

Complaints and discipline policy

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Purpose

1. This policy sets out the Board's approach to dealing with complaint and discipline matters under Part 3, subpart 1 of the Plumbers, Gasfitters, and Drainlayers Act 2006.

Scope

2. This policy applies to complaints about sanitary plumbing, gasfitting or drainlaying done by registered people, provisional licence holders or people subject to a disciplinary order of the Board.
3. This policy does not apply to complaints about sanitary plumbing, gasfitting or drainlaying done by unauthorised people. Such complaints are covered by the Board's prosecutions policy.

Legislation and relevant policies

4. The following legislation is relevant to this policy:
 - a. Plumbers, Gasfitters, and Drainlayers Act 2006, and any relevant regulations made under that Act
 - b. Plumbers, Gasfitters, and Drainlayers Act 1976, and any relevant regulations made under that Act
 - c. Building Act 2004, and any relevant regulations made under that Act
 - d. Gas Act 1992, and any relevant regulations made under that Act
 - e. Commissions of Inquiry Act 1908
 - f. Witnesses and Interpreters Fees Regulations 1974.
5. The following policies are also relevant to this policy:
 - a. Dealing with unreasonable behaviour
 - b. Decision-making
 - c. Fit and proper person
 - d. Media
 - e. Official information and privacy
 - f. Public register
 - g. Prosecutions.

Definitions

6. In this policy, unless the context otherwise requires:
 - a. **Act** means the Plumbers, Gasfitters, and Drainlayers Act 2006
 - b. **Board** means the Plumbers, Gasfitters and Drainlayers Board
 - c. **complaint** means a complaint received in accordance with section 90 of the Act
 - d. **complaints and discipline function** means the Board's function, as set out in section 137(o) of the Act, to hear complaints and to hold disciplinary hearings
 - e. **complainant** means a person who has made a complaint
 - f. **hearing** means a disciplinary hearing before the Board
 - g. **investigation** means an investigation conducted in accordance with Part 3, subpart 1 of the Act
 - h. **investigator** means an investigator appointed by the Registrar under section 91 of the Act
 - i. **lay advocate** means any person who wishes to represent a practitioner in a hearing who is not a lawyer
 - j. **legal advisor** means a person appointed under section 115 of the Act

- k. **notice of disciplinary proceedings** means a notice of disciplinary proceedings served in accordance with section 101 of the Act
- l. **offence** means a disciplinary offence under section 89 of the Act
- m. **parties** means:
 - i. with regard to a complaint, the person making the complaint and the practitioner they are complaining about; or
 - ii. with regard to a hearing, the investigator and the practitioner
- n. **practitioner** means a registered person, provisional licence holder, or a person who is the subject of a disciplinary order of the Board, and includes a person who is no longer registered or licensed but who was at the time they did the work that is the subject of a complaint
- o. **Registrar** means the Registrar of the Plumbers, Gasfitters and Drainlayers
- p. **staff** means employees of the Board and includes contractors and agents
- q. **suppression order** means an order made under section 113(3)(b)-(d)
- r. **work** means sanitary plumbing, gasfitting or drainlaying as it is defined in the Act.

Guiding principles

- 7. The complaints and discipline function contributes to protecting the health and safety of the public by enforcing competency expectations.
- 8. The Board carries out its complaints and discipline function in accordance with the law, fairly, reasonably, and in good faith.
- 9. The Board seeks to deal with complaint and discipline matters as promptly and efficiently as possible having regard to the circumstances in each case.

Delegations

- 10. The Board has delegated its power to issue summonses under section 4D(2) of the Commissions of Inquiry Act 1908 to the Registrar.

Inquiries to the Board

- 11. All potential complaints received by the Board are initially treated as inquiries.
- 12. Inquiries are assessed to determine whether they raise matters the Board can consider.
- 13. If an inquiry is not about a matter the Board can consider, the person making the inquiry is told the Board cannot deal with their inquiry.

Informal resolution of inquiries

- 14. If an inquiry is about a matter the Board can consider, it is assessed to see whether it is appropriate to try to resolve the matter informally without it becoming a complaint.
- 15. The kinds of things the Board considers when assessing whether an inquiry might be appropriate to deal with informally include, but are not limited to, where:
 - a. the complaint does not raise any significant health, safety or property damage issues
 - b. any detriment the complainant has suffered is minor and/or is capable of being remedied
 - c. there is no significant history of non-compliance by the practitioner
 - d. the conduct is not of a type identified as a priority by the Board

- e. there are no wider public interest considerations raised by the complaint,
 - f. the parties are willing to try and resolve the matter informally.
16. If an inquiry is assessed as appropriate for informal resolution, the Board may:
- (a) decide to issue the practitioner with a reminder letter about their workmanship or compliance; or
 - (b) may work with the parties to try to resolve the inquiry in a way that is acceptable to the parties and the Board.
17. Inquiries that cannot be resolved informally become complaints.
18. Inquiries that are not appropriate for informal resolution become complaints.

Complaints

19. All complaints to the Board must be made in writing and be provided to the Registrar.
20. Complaints must:
- a. be about a practitioner
 - b. be about sanitary plumbing, gasfitting or drainlaying work
 - c. involve conduct that could be an offence.
21. The Registrar does not accept anonymous complaints.
22. If the Registrar is satisfied that a complaint is frivolous or vexatious, the complaint is dismissed.

Complaints raising serious health and safety concerns

23. If a complaint raises serious health or safety concerns, in addition to following the Board's complaints and discipline process, the Registrar may take any other steps that they consider reasonable and appropriate in the circumstances.

Investigating complaints

24. The Registrar appoints an investigator to investigate a complaint to determine whether, in the investigator's opinion, the complaint should be considered by the Board.
25. All investigators are issued with a warrant of authority to conduct their investigation.
26. In conducting their investigation, the investigator:
- a. gives the parties a fair and reasonable opportunity to:
 - i. comment on the complaint, and
 - ii. respond to comments by the other party
 - b. talks to any other person they consider can provide information relevant to the complaint
 - c. gathers any evidence they consider is necessary to their investigation.
27. Where necessary, an investigator may:
- a. obtain a warrant from the District Court to enter a dwellinghouse
 - b. issue a written notice requiring any person to provide information or documents.
28. If the investigator considers it necessary to protect the safety of the public, they may apply to the Board to have a practitioner's licence or licences suspended or have them disqualified from doing work until they have finished their investigation or the Board has held a hearing.

29. Once the investigator has finished their investigation they produce a preliminary investigation report setting out the facts of the complaint as they have established them at that point in time.
30. The preliminary investigation report is provided to the parties for their comment.
31. Having regard to any comments received from the parties, the investigator:
 - a. amends their preliminary report and provides the amended preliminary investigation report to the parties for comment; and/or
 - b. makes a determination whether the complaint should or should not be considered by the Board.
32. If the investigator determines the complaint should not be considered by the Board, the parties are informed and the file is closed.
33. If the investigator determines the complaint should be considered by the Board, the matter is set down for a hearing.
34. The investigator's determination on whether or not a complaint should be considered by the Board is final.

Board hearings

35. If the investigator determines that a complaint should be considered by the Board, the Board must hold a hearing.
36. All hearings take place before a quorum of five Board members.
37. Hearings are open to the public unless the Board orders otherwise.
38. Hearings are usually conducted at the Board's offices in Wellington.
39. The Board may appoint an independent lawyer as a legal advisor to advise it on matters of law and procedure in relation to the hearing.
40. All hearings are recorded.
41. Disciplinary charges against a practitioner are brought by the investigator, who is represented by a lawyer at the hearing.
42. A practitioner can:
 - a. be represented by a lawyer
 - b. represent themselves
 - c. be represented by a lay advocate, but only with the prior permission of the Board.
43. The Board will hold pre-hearing teleconferences with the parties before the hearing to make all necessary administrative arrangements for the hearing.
44. Either party can make pre-hearing applications to the Board, including for:
 - a. an adjournment
 - b. a change of venue
 - c. an exception to the Board's normal process.
45. In addition, the practitioner can also make the following pre-hearing applications:
 - a. representation by a lay advocate
 - b. interim and/or permanent name suppression.

46. Hearings are conducted in two stages with the Board considering whether or not the practitioner has committed an offence first and then considering what penalty to impose if the practitioner is found to have committed an offence.
47. In addition to imposing a penalty, the Board can order a practitioner who is found guilty of committing an offence to pay a contribution towards the costs of the investigation, prosecution and hearing.
48. A practitioner may plead guilty to a disciplinary charge before the hearing, but must do so in writing.
49. Where a practitioner pleads guilty, unless it has any concerns, the Board accepts the guilty plea and the hearing will only consider penalty.
50. The Board may summons any person to attend a hearing and give evidence, and/or produce any evidence relevant to the hearing.
51. All Board disciplinary decisions are given in writing and provided to the parties and the person who made the complaint.

Publication of decisions and orders

52. The Board publishes information about a practitioner who has been disciplined on the public register unless it grants a suppression order that extends to non-publication on the register.
53. The Board may publish information about a practitioner who has been disciplined in the *New Zealand Gazette* and any other publications it considers appropriate including in InfoBrief.
54. Board disciplinary decisions for the past three years are made available on the Board's website.
55. The Board may make suppression orders in respect of:
 - a. any report or account of any proceedings, whether held in public or private
 - b. the whole or any part of documents presented at the hearing
 - c. the name or particulars of the affairs of a respondent or any other person.
56. When considering whether or not to make an order prohibiting publication of information about a hearing, the Board takes into account the public interest and the interests of any person concerned.
57. The Board usually only publishes information about a disciplinary hearing after the expiry of the 20 day appeal period for the hearing and then only if no appeal has been brought.
58. All media communications about disciplinary matters other than those directed by the Board under section 120 of the Plumbers, Gasfitters, and Drainlayers Act 2006 are made by the Chief Executive/Registrar in accordance with the Board's Media policy.