

## ADULT AND COMMUNITY EDUCATION AOTEAROA (INC)

'Kua tawhiti ko te haerenga mai, kia kore e haere tonu  
He tino nui rawa ou mahi, kia kore e mahi nui tonu.'  
'We have come too far, not to go further  
We have done too much, not to do more.'  
Ta Hemi Henare, 1988.

### 1. Name:

ADULT AND COMMUNITY EDUCATION AOTEAROA (ACE Aotearoa) INC.

### 2. Vision

*Ko te pae tawhiti whāia kia tata, ko te pae tata whakamaui kia tina  
Seek out distant horizons, and cherish those you attain*

Transforming Communities and Whanau through Adult and Community Education.

### 3. Mission Statement:

*“Ko te manu kai i te miro, nōna te ngahere. Ko te manu kai i te mātauranga nōna te ao.”  
“The bird who eats of the miro, the forest is theirs. The bird who eats of knowledge, the world is theirs.”*

Adult and Community Education Aotearoa (ACE Aotearoa) exists to enable life through learning, creating confident communities, actualising the intent of Te Tiriti o Waitangi.

### 4. Organisation Characteristics

ACE Aotearoa is a dynamic network of adult and community educators committed to a society based on Te Tiriti o Waitangi, a guiding framework that enables ACE Aotearoa to give due recognition to the status of Māori as Tāngata whenua, and Tāngata Tiriti as citizens of our shared country. It actively promotes and supports the diversity of lifelong learning in Aotearoa New Zealand and fosters collaboration and co-operation to the advantage of adult learners, educators and providers.

### 5. Values:

The Treaty driven and Treaty responsive values from which this Society operates are:

1. **Whakamanahia Te Tiriti o Waitangi:** enlivening Te Tiriti o Waitangi
2. **Whakamanahia te whanau/hāpori:** leadership in the sector and being inclusive
3. **Whakamanahia ngā taura tāngata:** building & developing enduring relationships
4. **Whakamanahia te iti kahurangi:** Excellence, high trust, high integrity, high quality
5. **Whakamanahia te tāngata ahakoa ko wai, ahakoa no hea:** Independence, respecting and reflecting diversity in the ACE Sector
6. **Whakamanahia ngā tirohanga:**....being aspirational, sharing dreams & connecting to achieve them

### 6. Objects:

The Objects of the Society will be exercised in accordance with the Values:

- 6.1 To utilise Te Tiriti o Waitangi as a guiding framework to represent all, and providing specific support to the voice of all iwi Māori of Aotearoa to redress issues of imbalance for the benefit of all New Zealanders;

- 6.2 To be a national umbrella organisation for adult learning in Aotearoa New Zealand.
- 6.3 To actively develop, promote and implement ACE-based professional development for tutors, providers, practitioners and organisers, in communities.
- 6.4 To develop, implement and maintain currency of ACE-based professional standards for tutors, providers, practitioners and organisers, in communities.
- 6.5 To encourage membership from the broadest range of people and organisations involved in adult and community education.
- 6.6 To support other specialist adult learning areas, networks and organisations, including educators, management, governance and administrative support, and foster co-operation and collaboration between these groups at local and national levels.
- 6.7 To remove barriers to learning for adults and to promote life-long learning opportunities and policies.
- 6.8 To foster inquiry, research, critical comment and publication of information to ensure the issues of the adult and community education sector are subject to informed debate.
- 6.9 To encourage opportunities for debate and discussion and professional development through the organisation of conferences, seminars and other training activities.
- 6.10 To support the recognition and celebration of International Adult Learners week as a national event in Aotearoa New Zealand.
- 6.11 To develop and maintain relations with international organisations in the field of adult and community education.
- 6.12 To operate as part of the world wide adult learning community, contributing to and working with our counterparts in UNESCO, ASPBAE and CONFINTEA.
- 6.13 To undertake such other functions as are in conformity with the objectives of the Society and are approved by the Society.

## **7. Membership:**

Membership shall be open to any individual, group or organisation in the following categories whose aims are in harmony with those of the Society:

### **7.1 Individual Membership**

Any person who is involved in the field of adult and community education may apply to the Board for membership by completing the membership application form or by applying in writing. The Board will consider the application against the following criteria and will approve membership if the criteria are substantially met:

- 7.1.1 (i) The individual has empathy with and commitment to the mission and objects of the Society.
- 7.1.1 (ii) The individual is, or has been, engaged in the provision of, or facilitating and supporting the provision of, adult learning/ education.

Individual membership will carry the following rights and responsibilities:

- 7.1.2 (i) Access to all membership rights in the Constitution or as may be decided from time to time by the Annual General Meeting;

- 7.1.2 (ii) Voting rights as per rule 13.1;
- 7.1.2 (iii) Agreement to abide by the Constitution.

## 7.2 Organisational Membership

Any group or organisation which is involved in the field of adult and community education may apply to the Board for organisational membership by completing the membership application form or by applying in writing. The purpose of organisational membership is to provide additional influence and support for the Society and the adult and community education sector. The Board will consider the application against the following criteria, and will approve membership if the criteria are substantially met:

- 7.2.1 (i) The organisation has a mission and objects which are consistent with and has a commitment to the mission and objects of the Society.
- 7.2.1 (ii) The organisation is engaged in the provision of, or facilitating and supporting the provision of, adult learning/ education

Organisation membership will carry the following rights and responsibilities:

- 7.2.2 (i) Access to all membership rights in the Constitution or as may be decided from time to time by the Annual General Meeting;
- 7.2.2 (ii) Voting rights as per rule 13.2;
- 7.2.2 (iii) Agreement to abide by the Constitution.

7.3 A register of members of the Society will be maintained by the Board (Secretary) in accordance with the provisions of the Incorporated Societies Act 2022.

## 8. Representation: Tāngata Whenua and Tāngata Tiriti

Tāngata Whenua and Tāngata Tiriti representation will have equal weight in respect of voting on the Board regardless of relative numbers present. There will be a Tāngata Whenua Caucus and a Tāngata Tiriti Caucus so that all members can raise and discuss freely and frankly issues of relevance to their particular communities, thereby ensuring that decisions made by the Society are fully informed.

### 8.1 Tāngata Whenua Caucus:

Māori members of the Society shall constitute membership of the Tāngata Whenua Caucus.

The roles and responsibilities of Tāngata Whenua Caucus are as follows:

- 8.1 (i) To elect members to the Board who are Tāngata Whenua, in accordance with rule 13.6.
- 8.1 (ii) To take responsibility for Treaty implementation of the Society's objectives.
- 8.1 (iii) To provide a consultative body for Tāngata Whenua members of the Board.
- 8.1 (iv) To provide an umbrella of relevant knowledge and wisdom and ensure tikanga is observed.
- 8.1 (v) To ensure the Society's policies, practices and communications reflect consistency with Te Tiriti o Waitangi.

## 8.2 Tāngata Tiriti Caucus:

Tāngata Tiriti members of the Society shall constitute membership of the Tāngata Tiriti Caucus.

The roles and responsibilities of Tāngata Tiriti Caucus are as follows:

- 8.2 (i) To elect members to the Board who are Tāngata Tiriti, in accordance with rule 13.6.
- 8.2 (ii) To take responsibility for Treaty implementation of the Society's objectives.
- 8.2 (iii) To provide a consultative body for Tāngata Tiriti members of the Board.
- 8.2 (iv) To provide collective knowledge and wisdom
- 8.2 (v) To ensure the Society's policies, practices and communications reflect consistency with Te Tiriti o Waitangi.

## 9. Cessation of Membership:

- 9.1 Members shall cease to be members if they submit their resignations in writing or have not paid their annual subscriptions within twelve months of the expiry of their last subscription.
- 9.2 A special General Meeting of the Society may terminate a member's membership if the member has been determined under the dispute resolution procedures set out in rule 9A and schedule 1 to these rules to have engaged in misconduct (which for the purposes of this rule includes acting in a manner contrary to the values and objects of the Society), breached a duty under this Constitution or damaged the rights and interests of members generally.

## 9A Dispute Resolution Procedures

- 9A.1 The procedures for resolving a dispute (as defined in section 38 of the Incorporated Societies Act 2022) are set out in schedule 1 to these rules and for the avoidance of doubt, schedule 1 is part of this Constitution.

## 10. The Society:

The controlling body is and shall be the Society constituted by these rules. The Society shall be the policy making body, and shall consist of the Board and the members. The role of the Society is to achieve the Vision and Mission Statements, Values and Objects as specified in rules 2, 3, 5 and 6.

## 11. Alterations to the Constitution:

- 11.1 The Constitution shall not be altered, added to, rescinded or replaced other than in accordance with the procedures set out in this rule.
- 11.2 If the matter is considered urgent, a Special General Meeting may be called for the purpose in accordance with rule 12.6.
- 11.3 Notwithstanding the above, an Annual General Meeting or a Special General Meeting or the Board may decide that the amendment shall be put to the members of the Society by way of a proposed written resolution to be passed in lieu of a meeting in accordance with rule 13.7.
- 11.4 Any proposed resolution to alter, add to, rescind or replace the Constitution shall be carried if two-thirds of the members of the Society present and voting at a meeting vote in favour of it or if 75%

of the members entitled to vote approve the proposed written resolution to be passed in lieu of a meeting.

- 11.5 The amendment shall come into force on the date it is registered with the Registrar of Incorporated Societies.
- 11.6 Notice of the proposed resolution shall be given in writing to the Secretary 40 days before the meeting at which it is to be tabled and notice of the proposed resolution shall be sent to all members at least 30 days before such meeting or if the proposed resolution is to be passed in lieu of a meeting, at least 30 days before the proposed resolution is sent to members in accordance with rule 13.7.
- 11.7 No alteration, addition, rescission or replacement shall be made that in any way affects the charitable nature of the Society.

## **12. Meetings of the Society:**

- 12.1 The Society shall meet at least once a year at the Annual General Meeting. For the avoidance of doubt, the Society may meet in person, by audiovisual link or any other electronic communication or a combination of both, all as described in section 87 of the Incorporated Societies Act 2022. For the purposes of rules 12.2 and 12.3, a member is present at a meeting if the member attends the meeting in person or electronically.
- 12.2 At all meetings of the Society any 20 members present, or 15% of membership, whichever is the greater, shall form a quorum. At any Society meeting where the members present do not form a quorum, no official business can be conducted unless rule 12.3 applies.
- 12.3 At any Society meeting where the members present do not form a quorum, the business for which the meeting was called may nevertheless be conducted as if the members present form a quorum if both of the following conditions are met:
  - 12.3.1 the Chair or Co-Chairs of the meeting seek the advice of the Society's legal counsel in attendance at the meeting and the Society's legal counsel advises that, taking into account all the circumstances, it would be in the interests of the Society to conduct the business for which the meeting was called; and
  - 12.3.2 at least two-thirds of the members present at the meeting resolve that it would be in the interests of the Society to conduct the business for which the meeting was called.
- 12.4 Any advice given by the Society's legal counsel pursuant to rule 12.3. must be confirmed in writing as soon as practicable and must set out the reasons for it.
- 12.5 An Annual General Meeting of the Society shall be held before 30 June each year, at which in addition to the election of the Board of the Society, a report of the Society's operations, duly audited statement of accounts for the year and notice of any disclosures made under section 63 of the Incorporated Societies Act 2022 (including a brief summary of the matters to which the disclosures relate) shall be presented. At least 40 days' notice shall be given in writing to members of each Annual General Meeting.
- 12.6 A Special General Meeting of the Society may be convened at any time by direction of the Board or on the written request signed by no fewer than 10 members specifying the object of the meeting. A Special General Meeting must be convened if the circumstances set out in section 64(3) of the Incorporated Societies Act 2022 apply. The meeting shall be convened within 40 days after receipt by the Board Secretary of the written request or, if the meeting is convened because the circumstances in section 64(3) apply, within 40 days of those circumstances applying. Notice

specifying the reason for the Special General Meeting shall be sent to members at least 30 days before the meeting.

- 12.7 Minutes must be taken of any meeting of the Society, and such minutes, once approved and adopted as a true and accurate record, are to be treated as conclusive proof or evidence of what occurred at that meeting. Following adoption of the Minutes, they cannot be altered, but any corrections may be made by later motion. The subsequent motion and the date of its adoption are to be noted in the margin of the Minutes being corrected.

### **13. Voting:**

- 13.1 Each individual financial member is entitled to one vote, which may be exercised by proxy submitted in writing to the Secretary not less than 10 days prior to the meeting or the commencement of the sending of a proposed written resolution to be passed in lieu of a meeting.
- 13.2 Each organisational financial member is entitled to one vote per organisation, which may be exercised by proxy submitted in writing to the Secretary not less than 10 days prior to the meeting or the commencement of the sending of a proposed written resolution to be passed in lieu of a meeting.
- 13.3 Such proxy votes, whether exercised under rule 13.1 or rule 13.2, are limited to remits circulated in advance of the meeting or the sending of the proposed written resolution to be passed in lieu of a meeting.
- 13.4 Decisions except election of Board members at Annual General Meeting: Decisions at all meeting of the Society except those decisions at an Annual General Meeting that result in the election of members to the Board shall be by consensus. If consensus cannot be achieved the decision will be made by majority vote. Such voting will be on the voices, or by the show of hands, or in case of doubt, or on request, by ballot.
- 13.5 Conflict in policy, priorities and/or processes will be resolved by negotiation between an equal number of representatives of Tāngata Whenua and Tāngata Tiriti.
- 13.6 Election of Board members at Annual General Meeting: The Tangata Whenua caucus may elect their Board members in accordance with any procedure decided by the caucus, including the procedures under rule 13.4. The Tangata Tiriti caucus may elect their Board members by consensus if no vote is required but if voting is required, voting shall be by ballot.
- 13.7 Written resolutions passed in lieu of meetings: An Annual General Meeting or a Special Meeting or the Board may decide to put any matter to the members of the Society by way of a proposed written resolution to be passed in lieu of a meeting in accordance with the procedures in this rule:
- 13.7.1 Upon such a decision being made, the Board shall appoint a returning officer and a scrutineer, independent of the Board, who shall be responsible for the conduct of the process and advise the returning officer in writing of the question to be decided.
- 13.7.2 The returning officer shall ensure that the proposed written resolution and supporting documents are transmitted to each member entitled to vote and that the proposed written resolution is dated with the date on which it is first transmitted (the circulation date) Transmission may be by ordinary mail, by facsimile, by email or other electronic means.
- 13.7.3 The supporting documents shall contain:

A statement that the proposed resolution will lapse if it is not passed within 21 days after the circulation date (or any other later date but no later than 3 months after the circulation date) (the closing date);

A statement that approval of the proposed resolution must be received by the closing date;

Instructions on how to approve the proposed resolution (whether by signing the resolution or by electronic means);

Instructions on the manner by which approval of the proposed resolution is to be notified to the returning officer.

13.7.4 The returning officer and the scrutineer shall count the approvals as soon as practicable after the closing date and declare and transmit the outcome to the membership. In particular, the returning officer must comply with section 92 of the Incorporated Societies Act 2022.

13.8 A resolution made at a meeting shall be carried by a simple majority unless otherwise provided by this Constitution and a written resolution made in lieu of a meeting shall be carried if it is approved by 75% of the number of members entitled to vote.

#### **14. Board:**

14.1 The affairs of the Society between Society meetings shall be controlled and managed by a Board.

14.2 The Board shall consist of eight members plus up to two members (if any) co-opted under rule 14.11. Four members shall be elected from the Tāngata Whenua Caucus and four members shall be elected from the Tāngata Tiriti Caucus, at least one of whom will be a Pasifika representative.

14.3 Members of the Board have equal status, full voting rights and commitment to decisions. The Co-Chairs (as appointed under rule 14.12) shall not, either individually or collectively, have a casting vote if there is a equality of votes.

14.4 For the purposes of continuity, institutional knowledge and member relationships, the term of an elected Board member is three years. Elections for Board members shall take place at an Annual General Meeting. Members of the Board may be re-elected for further terms but no Board member shall serve more than three consecutive terms.

14.5 Board members who have served three consecutive terms may be re-elected after standing down for at least three years.

14.6 The Board will approve a position description for Board members. The position description will be general and will list the wide range of skills/ experience relevant to the position of Board member. The position description and identification of impending or current vacant positions on the Board will be circulated to members at least 40 days before the Annual General Meeting with a request for nominations for candidates who would be available to fill those positions.

14.7 The process of nomination for the Board will enable flexibility. There will be two opportunities to make nominations. Nominations will be called for at least 40 days before the Annual General Meeting (AGM) and those received at least 30 days before the AGM by the Board Secretary will be circulated to all members at least 30 days before the AGM. A further call for nominations will be made at least 20 days before the AGM and those received at least 15 days before the AGM will be circulated to all members at least 15 days before the AGM.

- 14.8 Where there is an impending or current vacancy on the Board for a Pasifika representative as provided by rule 14.2 the Board Secretary must specify, in the calls for nomination, that nominations are required for that position.
- 14.9 Nominations must be fully completed on the official forms provided and will include a resume and statement of intent by each candidate focused on identifying the relevant skills which s/he will bring to the Board. Any candidate for the position of Pasifika representative must in addition identify why he or she would qualify to be elected to that position. Each candidate will also include a declaration of any existing interests or activities which might affect his/her ability to serve independently (objectively) on the Board.
- 14.10 In cases of casual vacancies or unfilled positions on the Board, the Board may decide whether, and how, the position will be filled with regard to balance and representation. The resume, statement of intent and declaration of interests of each member who so fills such a position will also be circulated to members for information.
- 14.11 The Board may co-opt up to 2 further persons with particular skills or expertise to serve on the Board whether or not there are casual or unfilled vacancies if the Board determines that such particular skills or expertise are necessary for it to carry out its purposes. Such co-opted Board members shall only serve until the Annual General Meeting following their co-option at which time their term of office ceases. Nothing prevents any co-opted Board member from being nominated for any vacancy on the Board and elected to the Board at an Annual General Meeting under rule 13.6.
- 14.12 The Board shall appoint two of its members – one from Tangata Whenua and one from Tangata Tiriti – as Co-Chairpersons, one of its members as Treasurer and the Chief Executive Officer of ACE Aotearoa (or his or her nominee) as the contact person for the Society. The Board may appoint any other of its members to any other office as it sees fit. The Secretary of the Board is the Chief Executive Officer of ACE Aotearoa who shall be present at meetings of the Board but is not a member of the Board.
- 14.13 The Board shall have full power to direct and manage all the affairs and business of the Society, including appointing sub-committees under rule 14.19 to authorise payment out of the funds of the Society of all accounts, and such disbursements as the Board may deem necessary for carrying on the work of the Society.
- 14.14 The Board shall record the proceedings of all meetings of the Board and of the Society, shall keep all other appropriate records, shall report on its actions to each Society meeting, and shall present an annual report to the Annual General Meeting.
- 14.15 The Board shall meet at regular intervals, preferably quarterly. At all meetings of the Board four members shall form a quorum unless the number of Board members is increased by way of co-option, in which case, five members shall form a quorum.
- 14.16 Within the boundaries of cost-effectiveness and overall affordability, Board members may be paid meeting fees (for kanohi ki te kanohi/ face to face meetings) / honoraria.
- 14.17 Contemporaneous linking together by telephone or by any other means of audible or electronic communication, of enough of the Board members to constitute a quorum shall be deemed to constitute a meeting of the Board so long as the following conditions are met:
- 14.17.1 The Board members must have received notice of the meeting under rule 14.15 and must constitute a quorum.



- 14.17.2 Each of the Board members taking part in the meeting must be able to hear or read or otherwise communicate seriatim with each of the other members taking part at the commencement of the meeting and, subject to a Board member leaving the meeting, throughout the meeting.
- 14.17.3 At the commencement of the meeting each of the Board members must acknowledge his or her presence to all the other Board members taking part in the meeting.
- 14.17.4 A Board member must not leave a meeting (whether by departing or by disconnecting his or her telephone or other means of communication) unless she/he has previously obtained the express consent of the chairperson of the meeting. A Board member shall be conclusively presumed to have been present and to have formed part of the quorum at all times during the meeting unless she/he has previously obtained the express consent of the Chairperson to leave.
- 14.17.5 There is a record made of the Board meeting (minutes or decision record) by a person present at the meeting.
- 14.18 If any case occurs which in the opinion of the Board is not provided for by this Constitution it shall be determined by the Board in such manner as it shall think fit. Such decision will be binding until the next Annual General Meeting, where it shall be presented to the Society for ratification.
- 14.19 The Board shall have full power to appoint subcommittees to progress the work of the Society.
- 14.20 All matters and questions to be discussed by the Board shall be decided by resolution of the Board members present at a meeting and such resolution shall be effective if passed by a majority.
- 14.21 In any case where a question or matter has to be decided by Board members present at a meeting in accordance with rule 14.20, a resolution in writing circulated to all Board members and signed by at least a majority shall be as effective as if it had been passed at a meeting. Such a resolution may consist of several like documents each signed by one or more of the Board members and may be transmitted by facsimile or other electronic means.
- 14.22 Any resolution of the Board members may be rescinded or varied from time to time by the Board in the same manner as it was passed.
- 14.23 The Board may remove a member from the Board if the Board determines, in accordance with the procedure set out in rule 14.24, that:
- (i) the member has acted in contravention of any of the duties and obligations imposed on committee members by the Incorporated Societies Act 2022 or
  - (ii) the member has acted in a manner contrary to the good governance of the Society or
  - (iii) the continued membership of the member of the Board would bring the Board into disrepute
- and it would be in the interests of the Society that the member is removed from the Board.
- 14.24 Before the Board makes a determination under rule 14.23, the Board must give the member the right to be heard in the manner provided by subclause 3(4) of schedule 1 to these rules and consistent with the rules of natural justice, and the Chairperson or Co-Chairpersons must certify that in making any such determination, the Board has sought and taken into account legal advice from the Society's legal counsel.

## **15. Powers:**

The Society will have the following powers:

- 15.1 To use its funds as the Board thinks necessary or proper in furtherance of its objectives and in payment of its costs and expenses, including the employment or dismissal of counsel, agents and staff, according to the principles of good employment and all legislative requirements.
- 15.2 To purchase, take on, lease or in exchange or hire or otherwise acquire any real or personal property and any rights or privileges which the Board thinks necessary or property for the purpose of attaining the objects of the Society and to sell, exchange, let, bail or lease, with or without option of purchase or, in any other manner, dispose of such property, rights or privileges.
- 15.3 To invest surplus funds in any way permitted by law for the investment of incorporated society funds and upon such terms as the Board thinks fit.
- 15.4 To make applications to funding bodies as the Board sees fit.
- 15.5 To do all things as may time to time be necessary or desirable to the Board to give effect to and attain the objects of the Society.

## **16. Control and Use of Common Seal**

- 16.1 The Common Seal of the Society shall be kept in the custody of the Secretary (Chief Executive Officer).
- 16.2 The Common Seal of the Society shall be used and signed by both Co-Chairs of the Board, or by one Co-Chair and the Chief Executive Officer, on the authority of the Board

## **17. Finance:**

- 17.1 The Society's financial year shall be from 1st January to 31st December of any calendar year.
- 17.2 The annual subscription for all categories of membership shall be determined from time to time by the Annual General Meeting.
- 17.3 The annual subscription as set at the Annual General Meeting is for the purposes of maintaining the business of the Society.
- 17.4 The annual subscription shall be payable within twelve months of the expiry of the previous annual membership fee. Only current financial full members shall be entitled to hold office or vote at any meeting.
- 17.5 The Board may waive or reduce the subscription of any members of the Society.
- 17.6 The Treasurer shall keep account of all monies received and expended by the Society and of the matters in respect of which such receipts and expenditure takes place.
- 17.7 Members of the Board and such other persons shall keep the accounts of the Society at such place as the Board may decide and shall be open for inspection as the Board may from time to time determine.
- 17.8 All accounts shall be audited and certified annual by an independent auditor who shall be appointed at each Annual General Meeting of the Society.

- 17.9 The funds of the Society shall be deposited in the name of the Society with a bank approved by the Board. All cheques and other documents in connection with the bank account shall be signed in such manner and by such persons as the Board shall from time to time determine.
- 17.10 The Treasurer shall be empowered to invest funds of the Society in such manner as is approved by the Board.

**18. Payments to Members:**

- 18.1 The Society will not be conducted for the profit of its members and no part of the income or assets of the Society will benefit any officer or other member of the Society.
- 18.2 Rule 18.1 does not prevent the payment of such expenses or remuneration to members and employees of the Society as the Board decides is reasonable and relative to open market value.
- 18.3 The provision and effect of this rule shall not be removed from this Constitution and shall be included and implied into any document replacing this document.

**19. Liquidation:**

- 19.1 A decision to appoint a liquidator must be made at a Special General Meeting of the Society. A resolution to appoint a liquidator must be passed by at least two-thirds of the members present and entitled to vote at the Special General Meeting.
- 19.2 The surplus assets of the Society upon its liquidation or its removal from the register shall be distributed to any entity or entities within Aotearoa New Zealand as are charitable according to the laws of New Zealand and whose purposes are consistent with the mission, objects and values of ACE Aotearoa and any resolution appointing a liquidator may specify such entities.
- 19.3 If the Special General Meeting cannot agree on the entities to which any surplus assets should be distributed, the surplus assets shall be distributed as a Judge of the High Court of New Zealand directs taking into account the criteria for such distribution.

## Schedule 1

### 1 How complaint is made

(1) A member or an officer (as defined in section 5 of the Incorporated Societies Act 2022) may make a complaint by giving to the Board (or a complaints subcommittee of the Board) a notice in writing that—

- (a) states that the member or officer is starting a procedure for resolving a dispute in accordance with the Society'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 Society.

(2) The Society 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 Society is starting a procedure for resolving a dispute in accordance with the Society's constitution; and
- (b) sets out the allegation to which the dispute relates.

(3) The information given under subclause (1)(b) or (2)(b) 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.

### 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 Society makes a complaint,—

- (a) the Society has a 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 Society.

(3) Without limiting the manner in which the member, officer, or the Society 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 at an oral hearing (if one is held); and
- (b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and

(c) an oral hearing (if any) is held before the decision maker; and

(d) the member's, officer's, or the Society's written statement or submissions (if any) 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 Society (the **respondent**)—

(a) has engaged in misconduct; or

(b) has breached, or is likely to breach, a duty under this Constitution 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 Society, an officer may exercise the right on behalf of the Society.

(4) Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if—

(a) the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and

(b) the respondent has a reasonable opportunity to be heard in writing or at an 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) an oral hearing (if any) is held before the decision maker; and

(e) the respondent's written statement or submissions (if any) are considered by the decision maker.

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

(1) The Board must, as soon as is reasonably practicable after receiving or becoming aware of a complaint, ensure that the dispute is investigated and determined in accordance with these procedures.

## **5 Board may decide not to proceed further with complaint**

(1) Despite clause 4, the Board 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 Society has materially breached, or is likely to materially breach, a duty under this Constitution or the Incorporated Societies Act 2022;
  - (iii) that a member's rights or interests or members' rights or interests generally 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 this Constitution; or
- (f) there has been an undue delay in making the complaint.

## **6 Board may refer complaint**

(1) The Board 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 Board may, if all parties to a complaint agree, refer the complaint to any type of consensual dispute resolution process agreed to by the parties (for example, mediation, facilitation, or a tikanga-based practice) and upon such referral, the complaint shall be resolved in accordance with that process.

## **7 Decision makers**

A person may not act as a decision maker in relation to a complaint if 2 or more members of the Board or a complaints subcommittee 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.