to the extent:
- 16.2.1 provided by this Constitution;
- 16.2.2 provided by resolution of the Institute; or
- 16.2.3 required by law.
- 16.3 All decisions of the Board must be by majority vote of the Board Members present.
- 16.4 Decisions of the Board are binding on the Institute, except to the extent the Board's power is restricted in accordance with rule 16.2.

## 17. **Board Meetings**

- 17.1 **Calling:** The Board will meet at such times and places and in such manner as it may determine, and otherwise where and as convened by:
- 17.1.1 the President;
- 17.1.2 the Executive Director; or

- 17.1.3 at least 3 Board Members.
- 17.2 **Procedure:** Subject to this Constitution, the Board may meet, adjourn, and otherwise regulate its meetings as it thinks fit.
- 17.3 **Business:** The business of every Board Meeting must include:
- 17.3.1 receiving and approving the minutes of the previous Board Meeting;
  - 17.3.2 reviewing the interests register and disclosure of interests;
  - 17.3.3 motions to be considered; and
  - 17.3.4 general business.
- 17.4 **Notice:** The Executive Director must give every Board Member at least 3 Working Days' notice of a Board Meeting. For any Board Meeting, the notice must include:
- 17.4.1 the time and place of the Board Meeting;
  - 17.4.2 the minutes of the previous Board Meeting;
  - 17.4.3 a copy of the Register of Interests;
  - 17.4.4 notice of any motions received; and
  - 17.4.5 specification of business intended to be conducted and intended areas of discussion.
- 17.5 **Quorum:** A quorum for a Board Meeting is 5 Board Members, but must include at least 1 of the President, Vice President, or Past President.
- 17.6 **Chairperson:** All Board Meetings must be chaired by any of the President, Vice President, or Past President. The President is the chair by default. If the President is absent, the Vice President must chair the meeting. If the President and Vice President are both absent, the Past President must chair the meeting. The person chairing a Board Meeting has a casting vote.
- 17.7 **Form:** A Board Meeting can be held by a quorum of the Board Members:
- 17.7.1 meeting together at the appointed time and place;
  - 17.7.2 participating in the meeting by means of audio, audio and visual, or electronic communication; or
  - 17.7.3 by a combination of both methods described in sub-rules 17.7.1 and 17.7.2.
- 17.8 **Voting:** A Board Member present at or otherwise participating in a Board Meeting may vote at that Board Meeting. Co-opted Board Members do not have the right to vote at a Board Meeting.

- 17.9 **Electronic voting:** A Board Member not present at a Board Meeting may cast an electronic vote at that meeting by sending a notice of the manner in which the Board Member's vote is to be cast to the Executive Director at least 24 hours before the start of the meeting. An electronic vote must be cast using electronic means permitted by the Board.
- 17.10 **Adjournment:** The person chairing a Board Meeting may, with the consent of the other Board Members present, adjourn the Board Meeting to another time and place if necessary.
- 17.11 **Resolution in lieu:** The Board may make a decision by resolution in lieu of a Board Meeting signed by at least 2/3rds of the Board Members. Any resolution passed in lieu of a Board Meeting is only valid as if it had been passed at a Board Meeting if a copy of the resolution is provided to every Board Member. A copy of any such resolution must be entered in the minute book of Board Meetings.
- 17.12 **Minutes:** The Board must ensure that minutes of a Board Meeting are recorded and incorporated in a minute book. The Executive Director must forward a copy of the minutes to all Board Members as soon as practicable after a Board Meeting.

## 18. Cessation of Board Membership

- 18.1 A Board Member's membership of the Board ceases in any of the following circumstances:
- 18.1.1 Resignation in accordance with rule 18.2.
  - 18.1.2 Termination by resolution passed at an Institute Meeting.
  - 18.1.3 Termination by the President where the Board Member has been absent without leave from 2 consecutive Board Meetings.
  - 18.1.4 Termination by the appointing Branch Committee in accordance with rule 15.3.
  - 18.1.5 Disqualification in accordance with the Act.
  - 18.1.6 Termination by disciplinary action taken under rule 32.
  - 18.1.7 Expiry of their term.
  - 18.1.8 Cessation of membership of the Institute.
  - 18.1.9 Death of the Board Member.
- 18.2 A Board Member may resign from the Board by delivering written and signed notice to the Registered Office. A resigning Board Member must, as soon as is reasonably practicable, give notice of their intention to resign to the Executive Director, and, in the case of an appointed Branch Member, the relevant Branch Chairperson. A resignation is effective when it is received at the Registered Office or at a later time specified in the notice. Resignation as a Board Member does not affect a Member's membership of the Institute.
- 18.3 A person who ceases to be a Board Member must keep confidential all Institute documents, records, and property in their possession.

## 19. **Branches**

- 19.1 The Board may establish and disestablish Branches of the Institute. The purpose of each Branch is to further the Purposes by:
- 19.1.1 appointing a Branch Member to represent the Branch on the Board;
  - 19.1.2 organising and providing educational and social activities for the benefit of Branch Members;
  - 19.1.3 providing advice to the Board about matters of concern to Branch Members.
- 19.2 The Board must define the geographical boundaries of each Branch. A Member residing within the geographical boundaries of a Branch is a Branch Member of that Branch.
- 19.3 Each Branch must have a Branch Committee consisting of:
- 19.3.1 the Branch Chairperson;
  - 19.3.2 the Branch Vice Chairperson; and
  - 19.3.3 any other Branch Member elected to the Branch Committee.
- 19.4 The Branch Chairperson and Branch Vice Chairperson are elected by Branch Members for a term of 1 year and are eligible for re-election for subsequent terms.
- 19.5 The Board may from time to time issue by-laws setting out rules for Branches.
- 19.6 A Branch Committee will meet at such times and places and in such manner as it may determine, and otherwise where and as convened by the Branch Chairperson. The Branch Committee may regulate its own structures and procedures (including, but not limited to its procedures as to appointment, election and rotation), subject to this Constitution and any by-laws issued by the Board.
- 19.7 The Board may intervene in the affairs of a Branch when and in whatever manner it considers appropriate and otherwise upon request by a Branch.
- 19.8 A Branch is part of the Institute and has no legal personality separate from the Institute. A Branch must not incorporate. A Branch must not hold monies or other assets.
- 19.9 A Branch has no authority to bind the Institute, except as the Board may give such authority to a Branch from time to time.

## 20. **Register of Interests**

- 20.1 The Board must keep and maintain a Register of Interests disclosed by Officers containing each Officer's:
- 20.1.1 name;
  - 20.1.2 position within the Institute; and

- 20.1.3 interest in a matter.
- 20.2 Each entry in the Register of Interests must contain the date, nature, and extent of the interest, including, if quantifiable, the monetary value of the interest. The Register of Interests must be in the form provided in Schedule 2.
- 20.3 A Member may make a request to the Executive Director for access to the Register of Interests. The Executive Director will provide access to the extent the Board considers appropriate.

## **EXECUTIVE DIRECTOR**

### **21. Executive Director**

- 21.1 The Board may appoint an Executive Director. The Executive Director is responsible for the management of the Institute in accordance with this Constitution and the Purposes.
- 21.2 In addition to his or her responsibility under rule 21.1, the Executive Director must:
- 21.2.1 attend and keep minutes of Board Meetings and Institute Meetings;
  - 21.2.2 manage correspondence between the Board and Members;
  - 21.2.3 manage the monies and other assets of the Institute in accordance with rule 22; and
  - 21.2.4 undertake any other responsibilities required by the Board.
- 21.3 The Board must determine the Executive Director's terms and conditions of employment. The President, Vice President, and Past President must review the Executive Director's terms and conditions of employment annually.
- 21.4 The Executive Director is the contact officer (as that term is defined in the Act) of the Institute.
- 21.5 If no Executive Director is appointed, the Board must discharge, or appoint a Board Member to discharge, the Executive Director's functions, powers, and responsibilities under this Constitution.

## **FINANCES**

### **22. Use of monies and other assets**

- 22.1 The monies and other assets of the Institute must be used:
- 22.1.1 in a manner that is consistent with the Purposes of the Institute; and
  - 22.1.2 as decided by:
    - a. the Board; or

b. resolution passed at an Institute Meeting.

22.2 The monies and other assets of the Institute must not be used for personal or individual benefit of any Member, except in the circumstances described in section 22(3) of the Act.

22.3 Every use of monies and other assets must be approved by 2 Board Members or Employees of the Institute, being Board Members or Employees authorised to do so by the Board.

22.4 A liability in excess of the monies and other assets of the Institute may only be undertaken by the Institute in accordance with a resolution passed by a 2/3rds majority at an Institute Meeting.

### 23. **Balance Date**

23.1 The balance date of the Institute is 31 March of each year.

### 24. **Accounting Records**

24.1 The Board must ensure there are kept at all times accounting records that:

24.1.1 correctly record the transactions of the Institute;

24.1.2 allow the Institute to produce financial statements that comply with the requirements of the Act; and

24.1.3 enable the financial statements to be readily and properly audited.

24.2 The Board must establish and maintain a satisfactory system of control of the Institute's accounting records.

### 25. **Financial Statements**

25.1 The Board must ensure that, within 3 months of the Institute's balance date, financial statements are:

25.1.1 completed in relation to the Institute for that accounting period;

25.1.2 signed and dated by or on behalf of the Board by 2 Board Members; and

25.1.3 submitted for audit or review.

25.2 The Executive Director must ensure that, within 6 months of the Institute's balance date, copies of the financial statements of the Institute for that accounting period are sent to the Registrar.

25.3 The financial statements of the Institute must be reviewed or audited by an auditor to be appointed each year at the Annual General Meeting. The auditor must be a member of Chartered Accountants Australia and New Zealand.



## **GENERAL MEETINGS**

### **26. Annual General Meeting**

26.1 An Annual General Meeting must be held once every year no later than 6 months after the Institute's balance date for that year and no later than 15 months after the previous Annual General Meeting. The Board must determine when and where the Institute will meet within those dates. A meeting of the Institute other than an Annual General Meeting is a Special General Meeting.

26.2 The business of every Annual General Meeting must include:

26.2.1 receiving and approving the minutes of the Institute's previous Annual General Meeting and any Institute Meeting(s) since that meeting;

26.2.2 the presentation of:

- a. the annual report on the affairs of the Institute during the most recently completed accounting period;
- b. the financial statements of the Institute for that period; and
- c. a summary of any disclosures or the types of disclosures made by Board Members of an interest in matters being considered by or affecting the Institute, recorded since the previous Annual General Meeting;

26.2.3 where there are vacancies on the Board, election or appointment of Board Members;

26.2.4 appointment of an auditor;

26.2.5 motions to be considered; and

26.2.6 general business.

### **27. Special General Meetings**

27.1 A Special General Meeting may be called by the Board. The Board must determine when and where a Special General Meeting will be held.

27.2 The Board must call a Special General Meeting if the Executive Director receives a written request signed by not less than 25 Members stating:

27.2.1 the purpose for which a Special General Meeting is required; and

27.2.2 the business intended to be conducted at the Special General Meeting.

27.3 If 50 per cent or more of the Board Members are prevented from voting on a matter by section 58(1) of the Act, the Board must call a Special General Meeting to consider and determine that matter.

## 28. **Notice of Institute Meetings**

28.1 The Executive Director must give all Members at least 10 Working Days' notice of an Institute Meeting. For any Institute Meeting, the written notice must include:

28.1.1 the time and place of the Institute Meeting;

28.1.2 notice of any motions received;

28.1.3 any information provided by a Member in support of the Member's motion;

28.1.4 the Board's recommendation about any motions; and

28.1.5 specification of business intended to be conducted and intended areas of discussion.

28.2 For an Annual General Meeting, the written notice must include the minutes of the previous Annual General Meeting and the documents and information set out in rule 26.2.2.

28.3 For an Institute Meeting at which a President or Vice President will be elected, the written notice must also include a list of nominees.

28.4 If the Executive Director has sent a notice to all Members in good faith, the Institute Meeting and its business will not be invalidated only because 1 or more Members did not receive the notice.

## 29. **Institute Meeting Procedure**

29.1 All Members may attend an Institute Meeting. Only Voting Members may vote at an Institute Meeting.

29.2 **Quorum:** A quorum for an Institute Meeting is 25 Voting Members. If a quorum is not present within 30 minutes after the time appointed for an Institute Meeting, the meeting:

29.2.1 if called under rule 27.2, is dissolved;

29.2.2 in any other case, is adjourned to a day, time, and place determined by the Board, and if at such adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the Members or their proxies present or otherwise participating in the meeting constitute a quorum.

29.3 **Form:** An Institute Meeting can be held by a quorum of the Voting Members:

29.3.1 meeting together at the appointed time and place;

29.3.2 participating in the meeting by means of audio, audio and visual, or electronic communication; or

29.3.3 by a combination of both methods described in sub-rules 29.3.1 and 29.3.2.

- 29.4 **Chairperson:** All Institute Meetings must be chaired by the President. If the President is absent, the Vice President must chair the meeting. If the President and Vice President are both absent, the Members must elect another Board Member to chair the meeting. The person chairing an Institute Meeting has a casting vote.
- 29.5 **Minutes:** The Board must ensure that minutes of an Institute Meeting are recorded and incorporated in a minute book.
- 29.6 **Adjournment:** The President or other person chairing an Institute Meeting may if necessary, and with the consent of the Members, adjourn the meeting to another time and place. No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting that was adjourned.

### 30. **Motions**

- 30.1 The Board may put forward motions to be voted on at an Institute Meeting.
- 30.2 A Member may put forward a motion to be voted on at an Institute Meeting. The Member must give the Executive Director written notice of the motion signed by that Member and at least 2 other Members at least 20 Working Days before an Institute Meeting.

### 31. **Voting**

- 31.1 On any given motion at an Institute Meeting, the chair must in good faith determine whether to vote by:

31.1.1 voices (acclamation);

31.1.2 show of hands; or

31.1.3 poll.

However, if any Member demands a poll before a vote by voices or show of hand has begun, voting must be by poll. If a poll is held, the chair will have a casting vote.

- 31.2 A Voting Member may exercise their right to vote by being present, otherwise participating, or proxy.
- 31.3 A proxy must be another Voting Member. A proxy must be appointed by an instrument in writing signed by or, in the case of an electronic notice, sent by the Voting Member. The notice must be in the form prescribed in Schedule 1.
- 31.4 A proxy is only effective in relation to an Institute Meeting if a copy of the instrument appointing the proxy is provided to the Executive Director at least 48 hours before the start of the meeting.
- 31.5 For the purposes of rule 31.1, the instrument appointing a proxy to vote at an Institute meeting confers authority to demand or join in demanding a poll and a demand by a person as proxy for a Voting Member has the same effect as a demand by the Voting Member.

## COMPLAINTS AND GRIEVANCES

### 32. **Complaints and Grievances**

- 32.1 Complaints against Members must be raised and addressed in accordance with the complaints and disciplinary procedure set out in Schedule 3.
- 32.2 Grievances between Members and between Members and the Institute must be raised and addressed in accordance with the grievances procedure set out in Schedule 4.

## ADMINISTRATION

### 33. **Amendments to Constitution**

- 33.1 This Constitution may only be altered, added to, or repealed by a resolution passed by a 2/3rds majority vote at an Institute Meeting held in accordance with this Constitution.
- 33.2 Notice of a motion to alter this Constitution may be given by the Board or any Member by submitting the proposed amendments to the Executive Director:
- 33.2.1 at least 20 Working Days prior to an Annual General Meeting; or
- 33.2.2 as part of a request to hold a Special General Meeting made in accordance with rule 27.2.
- 33.3 A notice given under rule 33.2 must be signed by at least 3 Members.
- 33.4 An amendment to this Constitution that is approved at an Institute Meeting takes effect when the Executive Director has filed the amended Constitution with the Registrar. The Executive Director must provide a copy of the amended Constitution to the Registrar within 10 Working Days after the amendment is approved at an Institute Meeting.

### 34. **By-laws**

- 34.1 The Board may from time to time issue, alter, or rescind by-laws for the general management of the Institute, so long as they are not repugnant to this Constitution or to any provision of law.
- 34.2 All such by-laws are binding on Members. A copy of the by-laws for the time being must be available for inspection by any Member on request to the Executive Director.

### 35. **Code of Conduct**

- 35.1 The Board must issue a Code of Conduct for Members. The Code of Conduct is binding upon all Members.
- 35.2 The Board may alter and amend the Code of Conduct from time to time as it sees fit. Amendments must be communicated to Members within 20 Working Days.

35.3 Where any provision in the Code of Conduct conflicts with the rules of this Constitution, the rules of this Constitution have precedence.

## 36. **Winding Up**

36.1 The Institute may be wound up if:

36.1.1 a resolution to wind up the Institute is passed by a majority of at least 2/3rds at an Institute Meeting; and

36.1.2 such resolution is confirmed by a resolution passed by a majority of at least 2/3rds at a subsequent Special General Meeting called for that purpose and held not earlier than 20 Working Days after the date on which the resolution to be confirmed was passed.

36.2 The Institute may be wound up otherwise in accordance with the Act.

36.3 Any notice of a motion proposing that the Institute be wound up must be signed by at least 3 Members and provided to the Executive Director. The Board must ensure that written notice of a motion winding up the Institute is given to every Member at least 20 Working Days before an Institute Meeting at which the resolution is to be considered.

36.4 If the Institute is wound up:

36.4.1 the Institute's debts, costs, and liabilities must be paid;

36.4.2 surplus monies and other assets of the Institute must be disposed of:

- a. by resolution; or
- b. according to the provisions of the Act;

36.4.3 no distribution may be made to any Member;

36.4.4 the surplus monies and other assets must be distributed by resolution to:

- a. a not-for-profit entity operating in the construction sector; or
- b. if distribution to a not-for-profit entity in accordance with rule 36.4.4a is not available or practicable, then any other not-for-profit entity.

## 37. **Notices**

37.1 **From the Institute:** any notice required to be given by or on behalf of the Institute under this Constitution must be in writing and may be served either personally, by electronic mail, or by posting addressed to the Member at the Member's address as appears in the Register of Members. If given by post, notice is deemed to have been given at the time when delivered in the ordinary course of post.

37.2 **To the Institute:** any notice required to be given to the Institute under this Constitution must be in writing and may be given to the Executive Director or sent to the Registered Office by post or any electronic mail address specified by the Institute.

### 38. **Certificates and Awards**

38.1 The Board may present certificates to Members for:

38.1.1 demonstrating membership status or class or both;

38.1.2 demonstrating qualification or designation or both; and

38.1.3 any other purpose.

Certificates presented under this rule are the property of the Institute and must be returned on demand by the Board.

38.2 The Board may present an award or honour to any Member it considers merits recognition.

### 39. **Common Seal**

39.1 The Board may provide a common seal for the Institute and may from time to time replace it with a new one.

39.2 The Executive Director must have custody of the common seal, which must only be used with the authority of the Board. Each affixation of the common seal must be witnessed by 2 Board Members and requires a separate resolution of the Board.

### 40. **Indemnity and Insurance**

40.1 **Indemnity:** every Officer and Employee of the Institute is, except in the case of wilful default or fraudulent acts or omissions, indemnified by and out of the monies and other assets of the Institute in respect of:

40.1.1 liability to any person other than the Institute for any act or omission in his or her capacity as an Officer or Employee of the Institute; and

40.1.2 costs incurred by the Officer or Employee in defending or settling any claim or proceeding relating to that liability.

40.2 Liability in rule 40.1 does not include:

40.2.1 criminal liability; or

40.2.2 a liability that arises out of a failure to act in good faith and in the best interests of the Institute when acting in the capacity of Officer or Employee.

40.3 **Insurance:** the Board may, at the expense of the Institute, obtain any appropriate insurance cover in respect of the indemnity provision in rule 40.1.

41. **Matters Not Provided For**

41.1 If any matter arises which in the opinion of the Board is not provided for in this Constitution, then it may be determined by the Board in such manner as the Board deems fit. Every such determination is binding upon Members unless and until set aside by resolution at an Institute Meeting.

**SCHEDULE 1**

**PROXY FORM**

- 1. An instrument appointing a proxy may be in the following form or as near thereto as circumstances permit:

***New Zealand Institute of Quantity Surveyors Incorporated***

I, \_\_\_\_\_  
(Name/s)

of \_\_\_\_\_  
(Address)

being a member of the New Zealand Institute of Quantity Surveyors Incorporated (***Institute***)

appoint \_\_\_\_\_  
(Name)

of \_\_\_\_\_  
(Address)

who is also a member of the Institute, as my proxy at the Institute Meeting to be held

on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

and at any adjournment thereof, or at any Institute Meeting that may be held within \_\_\_\_\_ months of the date of this instrument.

I direct my proxy to vote as follows:

[Vote by indicating "✓"]

<b>Motions</b>	<b>For</b>	<b>Against</b>
1.	.....	.....
2.	.....	.....
3.	.....	.....

Unless otherwise instructed above, the proxy will vote as such proxy thinks fit.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Member



## SCHEDULE 2

## REGISTER OF INTERESTS

## Mandatory

Name of officer	Date identified	Details of possible conflict	Date and method of notification	Action taken	Follow up required?	Date resolved
<i>[name]</i>	<i>[date]</i>	<i>[details]</i>	<i>[date and method]</i>	<i>[action]</i>	<i>[y/n] [follow up action]</i>	<i>[date]</i>

## Optional

Name	<i>[name of Officer]</i>
Position within Institute	<i>[position of Officer]</i>
Date	<i>[date of entry]</i>
Employment	<i>[details of all the Officer's employment and employees in the last 12 months]</i>
Business	<i>[details of all businesses of which the Officer is a partner or sole proprietor]</i>
Company Directorships	<i>[details of all companies of which the Officer is a director]</i>
Trusteeships	<i>[details of all charities of which the Officer is a trustee]</i>
Memberships	<i>[details of all organisations of which the Officer is a member and occupies a position of general control or management]</i>
Interests of immediate family:	<i>[details of employment and business interests, company directorships, trusteeships, and memberships of immediate family (including spouse/partner, siblings, children, and parents)]</i>

### SCHEDULE 3

#### COMPLAINTS AND DISCIPLINARY PROCEDURE

##### INTRODUCTION

1. This Complaints and Disciplinary Procedure sets out the process by which concerns about a member's conduct are investigated and, where appropriate, penalties imposed.
2. The provisions of this Procedure are deemed to be rules of the Institute in accordance with Rule 32. Terms defined in the Constitution carry the same meaning here.

##### INITIATING THE COMPLAINTS PROCESS

###### Receipt of complaints

3. A person may complain to NZIQS about the conduct of a member. NZIQS can only receive complaints about individual members and not against firms, as firms are not members.
4. A complaint must be in writing and contain the complainant's name and contact details.
5. Complaints will be received, in the first instance, by the Executive Director, who must review each complaint. The Executive Director may ask the complainant to provide further details or information.

###### Own motion investigations

6. If the Board has information in its possession that raises one or more questions about the appropriateness of the conduct of a member, it may:
  - (a) of its own motion, refer the information to the Executive Director to be investigated under this Procedure as if it were a complaint; or
  - (b) if a complaint on the same matter has already been made, continue to investigate the matter even if the complaint is subsequently withdrawn.
7. In the remainder of this Procedure, the term **complaint** includes matters being investigated in accordance with clause 6.

###### Initial steps

8. The Executive Director must:
  - (a) provide the member with a copy of the complaint; and
  - (b) allow the member a reasonable opportunity to provide an initial written response to the complaint.
9. No member may resign from membership of NZIQS if a complaint has been made against him or her until any investigation and/or disciplinary process has been concluded.

## COMPLAINT TO BE CONSIDERED BY THE BOARD

10. After allowing the member a reasonable opportunity to provide a response, the Executive Director must refer the complaint to the Board.

### Options available to the Board

11. The Board must promptly assess the complaint and decide, in light of the nature and circumstances, the action(s) the NZIQS should take in relation to the complaint. The NZIQS Board may:
- (a) refer the complaint to a Professional Conduct Committee;
  - (b) refer the complaint to the New Zealand Police or to another regulatory authority or professional body to which the member belongs;
  - (c) put the complaint on hold so that it can be addressed through an alternative disciplinary, dispute resolution or court process; or
  - (d) take no further action on the complaint.
12. In making a decision under clause 11, the Board may consider whether:
- (a) the complaint is frivolous or vexatious or not made in good faith;
  - (b) the alleged conduct is trivial or insufficiently serious to warrant further investigation;
  - (c) a complaint of the same or similar subject-matter has already been received and dealt with;
  - (d) the complaint is substantially or primarily about fees or a commercial or legal dispute;
  - (e) the complaint is more appropriately addressed through an alternative disciplinary, dispute resolution or court process;
  - (f) the complainant or the person alleged to be aggrieved does not wish action to be taken or continued; and/or
  - (g) investigation is no longer practicable or desirable given the elapse of time.
13. Within 10 Working Days of the Board making a decision under clause 11, the Executive Director must provide the member and any complainant with written notice of the decision and the reasons for it.

## PROFESSIONAL CONDUCT COMMITTEES

### Membership

14. The Board must maintain a panel of members and laypersons who it considers suitable and qualified for appointment to Professional Conduct Committees (the **Committee Panel**).

15. Within 10 Working Days of the Board making a decision under clause 11(a) to refer a complaint to a Professional Conduct Committee (**Committee**), the Executive Director will appoint a Committee from the Committee Panel to investigate the complaint.
16. Every Committee appointed to investigate a complaint must include one layperson and two members.
17. The Executive Director must give the member and the complainant written notice of the membership of the Committee. The member and the complainant may, within five Working Days of receiving that notice, request changes to the membership of the Committee. The Executive Director must have regard to this request, but is not required to comply with it.

### **Investigations**

18. A Committee must investigate a complaint as it thinks fit and may regulate its own procedure, subject to the requirements of natural justice.
19. While investigating a complaint, the Committee may:
  - (a) appoint a legal advisor approved by NZIQS to advise the Committee on matters of law, procedure and evidence;
  - (b) appoint an investigator approved by NZIQS to collect information required by the Committee and to investigate complaints;
  - (c) appoint a special advisor approved by NZIQS to advise the Committee on technical issues; and/or
  - (d) with the agreement of the complainant and the member, refer the complaint to be addressed through an alternative dispute resolution process, for example, conciliation, mediation or arbitration.
20. A Committee may request, receive and/or make copies of any statement, document or information that may, in its opinion, assist it to deal effectively with the complaint, whether or not that information, document or evidence would be admissible in a court of law.
21. Before making a decision under clause 22, the Committee must:
  - (a) provide the member with a copy of all information (other than privileged material) before the Committee; and
  - (b) allow the member a reasonable opportunity to provide evidence and a written response to the complaint; and
  - (c) allow the member a reasonable opportunity to be heard by the Committee, either personally or by a representative.

### **Outcomes**

22. Upon completion of its investigation, the Committee must decide the action to be taken in relation to the complaint. The Committee may:

- (a) refer the complaint to the Disciplinary Board;
  - (b) recommend that the Board impose conditions that the member must comply with or requirements for professional development or training that he or she must fulfil;
  - (c) determine that no further action should be taken in relation to the complaint.
23. The Committee may only decide, under clause 22(a), to refer the complaint to the Disciplinary Board if it considers there are reasonable grounds to believe that grounds exist to discipline the member, as set out in clause 37.
24. If the Committee's decision under clause 22 is not unanimous, the decision of the majority of the Committee is the decision of the Committee.
25. Within 10 Working Days of the Committee making a decision under clause 22, the Committee must provide the member, any complainant and the Board with written notice of the decision and the reasons for it.

## **DISCIPLINARY BOARDS**

### **Membership**

26. The Board must maintain a Disciplinary Panel of members and lawyers who it considers suitable and qualified for appointment to the Disciplinary Board to hear a particular matter. To be eligible for appointment to the Disciplinary Panel, a lawyer must be a barrister and solicitor of the High Court of New Zealand of not less than 7 years' practice.
27. Appointments to the Disciplinary Panel are for a term of two years, which may be renewed no more than three times.
28. Within 10 Working Days of a Committee making a decision under clause 22(a) to refer a complaint to the Disciplinary Board, the Executive Director will appoint a Disciplinary Board from the Disciplinary Panel to hear the matter.
29. Every Disciplinary Board appointed to hear a matter must include:
- (a) one lawyer as chairperson; and
  - (b) two members.
30. The Executive Director must give the member and the Committee written notice of the membership of the Disciplinary Board. The member and the Committee may, within five Working Days of receiving that notice, request changes to the membership of the Disciplinary Board. The Executive Director must have regard to this request, but is not required to comply with it.

### **Representation**

31. Where a Committee decides under clause 22(a) to refer a complaint to the Disciplinary Board, the Committee must appoint a representative for the purposes of the Disciplinary Board process and hearing.

32. A member may participate in the Disciplinary Board process and hearing personally and/or by a legal representative.

### Hearings

33. The Disciplinary Board must conduct a hearing and may regulate its own procedure, subject to the requirements of natural justice.
34. At a Disciplinary Board hearing:
- (a) the member and the Committee have the right to make submissions and present evidence;
  - (b) evidence may be presented either in person or in writing; and
  - (c) with the Disciplinary Board's permission, each party may cross-examine the other party's witnesses.
35. The Disciplinary Board may receive as evidence any statement, document or information that may, in its opinion, assist it to deal effectively with the matter, whether or not that information, document or evidence would be admissible in a court of law.
36. The Disciplinary Board may take notice of and accept as conclusive any finding of fact made by a court, tribunal or decision-maker in a dispute resolution process. Before doing so, the Disciplinary Board must:
- (a) give the member notice of the finding of fact and the intention to accept it; and
  - (b) allow the member a reasonable opportunity to provide evidence or submissions in response.
37. After conducting a hearing, the Disciplinary Board must decide whether or not there are grounds for disciplining the member. A member may be disciplined if:
- (a) the member has contravened the Constitution, including the Code of Conduct;
  - (b) the member has performed quantity surveying services in a negligent or incompetent manner;
  - (c) the member has conducted him or herself (whether by act or omission) in a manner that is likely to bring discredit to NZIQS and/or the quantity surveying profession;
  - (d) the member has been convicted of a criminal offence that reflects on his or her fitness to be a member of NZIQS;
  - (e) the member has failed to comply with any conditions imposed by NZIQS or the Disciplinary Board or the Appeal Board.
38. If the Disciplinary Board decides under clause 37 that there are grounds for disciplining the member, it may:
- (a) censure the member;

- (b) issue a written warning to the member;
  - (c) order the member to pay to NZIQS a financial penalty not exceeding \$5,000;
  - (d) impose conditions that the member must comply with or requirements for professional development or training that he or she must fulfil (**conditions**);
  - (e) impose a conditional suspension that will take effect if the member has not fulfilled specified conditions by a date set by the Disciplinary Board;
  - (f) suspend the member from membership:
    - (i) for a certain period; or
    - (ii) until the member has fulfilled conditions specified by the Disciplinary Board;
  - (g) expel the member from NZIQS; and/or
  - (h) order the member to pay to NZIQS part or all of the costs and expenses of the Committee's investigation and/or the proceedings before the Disciplinary Board.
39. If the Disciplinary Board's decisions under clauses 37 and/or 38 are not unanimous, a decision of the majority of the Disciplinary Board is a decision of the Disciplinary Board.
40. The Disciplinary Board must provide the member, the Committee, any complainant and the Board with written notice of its decision and the reasons for it.

## **APPEAL BOARD**

### **Right to appeal**

41. A member may appeal against the decision of or penalty imposed by the Disciplinary Board on the grounds that:
- (a) the Disciplinary Board failed to take into account all relevant matters or took into account irrelevant matters in deciding that grounds for discipline existed;
  - (b) the decision of the Disciplinary Board is manifestly at odds with the evidence presented at the hearing;
  - (c) the process followed by the Disciplinary Board did not comply with these rules and/or natural justice; and/or
  - (d) the penalty imposed by the Disciplinary Board is unfair or excessive in light of the gravity of the member's conduct.
42. Notice of a member's intention to appeal must be provided to the Committee, the Disciplinary Board and the Board within 20 Working Days of the date on which the member received written notice of the Disciplinary Board's decision.
43. An appeal notice must be in writing and state the grounds of the appeal.

### **Effect of Disciplinary Board decisions**

44. A decision of the Disciplinary Board imposing a penalty on a member under clause 38 will not take effect until:
- (a) expiry of the 20 Working Day period within which the member can give notice of his or her intention to appeal, if no appeal notice is lodged; or
  - (b) if an appeal notice is lodged, the Disciplinary Board's decision is confirmed by the Appeal Board.

### **Membership**

45. The Board must maintain an Appeal Panel of members and lawyers who it considers suitable and qualified for appointment to the Appeal Board to hear a particular matter. To be eligible for appointment to the Appeal Panel, a lawyer must be a barrister and solicitor of the High Court of New Zealand of not less than 7 years' practice.
46. Appointments to the Appeal Panel are for a term of two years, which may be renewed no more than three times.
47. Within 10 Working Days of receipt of an appeal notice, the Executive Director will appoint an Appeal Board from the Appeal Panel to hear the matter.
48. Every Appeal Board appointed to hear a matter must include:
- (a) one lawyer as chairperson; and
  - (b) two members.
49. The Executive Director must give the member and the Committee written notice of the membership of the Appeal Board. The member and the Committee may, within five Working Days of receiving that notice, request changes to the membership of the Appeal Board. The Executive Director must have regard to this request, but is not required to comply with it.

### **Hearings**

50. The Appeal Board must conduct a hearing and may regulate its own procedure, subject to the requirements of natural justice.
51. The member and the Committee's representative have the right to make submissions to the Appeal Board.
52. Subject to clause 53, the Appeal Board may receive as evidence any statement, document or information that may, in its opinion, assist it to deal effectively with the matter, whether or not that information, document or evidence would be admissible in a court of law.
53. An Appeal Board hearing is to be conducted on the basis of the evidence presented to the Disciplinary Board. The member and/or the Committee's representative may only present new evidence:



- (a) where there are good reasons for doing so; and
- (b) with the Appeal Board's permission.

### **Outcomes**

54. After hearing an appeal, the Appeal Board:
- (a) must decide whether to confirm or vary the decision of the Disciplinary Board;
  - (b) may impose any penalty that the Disciplinary Board could have imposed under clause 38(a)–(g); and
  - (c) may order the member to pay to NZIQS part or all of the costs and expenses of the Committee's investigation, and/or the proceedings before the Disciplinary Board and/or Appeal Board.
55. If the Appeal Board's decisions under clause 54 are not unanimous, a decision of the majority of the Appeal Board is a decision of the Appeal Board.
56. The Appeal Board must provide the member, the Committee, any complainant and the Board with written notice of its decision and the reasons for it.
57. A decision of the Appeal Board is final and takes immediate effect.

### **CONFIDENTIALITY AND PUBLICATION OF DECISIONS**

58. The investigations and decisions of Professional Conduct Committees are confidential except:
- (a) to the extent referred to in any decision of the Disciplinary Board and Appeal Board (to which clauses 59 to 61 below apply); or
  - (b) as agreed between the complainant, the member and the Committee.
59. Subject to clauses 60 and 61, decisions of the Disciplinary Board and Appeal Board are not confidential and may be published or made publicly available as the Board considers appropriate.
60. If, having regard to the interests of any person and to the public interest, the Disciplinary Board and/or Appeal Board (as relevant) is satisfied that it is desirable to do so, it may decide to keep confidential:
- (a) the name of any person involved in proceedings before that Board;
  - (b) any evidence or information presented before that Board; and/or
  - (c) the decision of that Board, or part thereof.
61. A decision of the Disciplinary Board must not be published or made publicly available until:
- (a) expiry of the 20 Working Day period within which the member can give notice of his or her intention to appeal, if no appeal notice is lodged; or

- (b) if an appeal notice is lodged, written notice is given of the Appeal Board's decision.

#### **ENFORCEMENT**

62. Any financial penalty or costs and expenses that a member is ordered to pay to NZIQS under this Procedure is recoverable from the member as a due debt to NZIQS. The existence of a due debt is sufficiently proved by production of:
- (a) this Procedure and the Constitution;
  - (b) the declaration of the member on his or her application for membership; and
  - (c) a copy of the decision(s) of the Disciplinary Board and/or Appeal Board, certified by the Executive Director as a true copy.

**SCHEDULE 4****GRIEVANCES PROCEDURE**

1. A Member may raise a grievance with the Board alleging the Institute or a Member has caused damage to the Member's rights or interests as a Member or to Member's rights or interests generally by giving written notice of the grievance to the Board (**Grievance**).
2. A Grievance must:
  - 2.1 contain the name and contact details of the complainant;
  - 2.2 identify the damage and, where relevant, the Member complained about; and
  - 2.3 state the purpose and desired outcome of the Grievance.
3. If the Board receives a Grievance, it must as soon as practicable:
  - 3.1 provide any respondents with a copy of the Grievance;
  - 3.2 decide whether or not the Grievance should be:
    - 3.2.1 investigated and determined;
    - 3.2.2 submitted to Arbitration under the Arbitration Act 1996;
    - 3.2.3 referred to an external person for investigation, determination, or both.
4. The Board may decide to not take any action in respect of a Grievance if:
  - 4.1 the matter is trivial;
  - 4.2 the Grievance does not appear to disclose any material damage to a Member's rights or interests;
  - 4.3 the Grievance appears to be without foundation or there is no evidence to support it;
  - 4.4 the complainant has an insignificant interest in the matter; or
  - 4.5 the matter has already been investigated and dealt with.
5. The Board may appoint a subcommittee for the purpose of investigating and determining a Grievance or Grievances generally.
6. The Board or subcommittee that investigates a Grievance must:
  - 6.1 immediately inform each complainant and respondent;
  - 6.2 allow each respondent a reasonable opportunity (at least 10 Working Days) to provide a written response to the Grievance;

- 6.3 give each complainant and respondent a reasonable opportunity to make oral submissions to the Board or subcommittee about the Grievance;
  - 6.4 inform each complainant and respondent of the outcome of any further inquiries;
  - 6.5 act in accordance with the principles of natural justice and the Privacy Act 1993; and
  - 6.6 act in good faith towards all persons at all times.
7. The Board or a subcommittee that decides to submit a Grievance to arbitration or refer a Grievance to an external person must:
- 7.1 immediately inform each complainant and respondent; and
  - 7.2 cooperate fully with the arbitrator or external person and any investigation, determination, or other action taken by the arbitrator or external person.
8. The Board may initiate an investigation or referral of its own accord and without the need for a Grievance to have been submitted.
9. The Board or subcommittee that investigates a Grievance may regulate its own procedures, subject to clause 6.
10. The Board or subcommittee that investigates a Grievance must investigate and determine the Grievance as it thinks fit.
11. If the Board or subcommittee determines, as a result of an investigation or referral, an action must be taken or omitted in order to protect or remedy a Member's rights or interests as a Member or Member's rights or interests generally, the Board may make any direction it thinks fit.
12. A Member may appeal against any action taken or order made under clause 11 on the ground that the Board or subcommittee failed to comply with clause 6.
13. The Board or subcommittee must inform each complainant and respondent of the outcome of an investigation, arbitration, or referral as soon as practicable after the investigation, arbitration, or referral is determined or otherwise concluded. The Board or subcommittee may, but is not required to, give reasons for a determination.
14. A determination of the Board or subcommittee is binding upon the complainant, the respondent, and all Members, unless and until otherwise determined at an Institute Meeting.
15. A person must not act as a decision-maker in relation to a Grievance if 2 or more Board Members or subcommittee members consider there are reasonable grounds to believe the person may:
- 15.1 be interested in the matter (as described in section 56 of the Act);
  - 15.2 not be impartial;
  - 15.3 not consider the Grievance without a predetermined view; or

- 15.4 otherwise jeopardise the integrity of the process.
- 16. Investigations of the Board, subcommittee, or external person are confidential except to the extent:
  - 16.1 referred to in any determination of the Board, subcommittee, or external person;
  - 16.2 agreed between the parties and the Board, subcommittee, or external person.
- 17. Subject to clause 18, determinations of the Board, subcommittee, or external person are not confidential and may be published or made publically available as the Board considers appropriate.
- 18. The Board may keep confidential in respect of a determination any or all of the following if it considers it desirable to do so having regard to the interests of any person and to the public interest:
  - 18.1 The name of any person involved in a Grievance.
  - 18.2 Any evidence or information presented or produced for the purposes of the Grievance.
  - 18.3 The determination or part thereof.