

Property Managers Institute of New Zealand

Complaints Procedure

Review protocol

Policy reviewed and approved by:	Date Implemented:	Next Review Date:
Adopted by PROMINZ Council	November 2020	November 2021

Introduction

The Property Managers Institute of New Zealand (PROMINZ) is committed to setting and promoting higher standards in residential property management. The mission of PROMINZ is to:

- Raise industry standards through innovation, education, communication, and sharing best practice advice from trusted, and experienced operators;
- Instil confidence by promoting fairness with a robust code of ethics, membership rules, common sense public advocacy, and advancing a culture that encourages continuing professional growth and development;
- Celebrate excellence, recognising hard work, and providing a modern toolbox to ensure property managers are equipped for the unique challenges they face.

Issues between a property manager and their client can unfortunately occur from time to time. These are often issues around communication or expectations. If you feel you have received unsatisfactory service from a PROMINZ member or they have acted in an unprofessional or unethical manner which is in breach of the PROMINZ code of ethics, you can submit a formal complaint to PROMINZ.

Anyone can make a complaint to PROMINZ. If the person who wishes to lodge a complaint is unable to do this themselves (e.g. they would find the process too stressful or would have difficulty articulating the complaint), a family member or other support person can act on their behalf as long as this is indicated as part of the complaint and authorisation is given to PROMINZ to communicate with the support person on behalf of the complainant.

The PROMINZ complaints process enables complaints to be raised about PROMINZ members with the objective of ensuring that professional standards are maintained and the PROMINZ code of ethics is adhered to. The PROMINZ complaints process does not provide for financial penalties against PROMINZ members or the awarding of costs or financial redress to complainants.

First steps

If you wish to make a complaint about a PROMINZ member, the first step you need to take is to complain directly to the property manager concerned. If they do not reply, they do not resolve your complaint within 15 working days or you are not satisfied with their reply, then you may be able to bring your complaint with PROMINZ. Where a complaint does not fall within PROMINZ's scope (e.g. it is not about a PROMINZ member or it is not within the scope of the PROMINZ code of ethics) you may be given advice or guidance as to other relevant bodies that may be appropriate to refer your concerns to.

Laying a complaint with PROMINZ

PROMINZ can only consider complaints about an individual PROMINZ member. You can contact PROMINZ to check if a property manager is a member. PROMINZ is unable to investigate complaints about a company or practice that members are employed by or associated with.

You should then review the PROMINZ code of ethics and identify which part of the code you are alleging that the member has breached. All complaints will be assessed against the code of ethics and the evidence you provide to support the alleged breach so it is important that a complaint is made on the basis that a PROMINZ member has breached the code and has not just done something you don't like.

You can then complain to PROMINZ outlining:

1. Who your complaint is about
2. What your complaint is about
3. What part of the PROMINZ code of ethics is alleged to have been breached and any supporting evidence you have that substantiates the allegation
4. What communication you have had with the member about the issue and what their response has been
5. What outcome you would like as a result
6. Your details or the details of your support person (full name, contact details)
7. Personal information disclosure authorisation (see below)

All complaints should be made in writing, preferably electronic, to admin@prominz.org.nz. Alternatively, your complaint can be addressed to PROMINZ, Level 3, Gleneagles Building, 69 The Terrace Wellington 6011, New Zealand. Once your complaint has been received, you will receive an acknowledgement of your complaint along with detail of the process and timescale for reviewing your complaint.

There is no fee to lodge a complaint.

Complaint disclosure and right of reply

When a complaint is received, and after the PROMINZ president (or nominated representative) has checked that the complaint is related to the code of ethics and that the individual being complained about is a PROMINZ member, the complaint is referred to the PROMINZ complaints board and an investigation is started. The first step that the complaints board will take in its investigation will be to seek a response to the complaint from the member.

To ensure a fair and transparent process and, in accordance with the principles of natural justice, details of the complaint including the name of the complainant are disclosed to the member. At the time of lodging the complaint the complainant will be required to provide PROMINZ with authorisation to disclose their name and complaint particulars to the member so that the PROMINZ member can undertake a full review of the case particulars. If the complainant does not give PROMINZ authorisation to disclose the complaint particulars, the complaint will not be processed or put forward for investigation.

Each party will be given a right of reply. This means that the PROMINZ member will see the full complaint and the complainant will be provided with the member's response to the complaint for comment.

Complaint investigation process

Once a complaint is received, the PROMINZ president (or nominated representative) will undertake an initial assessment of the complaint to determine that the complaint is within the remit of the code of ethics and that the complaint is about a PROMINZ member. Should the initial assessment determine that the complaint is in-scope then the complaint will be referred to the PROMINZ complaints board for investigation. If the initial assessment determines that the complaint is not in-scope or is not about a PROMINZ member the PROMINZ president or nominated representative will write to the complainant outlining why the complaint cannot be considered by PROMINZ and referring the complainant to any other bodies that may be appropriate.

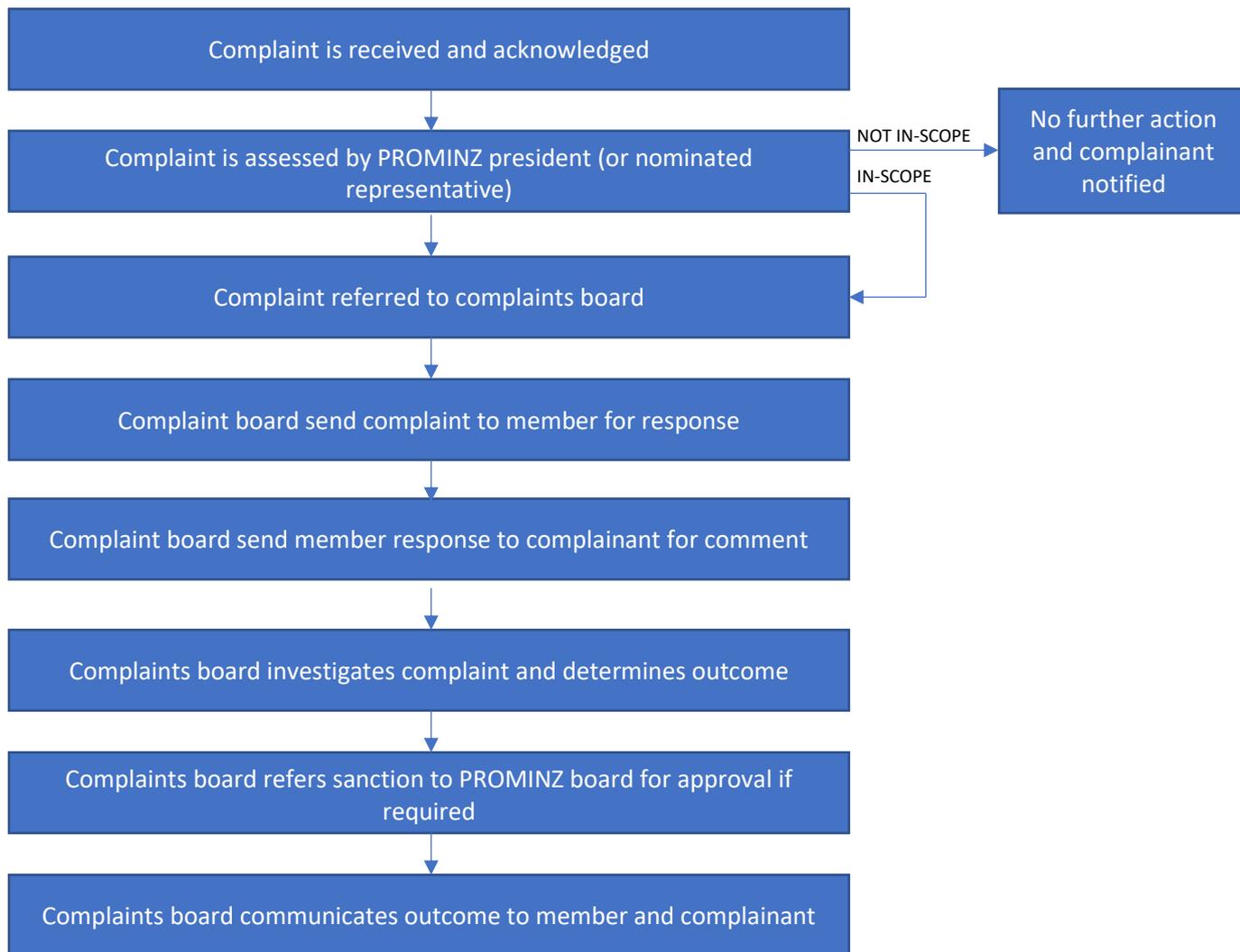
The complaints board is made up of three members – two PROMINZ members or retired members and one independent member from one of the other PINZ communities. One of the PROMINZ members will be appointed as chair of the complaints board.

The role of the complaints board is to investigate complaints about alleged breaches of the PROMINZ code of ethics. In investigating the complaint, the complaints board may make any such investigations or request any evidence that they require in order to reach a decision. The complaints board may also choose to speak with the member and/or complainant if they consider this necessary to clarify any aspects of the complaint. In most cases, the complaint board will investigate a complaint remotely using electronic communication but they may choose to hold physical meetings if they consider this necessary. The complaints board make the final decision on the outcome of the investigation and on any sanction, except in circumstances where the sanction is the downgrade, suspension or cancellation of membership. In these cases, the complaints board will refer the matter to the PROMINZ board for approval of the sanction.

The time an investigation takes to complete depends on its nature and complexity. Straightforward complaints are expected to be concluded within 30 working days. Complaints of a complex nature and/or cases that require information from third parties may take longer. In these situations the complaints board will keep the complainant updated on the progress of the investigation.

Legal representation is not required to make a complaint and, in most instances, complainants are not represented by legal counsel. However, complainants are entitled to have legal representation at their own cost should they wish.

Complaint process flowchart



Complaint outcomes

If the complaints board determines that there has been a breach of the PROMINZ code of ethics there are a number of outcomes, remedies and sanctions available to the complaints board, depending on the nature and severity of the transgression. These include:

- Complaint dismissal - no further action
- Complaint dismissal - guidance to complainant for referring the complaint elsewhere
- Complaint upheld - requirement that the member makes an apology to the complainant
- Complaint upheld - requirement that the member undertakes specific training or continuing professional development
- Complaint upheld - warning and/or reprimand to the member
- Complaint upheld - downgrade of member status
- Complaint upheld - suspension of the member until the identified deficiencies have been resolved
- Complaint upheld - cancellation of membership

Appeal

The decision of the PROMINZ complaints board is binding. Complainants have no right of appeal against the outcome of a complaint investigation. PROMINZ members may only appeal if the outcome is the downgrade, suspension or cancellation of membership. In these cases the PROMINZ appeals process can be engaged.

The request for an appeal shall be made in writing to the PROMINZ president within 10 working days of the complaints board's written decision. Should an appeal be received, the PROMINZ president will refer the appeal to the PROMINZ appeal board.

The PROMINZ appeal board is made up of four members – two PROMINZ members or retired members, one independent member from one of the other PINZ communities and one legal professional. One of the PROMINZ members will be appointed as chair of the appeals board. The appeal board is independent of the complaints investigation process and no appeal board member shall have had any involvement in the investigation of a complaint.

Appeals can only be heard on the following grounds:

- The proper procedures have not been followed;
- There is new evidence of sufficient substance that affects the decision;
- Evidence provided to the complaints board has been misinterpreted to the extent it has affected the decision;
- The decision is against the weight of evidence;
- It is in the interests of natural justice that the matter be reheard.

Upon referral of an appeal, the appeal board will write to the member requesting them to submit their written appeal along with evidence to support the grounds for appeal as outlined above. Only information that was provided through the complaint investigation will normally be considered. Should new evidence be submitted this must be declared and must only be evidence that was not available at the time of the complaint investigation and must be accompanied by an explanation.

The appeal board will review the case file, the outcome from the complaints board and the member's appeal submission. The appeal board will endeavour to complete the review within 30 working days but, should the appeal board decide that further information is required from either party, the board can defer any decision until that information has been satisfactorily provided.

The appeal board has the power to deliver one of three possible decisions:

- To reject the member's appeal and maintain or increase the sanction;
- To uphold the member's appeal and reduce or overturn the sanction;
- To uphold the member's appeal on the basis that there was a defect in the earlier stages of the complaint process. In these cases, the appeal board will ask PROMINZ to arrange a complete rehearing of the complaint by a new complaints board.

In returning an outcome, the appeal board will ensure that the reasons for the decision are clear and based upon the evidence and not assumptions about the case.

If an appeal is rejected, the member has no further right of appeal under PROMINZ procedures. This would conclude the complaint and no further correspondence or communication from either party would be considered.

Costs

Where a complaint is dismissed in full, PROMINZ will bear the costs of the complaint investigation. Where any part of a complaint is upheld, the PROMINZ member will be liable for the full costs of the investigation.