

## HFESNZ Complaints Policy and Disciplinary Procedures

The Human Factors and Ergonomics Society of New Zealand (HFESNZ) has three levels of Professional Membership – Certified, Associate, and Technical. All Professional Members must abide the HFESNZ Code of Conduct, and complaints of unprofessional conduct or breaches of the Code of Conduct will be referred to The Committee’s Professional Affairs Board, and addressed via the following Complaints Policy and Disciplinary Procedure (and as per 16.3 and 16.4 of the HFESNZ Rules).

Membership of any HFESNZ membership category may be terminated if The Committee is of the view that the HFESNZ Member:

- Is breaching the HFESNZ Rules, or
- Acting in a manner inconsistent with the purpose of the society, or
- May bring the society into disrepute (including professional misconduct).

In these cases the Committee may give written notice of this to the HFESNZ Member (see 16.4 in the Rules for the full wording and detail). In summary, The Committee’s Notice must:

- Explain the breach, inconsistency, or risk of disrepute;
- State what the HFESNZ Member must do to remedy the situation, or state that the member must write to The Committee giving reasons why The Committee should not terminate membership;
- State that, if in 14 days from the HFESNZ Member receiving The Committee’s Notice that if The Committee is not satisfied, The Committee may terminate the membership;
- State that, if HFESNZ membership is terminated (via a Termination Notice), the Member may appeal at the next committee meeting. This must be done by giving written notice to the Secretary, within 14 days of the Termination Notice being received. On appeal, the Member has the right to be fairly heard at a meeting within the following 28 days. Further, the Society’s decision, following this fair hearing, will be final.

### Complaints policy and disciplinary procedures

The following is guidance for complaints that may be made against Professional Members in regards to the Code of Conduct. The Society has a responsibility to advance human factors/ergonomics professional standards in New Zealand, and thus has the authority to address such complaints. This policy will help Society members, and other interested parties, understand how the code will be enforced.

The policy is intended to provide practical guidance to establish fair, impartial and reasonable processes. It is not, in itself, a legal commitment by HFESNZ or The Committee. This process may be changed, if experience and external circumstances indicate it is necessary. The Committee acknowledges that this procedure may not be appropriate in all circumstances, and reserves the right (at its absolute discretion) to change the procedure as appropriate.

The Committee has the right to exercise all other powers it considers necessary to deal with an allegation of unprofessional conduct, with the following principles:

- a) **Timeliness** – The Committee will seek to expedite issues or specific cases with as much speed as possible. This will occur with due regard to fair process and other demands on the time of The Committee Members involved.
- b) **Objectivity** – Each person involved, in any of the process, will deal with the information as presented. They will not be unduly affected by any prior knowledge or pre-judgements.
- c) **Confidentiality** – Each person involved is committed to maintaining confidentiality of privileged information, conforming to the principles of the Privacy Act 1993. The Committee will release information about steps taken, information received, Committee and Investigating Committee (see below for more details) discussions, findings etc. only in a

- controlled way by those persons duly authorised by Committee.
- d) **Records** – All records of case processes will be held in secure and confidential storage in the Society’s files. They will not be retained by individuals as long-term private records.
  - e) **Indemnification** – The Committee will indemnify Investigating Committee Members serving in official capacities in the furtherance of the implementation of the Code of Conduct, providing they have acted in good faith and with reasonable care.
  - f) **Report** – The Committee will report on the development of the issues relating to the Code of Conduct and any summary or in full outcomes at the next Society AGM.
  - g) **Overseas Cases** – The payment for expenses for overseas cases will be decided upon by The Committee on a case by case basis, bearing in mind the practicalities and the cost burden on The Society.
  - h) **Exclusions** – If any Committee Member is the subject of Code of Ethics case, or has a significant interest in the outcome of the process, then that person will exclude themselves from any process or discussion related to the case.
  - i) **Applicability** – The Code of Conduct is applicable to all Professional Members of the Society and one of the strengths of the professional body is that it is able to advertise this fact. However, the appropriateness of formal actions (and the severity of any outcomes) will be conditioned by considerations of the level of membership and motivations of the person concerned.

### **Systems enquiries**

It is likely that all HFESNZ Members may receive general enquiries about the Code of Conduct, and its application to various circumstances that may arise. These enquiries, and the way in which they are handled, are very important. They will sometimes enable The Committee to deal promptly with matters which otherwise would have to be submitted to the more formal procedures. ‘System enquiries’ may come from consultancies or other institutions or from the general public.

Enquiries of this nature must have the following characteristics to be accepted:

- Must be from an identifiable source,
- Must not relate to easily identifiable members,
- Must be written, and addressed to the HFESNZ Administrator or HFESNZ Secretary (and will be readdressed, if initially sent to other members of the Committee).

The Administrator/Secretary will reply to an enquiry promptly. If they cannot deal with the issues alone, they may seek advice from The Committee, before answering the enquiry. In all cases, it will be reported to The Committee, via the Chairperson, that an enquiry was made and answered. Further, records of all lodged enquires will be minuted.

Replies to system enquiries will be made in good faith, based on the limited information presented. They are not made with the fuller considerations that would be part of any Investigating Committee process. They do not prejudice specific cases that may arise later, or limit The Committee’s decisions or actions. Although every attempt will be made to maintain consistency, replies to system enquiries cannot bind current or future Committees. They do not establish binding precedents.

### **Allegations of unprofessional conduct**

Issues under this category relate to particular cases involving named individuals. They may come from individuals, bodies or the general public. They must be from identifiable sources and in writing to the Administrator/Secretary. The Administrator/Secretary will direct the correspondence to the Chairperson and inform The Committee that an allegation has been made, but will not pass on any more details. The allegations must relate to the provisions of the Code of Conduct, although this need not be explicitly stated.

The Chairperson will first inform the individual named of the allegation, and the identity of the complainant if the complainant has consented (in writing) to this, and will open a complaints file. The Chairperson will keep the interested parties informed of developments.

If any of the Committee (including the Chairperson) has a significant interest in the outcome of a process, they will exclude themselves from discussion or other involvement in the process. If necessary, The Committee may co-opt other Members of the Society to assist them in their deliberations and handling of the process.

The Committee will set up an Investigating Committee, unless the allegation does not relate to the Code of Conduct. Where the Committee decide that the allegation does not relate to the Code of Conduct, the matter will be closed and the Chairperson will write to the interested parties.

If the allegation does relate to the Code of Conduct then the following process is started.

### **Investigating Committee**

Following notification from the Chairperson that a specific allegation of unprofessional conduct has been made about a HFESNZ Member, the Committee will set up an Investigating Committee.

The initial purpose of the Investigating Committee is to decide whether a prima facie case (evidence that is sufficient to establish the fact or raise a presumption of the truth unless rebutted) exists and that matter is of sufficient gravity for processing to a full hearing.

The Committee will set up the Investigating Committee of three current Members of the Society and nominate one of them as Chair (the Chair must hold HFESNZ Professional Membership, preferably Certified). If any Members have a significant interest in the outcome of the process, then they will exclude themselves from selection.

The Investigating Committee will meet as soon as is practicable. Initially it will not call witnesses, but may ask interested parties for more information to supplement that which was included in the written allegation. Discussions and proceedings of the Investigating Committee will be confidential and not recorded. If it wishes to, the Investigating Committee may seek advice in confidence from other sources. Papers will be placed on a confidential file, which in due course will be stored by the Society.

The Investigating Committee will decide whether there is a prima facie case. It will inform the Chairperson of its decision, but will communicate the decision to no other party. The Chairperson will inform The Committee. No detailed reasons for the decision will be given.

If there is no prima facie case for further processing, the Chairperson will inform the HFESNZ Member and the party making the allegation. The Chairperson will give that Member the option of The Committee publishing the outcome of the Investigating Committee. The fact that there has been an Investigating Committee that found no prima facie case to be answered will be reported by the Chairperson to Committee at the time and to the Society Membership at the next AGM.

If the Investigating Committee has decided that there is a prima facie case for further investigation, the Chairperson will inform the HFESNZ Member and the party making the allegation, but not publicise the outcome. Avoidance of undue publicity, at this stage, preserves the interests of all parties involved.

Where a case is not sustained by an Investigating Committee, then it cannot be reopened at a future date without substantial new evidence that was not available at the time of the original allegation.

### **Prima facie case**

The purpose of the Investigating Committee at this stage is to make the fullest enquiry about the case. Further, it will report its findings to The Committee, with recommendations for consequent actions.

The Investigating Committee shall seek to establish the facts of the case by investigative, rather than adversarial, processes. It will use balance of probabilities, rather than beyond reasonable doubt, as the criterion for judging evidence submitted to it. Evidence will not be taken on oath.

The Investigating Committee shall reach its decisions by majority voting, if unable to reach decisions unanimously. In all cases, the procedures adopted will not be released outside the Investigating Committee, even to The Committee.

When a prima facie case requires investigation, the Chairperson will write to the HFESNZ Member and the party making the allegations of professional misconduct. This correspondence will provide the relevant parts of the Code of Conduct being considered, and explaining the procedures.

The Investigating Committee will fix the date for a hearing, giving at least 30 days clear notice to the HFESNZ Member and others concerned. The Investigating Committee will go to reasonable lengths in choosing dates to enable the HFESNZ Member to appear, taking into account the member's personal circumstances. The HFESNZ member is entitled to know as much as possible about the issue being raised, and may submit to the Investigating Committee any prior comments he or she may wish to make.

At the hearing, the HFESNZ Member has the opportunity to attend and speak to the Investigating Committee and answer its questions. The HFESNZ Member may be accompanied by another Member of the Society, and may be represented by a solicitor. The HFESNZ Member may call witnesses to give evidence, but may not examine or cross-examine witnesses (nor may the representatives, if chosen). The HFESNZ Member may present evidence or call witnesses from a variety of sources, including those outside the profession. The HFESNZ Member shall give The Investigating Committee as much advanced information as is practicable about the witnesses and the evidence they may present.

It is the purpose of the hearing to establish the facts surrounding the allegation. It is expected that each and every Member of the Society called to give it information will cooperate to the best of their abilities. The Investigating Committee will examine each witness separately, without other people being present (except in the special case of the member and their representatives as described above). The Investigating Committee may seek further information, not presented by the witnesses who attend.

The Investigating Committee will decide upon its procedures; in particular it will decide upon the sequence of witnesses and the time it needs to consider the facts it has gathered. It will consider its decisions in private and not record the contents of its discussions and deliberations.

Following its deliberations, the Investigating Committee will report in writing on its findings and any recommendations for penalties. This will be done in confidence, and corresponded to The Committee. If the issue of non-compliance within the Code of Conduct is not sustained, the Chairperson will write to the HFESNZ Member, giving him or her option of no publicity, although the general fact that an Investigating Committee had been set up and done its work will be reported at the next AGM.

If the complaint is sustained, the Society's Committee will decide upon the measures that it will take and the method of releasing decisions. In particular, the highest priority will be given to informing the HFESNZ Member concerned promptly that the complaint has been sustained, and has been passed to The Committee for action. The recommendation to The Committee about any publication of the details of the non-compliance with the Code of Conduct will be considered, in relation to the importance of the issue and the need for likely interested parties to know. The Committee will also consider the need to publicise the penalties that The Committee may implement.

All papers relating to the case will be put into a confidential file in due course. These may relate to the evidence submitted and the outcomes of the Investigating Committees' deliberations, but not to the deliberations themselves. Any document relating to the deliberations will be destroyed.