

FINZ Complaints Process

The fundamental goal of this Complaints Process is to promote best practice and encourage ethical behaviour by members of the Fundraising Institute New Zealand (FINZ).

The principles that the Complaints Process seeks to apply are:

Fairness	the process should be fair to all parties.
Accountable	the process should report outcomes of hearings and give reasons for its decisions.
Accessible	the process should be available to members and the public, in plain language, at no cost.
Efficient	the process should be conducted in a timely manner with adequate assistance provided to complainants and defendants to help them prepare and defend a complaint.
Effective	the process should provide sanctions appropriate to an offence committed and provide an opportunity to monitor such sanctions.
Professional integrity	the process should be adequately resourced and ensure sanctions are seen to be effective and enforceable.
Data collection	the process should provide for collection and analysis of complaint data.
Process review	the process should be reviewed periodically to ensure the FINZ Codes and Standards of Fundraising Practice are effective and complaints are handled efficiently.

1. To whom does this Complaints Process apply?

- 1.1 Any person may contact FINZ with a query in relation to the Codes and Standards of Fundraising Practice without resorting to the complaints process. Such an inquiry may clarify whether a complaint is warranted in relation to particular activities or actions of a FINZ member and whether these activities or actions constitute a possible breach of the Codes and Standards of Fundraising Practice.
- 1.2 A FINZ member is encouraged to self- report possible breaches of the Codes and Standards of Fundraising Practice and seek assistance from the CEO in relation to remedying the breach.
- 1.3 Any person may lodge a complaint under the complaints process alleging a breach of the Codes and Standards of Fundraising Practice by a FINZ Member. The person lodging the complaint need not be a member of FINZ.
- 1.4 The complaints process neither replaces nor overrides any rights available to a person by law, subject to section 1.5.
- 1.5 FINZ members acknowledge that they have:
 - a) no right of action in any court or jurisdiction;
 - b) no right to damages or any form of compensation or indemnity;as against FINZ or any officer of FINZ as a consequence of:
 - c) any costs of any nature which the FINZ member may incur (including, but not limited to, legal costs) in answering a Complaint;
 - d) any losses or damages of any nature which the FINZ member may incur directly or indirectly due to the Ethics Committee making a finding of Unsatisfactory Conduct or Professional Misconduct as against that FINZ member.

2. Definitions

Appeals Officer (AO)	means a person appointed by the FINZ Council to conduct an appeal under the FINZ Complaints Process.
Beneficiary	means any person or entity which receives a benefit from an organisation in pursuance of the organisation's objects.
CEO	means the Chief Executive Officer of FINZ.
Child or Children	means a child under the age of 18.
Company	means an entity incorporated under the Companies Act 1993 and established for the purpose of profit.
Complaint	means a notice in writing sent by any person to FINZ, by way of a completed FINZ Complaints Form, concerning an alleged breach by a FINZ member of any part of the FINZ Codes and Standards of Fundraising Practice.
Complainant	means a person who makes a complaint to FINZ.
Director	means a person who is appointed or elected to the position of a director of an organisation or a company.
Donation	means a voluntary contribution by a donor of money, property, goods or services to an organisation for the purpose of furthering that organisation's objects. It does not include a sponsorship or community business partnership.
Donor	means an individual or other entity that makes a contribution of value to an organisation to further the organisation's objects. A donor includes prospective donors and an individual or entity that has previously made a donation. A donor does not include an individual or entity that engages with an organisation for the purpose of trade.
Ethics Committee	means a committee established by the FINZ Council pursuant to the constitution for the purposes of investigating and making determinations on complaints.
FINZ	means Fundraising Institute of New Zealand.
FINZ member	means a person or organisation who is registered as a FINZ member.
Fundraiser	means a person, company or organisation, who carries out activities, whether for remuneration or as a volunteer, for the purpose of raising donations for the objects of an organisation.
Fundraising Activity	means an activity carried out by a person, company or organisation, whether for remuneration or as a volunteer, for the purpose of raising funds for the object of an organisation.
Objects	means the objective, purpose or cause, however so defined in an organisation's constituent documents.
Organisation	means an entity incorporated under New Zealand legislation and established for a purpose other than profit.

Professional Misconduct	means conduct by a FINZ member that is a violation of the Codes and Standards of Fundraising Practice that has serious adverse consequences to a complainant or was committed intentionally by the fundraiser or both.
Promotional Material	means any material in connection with a donation, fundraising activity or an organisation whether in printed, electronic or verbal form made available by a fundraiser or organisation to any person.
Sponsor	means a third party who sponsors a fundraising activity for an agreed outcome.
Stage 1	means the procedure set out in sections 3.2 to 3.16 inclusive of the Complaints Process.
Stage 2	means the procedure set out in 3.17 to 3.20 inclusive of the Complaints Process.
Stage 3	means the procedure set out in 3.21 to 3.40 inclusive of the Complaints Process.
Subject Member	means a FINZ member who is alleged to have breached the Codes and Standards of Fundraising Practice and is the subject of a complaint.
Supplier	means a third party supplying goods or services for payment to a fundraiser and/or organisation.
Tax	means all taxes payable in connection with a fundraising activity, including without limitation income tax, pay as you earn (PAYE) and goods and services tax (GST).
Trade Mark	means a word or group of words, logo, image, colour, scent or shape (whether registered or unregistered) used by an organisation to identify the organisation.
Unsatisfactory Conduct	means conduct by a FINZ member that is neglectful of the Codes and Standards of Fundraising Practice or that has minor adverse consequences to a complainant or both.
Volunteer	means a person who performs a service for an organisation without requiring compensation for performing the service.

3. FINZ Complaints Process

- 3.1 If a person wishes to make a complaint about the conduct of a FINZ member, the process in sections 3 and 4 applies. The process is set out in diagrammatic form in Appendix 1 for the guidance of FINZ members and others. To avoid doubt, if there is a conflict between sections 3 and 4 of the Complaints Process and Appendix 1, sections 3 and 4 of the Complaints Process prevail over Appendix 1. The process is in 3 stages: Stage 1 *Lodging a Complaint and Initial Processing of a Complaint*, Stage 2 *Investigation of a Complaint* and Stage 3 *Review and Hearing of a Complaint* as defined in the Complaints Process.

Stage 1

Lodging a Complaint

- 3.2 A Complaint must be in writing and contain sufficient details to enable FINZ to identify the complainant, the subject member and the nature of the complaint. The complainant shall complete and sign a complaint form (located at Appendix 2) and is required to indicate on the complaint form, the parts of the Codes and Standards of Fundraising Practice alleged to have been breached.
- 3.3 In lodging a complaint, the complainant accepts that (s)he may be required to explain and answer questions in relation to the complaint in the presence of the subject member. The purpose of this requirement is to discourage frivolous or vexatious complaints and enable the subject member an opportunity to be heard in relation to the allegations made against him/her.
- 3.4 If the complaint concerns Unsatisfactory Conduct, it must be lodged within three (3) years of the alleged breach of a Code or Standard of Fundraising Practice.
- 3.5 If the complaint concerns Professional Misconduct, it may be lodged at any time after an alleged breach of a Code or Standard of Fundraising Practice.

Initial processing of a Complaint

- 3.6 The Complaint will be directed to the CEO who:
- a) must acknowledge the complaint to the complainant within 14 days of receiving the complaint;
 - b) may request further information from the complainant if the CEO considers it necessary for the resolution of the complaint;
 - c) if there is insufficient information to warrant investigation, will reject the complaint;
 - d) if there is sufficient information to warrant investigation, shall refer the complaint to the subject member within 28 days of receiving the complaint, or further information, whichever is the latter.
- 3.7 The CEO will provide to the subject member a copy of the Codes and Standards of Fundraising Practice, the actual complaint and further information obtained pursuant to 3.6 b.

- 3.8 If any party has any questions in relation to the complaint prior to the review by the Ethics Committee, these questions will be put to the CEO in writing within 14 days of receiving the documents referred to in section 3.7.
- 3.9 The subject member may respond to the complaint by writing to the CEO, and if (s)he chooses to do so, shall submit his/her response within 28 days of receiving the complaint, or such longer time as notified by the CEO to the subject member if further information is required from the complainant under section 3.6(b). If the subject member does not respond to the complaint within the permitted time, the CEO shall continue the complaint process and ensure the subject member is informed of the outcome.

Investigation of a Complaint

- 3.10 The CEO shall investigate the complaint in such manner as (s)he deems appropriate and may delegate investigation of the complaint to FINZ staff members.
- 3.11 Within 30 days of receiving the subject member's response to the complaint (or such longer time as the CEO deems necessary), the CEO shall:
- a) review and investigate the complaint,
 - b) make a preliminary assessment of the complaint;
 - c) seek such further information as may be necessary;
 - d) attempt to resolve the complaint with the complainant and subject member and in so doing may use means including but not limited to informal settlement conference and mediation.

Any member of the Ethics Committee who takes part in an attempt to resolve the complaint by such means described in 3.11(d) shall not take any further part in relation to the hearing of the complaint.

- 3.12 In conducting the investigation, the CEO may deal with the complaint summarily as set out within stage 2.
- 3.13 If the CEO makes a finding that the complaint is without substance, the CEO shall:
- (a) dismiss the complaint summarily, and
 - (b) report the dismissal to the Ethics Committee.
- 3.14 A complaint concerning Unsatisfactory Conduct may be resolved by either of the following procedures:

- a) by written agreement between the complainant and the subject member; or
 - b) if, with the consent of the complainant, the subject member undertakes in writing to FINZ to take corrective action at the subject member's expense including compulsory attendance at an FINZ seminar, appropriate counselling or undergoing some other undertaking as determined by the CEO to resolve the complaint.
- 3.15 If both the complainant and the subject member are satisfied with the resolution to the complaint, and acknowledge their satisfaction in writing to the CEO, the complaint will be deemed to have been resolved between them.,
- 3.16 When a complaint is resolved under section 3.15, the CEO will report the complaint and its resolution to the Ethics Committee.

Stage 2

Investigation of a complaint by the Ethics Committee

- 3.17 The CEO shall refer complaints to the Ethics Committee for review and hearing in the following circumstances:
- (a) Subject to section 3.19, if the complaint concerns Professional Misconduct, or
 - (b) if the complaint concerns Unsatisfactory Conduct and is not resolved under section 3.14, or
 - (c) if the subject member fails to respond to the complaint under section 3.9.
- 3.18 If a complaint concerns Professional Misconduct, it cannot be withdrawn after been made by the complainant. FINZ will retain all documents provided to it by the complainant to facilitate the CEO's investigation and for the information of the Ethics Committee to facilitate the Ethics Committee's review and determination of the complaint.
- 3.19 If the CEO makes a finding of Professional Misconduct which involves a potential criminal component (including but not limited to fraud, embezzlement, theft or illegal sexual activity), the CEO shall:
- (a) refer the complaint to the police for further investigation, and
 - (b) revoke the membership of the subject member.
- 3.20 A failure by the subject member to co-operate with investigations by or on behalf of the CEO or the Ethics Committee may constitute either Unsatisfactory Conduct or

Professional Misconduct, depending on the CEO's assessment of the nature of the complaint.

Stage 3

Review and hearing of a Complaint by the Ethics Committee

- 3.21 When a complaint is referred to the Ethics Committee, the CEO will provide the following information about the complaint to the Ethics Committee:
- a) the complaint;
 - b) the subject member's response to the complaint; and
 - c) the outcome of the CEO's investigation of the complaint, together with any relevant documents.
- 3.22 The Ethics Committee may:
- (a) seek legal advice in relation to the handling of the complaint,
 - (b) (if the CEO has not already done so under clause 3.19) refer the complaint to a government agency (such as the Police) where appropriate;
 - (c) defer the review of a complaint where legal proceedings have commenced pending the outcome of those proceedings.
- 3.23 The CEO will notify the complainant and the subject member of the time and date at which the Ethics Committee will review the complaint and the parties shall inform the CEO of their intention to attend the review at least two (2) days prior to the date scheduled for the review. Parties may attend the review in person or via telephone link or such other means as may be available and agreed (for example, by video link).
- 3.24 The complainant and the subject member will also be invited to produce documents and provide witness statements relevant to the complaint. A party producing documents to the Ethics Committee shall provide copies of those documents to the other parties.
- 3.25 The Ethics Committee must review the complaint as soon as practicable and may:
- a) determine the complaint; or
 - b) adjourn the complaint; or
 - c) refer the complaint to the CEO to undertake or arrange further investigation.

- 3.26 The Ethics Committee may adopt specific procedures for the review in order to provide a fair hearing. When the Ethics Committee reviews the complaint, the complainant and the subject member will have an opportunity to be heard and make submissions to the Ethics Committee.
- 3.27 The Ethics Committee and the subject member will have an opportunity to ask questions of the complainant. The Ethics Committee will also have an opportunity to ask questions of the subject member.
- 3.28 The review is not subject to formal rules of evidence and a transcript will not be made of the review. Parties have no right to legal representation at the review. However, the Ethics Committee may, at its absolute discretion, permit the parties to be legally represented.
- 3.29 The Ethics Committee may at its discretion or on application of one or more of the parties adjourn the review of the complaint under section 3.

Findings and disciplinary action

- 3.30 In relation to a complaint, by majority vote, the Ethics Committee may:
- a) dismiss the complaint; or
 - b) uphold the complaint and find that the conduct of the subject of the complaint constitutes Unsatisfactory Conduct; or
 - c) uphold the complaint and find that the conduct of the subject of the complaint constitutes Professional Misconduct.
- 3.31 If the Ethics Committee finds that there has been a breach of the Codes and Standards of Fundraising Practice resulting in a finding of either Unsatisfactory Conduct or Professional Misconduct, the complainant and subject member will be given an opportunity to make submissions as to the appropriate penalty to the Ethics Committee within a reasonable time before that issue is determined by the Ethics Committee.
- 3.32 Where the Ethics Committee makes a finding of Unsatisfactory Conduct against a subject member, it may impose on the subject member as it sees fit one or more of the following penalties:
- a) require a written undertaking to the Ethics Committee by the subject member to attend at the subject member's expense a FINZ seminar, appropriate

counselling or some other undertaking as determined by the Ethics Committee sufficient to resolve the complaint;

- b) issue a letter of reprimand to the subject member;
- c) issue a letter of censure to the subject member; and/or
- d) prohibit the subject member from holding office in FINZ.

3.33 Where the Ethics Committee makes a finding of Professional Misconduct against a subject member it may impose as it sees fit one or more of the following penalties:

- a) compulsory attendance at a FINZ seminar, counselling or some other undertaking as determined by the Ethics Committee sufficient to prevent the conduct of the subject of the complaint from re-occurring; and/or
- b) suspension of FINZ membership for a stated period; or
- c) cancellation of FINZ membership which means permanent expulsion from FINZ membership, including revocation of credentials, if applicable.

3.34. The Ethics Committee shall publish to the complainant and subject member within 14 days the determination and reasons for the determination.

- a) FINZ will make available a copy of the reasons for the determination to any FINZ member upon receipt of a written request and at the requesting member's expense.
- b) A complainant or subject member may request, by notice in writing to the Ethics Committee within three (3) days of receiving the determination, that his/her details be suppressed which shall be determined by the Ethics Committee in its discretion if the complaint concerns Unsatisfactory Conduct.
- c) The Ethics Committee cannot suppress identification if it makes a finding of Professional Misconduct.

3.35 In circumstances where a subject member's membership has been suspended or cancelled, FINZ may note this on its website but will not record details of the complaint or the reasons for the suspension or expulsion apart from the following:

- a) **Suspension** - "[Subject Member] is not currently a member of the FINZ. [Subject Member's] FINZ Membership was suspended due to a finding of the Ethics Committee of Professional Misconduct on [date]".

The above notation in relation to a suspension will remain for the period of suspension.

- b) **Cancellation** – “[Subject Member] is no longer a member of the FINZ. [Subject Member’s] FINZ Membership was cancelled due to a finding of the Ethics Committee of Professional Misconduct on [date]”

The above annotation will remain on the FINZ website indefinitely.

A FINZ member whose Membership has been cancelled will not be permitted to renew his/her membership at a later stage.

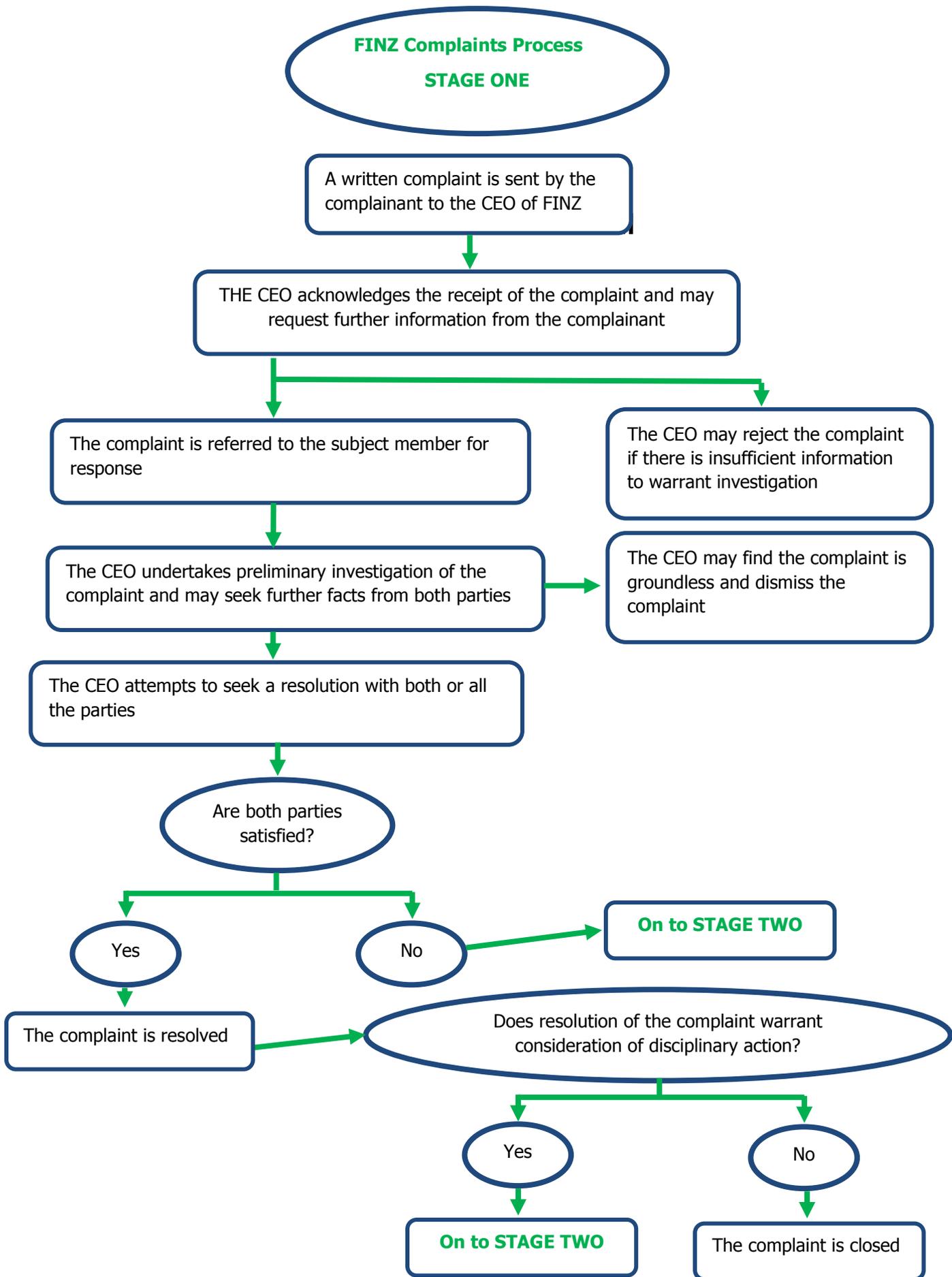
- 3.36 The Ethics Committee shall report to the CEO and the FINZ Council in relation to the activities and all inquiries of the Ethics Committee and the Complaints Process. This will be an agenda item of every meeting of the FINZ Council.
- 3.37 The Ethics Committee shall monitor compliance by a subject member with any penalty imposed against them under section 3.32 or section 3.33.
- 3.38 The Ethics Committee shall undertake a periodic review of complaints received under this complaints process every three (3) years to determine if amendments should be made to this complaints process.
- 3.39 FINZ shall keep records of all correspondence with a complainant and subject member and must keep that correspondence confidential and secure in accordance with the New Zealand privacy legislation.
- 3.40 Where a member of the Ethics Committee, the CEO or delegated representative is, or becomes aware that (s)he has an interest, whether business, financial or personal, that will make it difficult for him/her to discharge his/her duties under the complaints process or that may bring the complaints process into disrepute, (s)he must declare that interest and stand aside from the complaint process.

4. Appeals Process

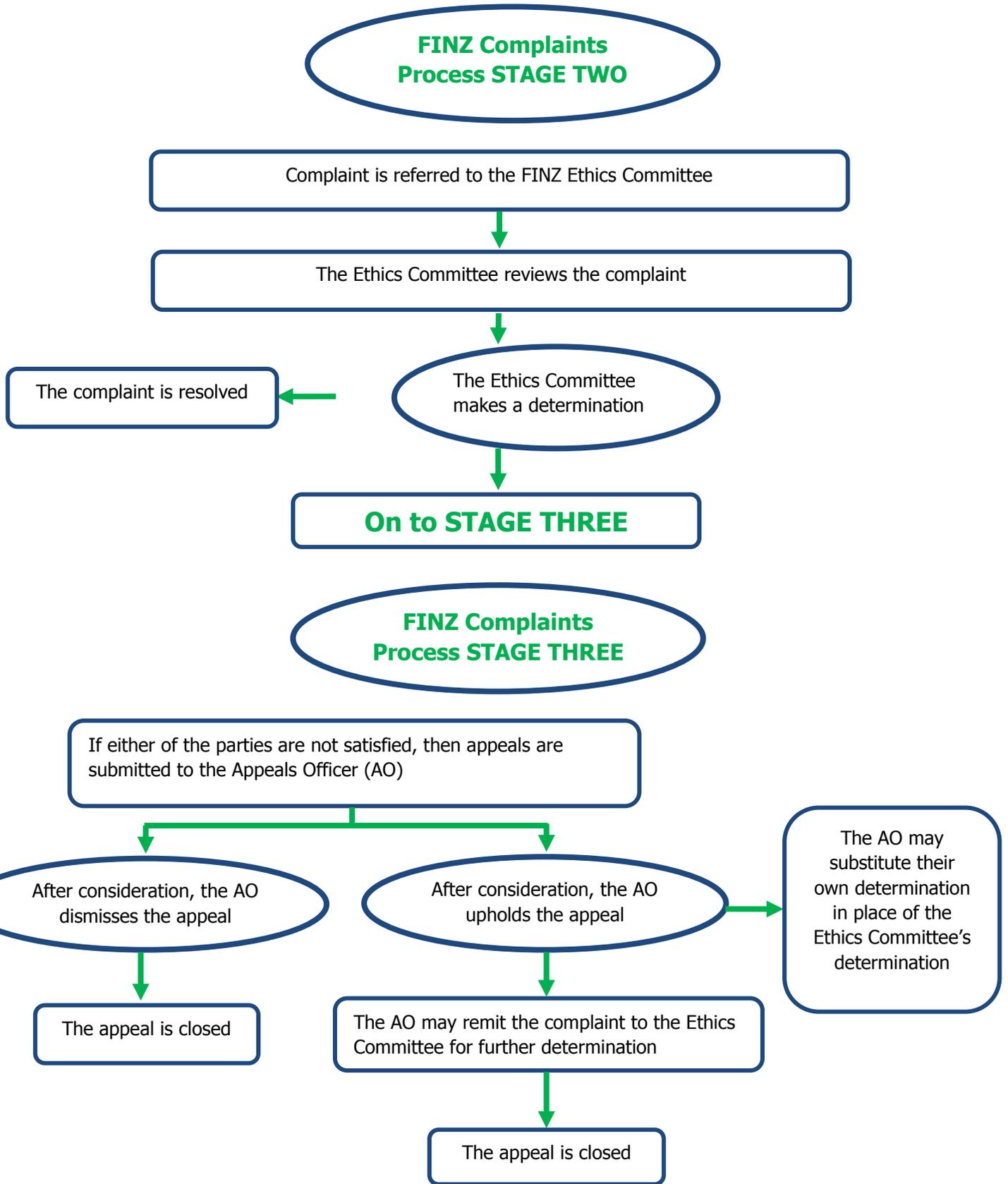
- 4.1 An appeal against a determination made by the Ethics Committee under section 3.32 or section 3.33 of the Complaints Process shall:
- a) be in writing;
- b) be addressed to the Appeals Officer;

- c) be lodged with FINZ within 28 days of notice of the determination by the Ethics Committee; and
 - d) state the grounds on which the appeal is made.
- 4.2 The grounds for an appeal by a complainant or subject member are limited to one or more of the following:
 - a) failure by the Ethics Committee to follow the complaint process, or criteria, policies or procedures published by the Ethics Committee;
 - b) a material error or omission of fact by the Ethics Committee; and/or
 - c) the severity of the penalty imposed.
- 4.3 The Appeals Officer must not be a member of the Ethics Committee or have taken part in the review and determination of the complaint which is being appealed.
- 4.4 The Appeals Officer shall make a determination either to:
 - a) dismiss the appeal; or
 - b) uphold the appeal.
- 4.5 Where the Appeals Officer determines to dismiss an appeal, no further action is required by FINZ or the Ethics Committee except to inform the complainant and subject member in accordance with section 4.7.
- 4.6 Where the Appeals Officer determines to uphold an appeal, he/she may:
 - (a) substitute his/her own determination for that of the Ethics Committee, or
 - (b) remit the complaint to the Ethics Committee for further determination as required with directions as to issues which require reconsideration.
- 4.7 The Appeals Officer shall inform the subject member, the complainant and the Ethics Committee of his/her determination and the reasons for the determination within 14 days.
- 4.8 The CEO shall report the outcome to the Ethics Committee.

Appendix 1: FINZ Complaints Process Flow Chart



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Appendix 1: FINZ’s COMPLAINTS FORM

Allegation of a breach of the FINZ Codes and Standards of Fundraising Practice

Details of the FINZ Member who is the subject of the Complaint

Name: _____

Address: _____

Email: _____

Phone: _____

Nature of the Complaint

Identify the parts of the Codes and Standards of Fundraising Practice that have allegedly been breached by the subject member. Please attach any documents and records which support your complaint.

Date of the conduct that is the subject of the complaint: _____

Details of the Complainant

Name: _____

Address: _____

Email: _____

Phone: _____

Are you a FINZ member? Yes/No

If yes, what is your member ID? _____

I affirm that, to the best of my knowledge, the information above is true, accurate and complete. I understand that this form and any documents that I provide to the Ethics Committee will be shown to the FINZ Member who is the subject of my complaint.

_____ Date: _____

Please mark CONFIDENTIAL and return this completed form and supporting documents to:
Chief Executive Officer, Fundraising Institute New Zealand, PO Box 11 203 Manners Street
Wellington 6142 or deliver to FINZ Level 2, Willbank House, 57 Willis Street, Wellington.