



Mercury Bay Game Fishing Club (Inc)  
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## **POLICY: DISPUTE RESOLUTION**

### **RATIONALE**

Successful governance is achieved when systems are in place to ensure all members are treated fairly and equitably, while maintaining the integrity of the Club. Natural justice means members must be treated fairly, and decisions affecting their rights are made using fair processes.

### **GUIDELINES**

#### **1. How a complaint is made**

1. A member or an officer may make a complaint by giving to the committee (or a complaints subcommittee) a notice in writing that —
  - a. states that they are starting a procedure for resolving a dispute in accordance with the Club's constitution; and
  - b. sets out the allegation to which the dispute relates and whom the allegation is against; and
  - c. sets out any other information reasonably required by the Club.
2. The Club may make a complaint involving an allegation against a member or an officer by giving to the member or officer a notice in writing that —
  - a. states that the Club is starting a procedure for resolving a dispute in accordance with the Club's constitution; and
  - b. sets out the allegation to which the dispute relates.
3. The information given under sub clause 1b. or 2b. must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.
4. A complaint may be made in any other reasonable manner permitted by the Club's constitution.

#### **2. Person who makes complaint has right to be heard**

1. A member or an officer who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.
2. If the Club makes a complaint —
  - a. the Club has the right to be heard before the complaint is resolved or any outcome is determined; and
  - b. an officer may exercise that right on behalf of the club.
3. Without limiting the manner in which the member, officer, or Club may be given the right to be heard, they must be taken to have been given the right if —
  - a. they have a reasonable opportunity to be heard in writing (or oral hearing if one is held); and
  - b. an oral hearing is held if the decision maker considers that one is needed to ensure an adequate hearing; and
  - c. any oral hearing or written statement or submissions are considered by the decision maker.

#### **3. Person who is subject of complaint has right to be heard**

1. This clause applies if a complaint involves an allegation that a member, an officer, or the Club (the respondent) —
  - a. has engaged in misconduct; or

- b. has breached, or is likely to breach, a duty under the club's constitution or bylaws or the Incorporated Societies Act 2022; or
  - c. has damaged the rights or interests of a member or the rights or interests of members generally.
2. The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
  3. If the respondent is the club, an officer may exercise the right on behalf of the society.
  4. A respondent must be taken to have been given the right if —
    - a. They are fairly advised of all allegations concerning them, with sufficient details and time given to enable them to prepare a response; and
    - b. they had a reasonable opportunity to be heard in writing (or oral hearing if one is held); and
    - c. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
    - d. any oral hearing or written statement or submissions are considered by the decision maker.

#### **4. Investigating and determining dispute**

1. The Club must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with its constitution, ensure that the dispute is investigated and determined.
2. Disputes must be dealt with under the constitution in a fair, efficient, and effective manner.

#### **5. Club may decide not to proceed further with complaint**

Despite clause 4 above, the Club may decide not to proceed further with a complaint if —

- a. the complaint is trivial; or
- b. the complaint does not appear to disclose or involve any allegation of the following kind:
  - i. that a member or an officer has engaged in material misconduct:
  - ii. that a member, an officer, or the club has (or is likely to) materially breach, a duty under the society's constitution or bylaws or the Incorporated Societies Act 2022:
  - iii. that a member's rights or interests have been materially damaged:
- c. the complaint appears to be without foundation or there is no apparent evidence to support it; or
- d. the person who makes the complaint has an insignificant interest in the matter; or
- e. the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the constitution; or
- f. there has been an undue delay in making the complaint.

#### **6. Club may refer complaint**

1. The Club may refer a complaint to —
  - a. a subcommittee or an external person to investigate and report; or
  - b. a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.
2. The Club may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).

#### **7. Decision makers**

A person may not act as a decision maker in relation to a complaint if 2 or more members of the committee consider that there are reasonable grounds to believe that the person may not be —

- a. impartial; or
- b. able to consider the matter without a predetermined view.

## **CONCLUSION**

A consistent and robust Dispute Resolution process will ensure conflicts are resolved swiftly and effectively, ensuring the Clubs ethics and longevity are protected.

Signed \_\_\_\_\_ Date \_\_\_\_\_ Club President