

ASSOCIATION OF CHRISTIAN RELIGIOUS PRACTITIONERS (ACRP)

DISCIPLINARY POLICY AND PROCEDURES

1. Lodgement of Complaint

1.1 Any person (hereinafter “the Complainant”) may, in writing, lodge a complaint to the Secretary of the ACRP (hereinafter “the ACRP” or “the Professional Body”) against any religious practitioner who is an affiliate of the ACRP (hereinafter “the accused”) for conduct that contravenes the ACRP Ethical Values and Standards (hereinafter “unprofessional conduct”). A Complainant may be a member of the leadership of the church or ministry which the Accused is a part of, a fellow affiliate of the ACRP or a member of the public. It is specifically recorded that the Professional Body can only carry out the disciplinary processes contemplated herein if the Accused is an affiliate of the Professional Body.

1.2 A complaint must set out in full the nature of the complaint, the circumstances leading to the complaint, the specific unprofessional conduct which the Accused is alleged to have committed and such other information and documentation as would be essential in providing more understanding of the complaint. If, in the opinion of the Secretary in consultation with the Chair of the Ethics and Disciplinary Committee, the conduct complained of is frivolous, malicious or falling outside the scope of conduct deemed to be unprofessional conduct in terms of the ACRP Code of Ethical Values and Standards, ACRP may decline to hear the complaint or recommend an alternative or less contentious manner of dealing with the complaint.

1.3 Further to the above, the Secretary may, upon receiving a complaint, ask for such further particulars relating to the complaint as he may deem necessary and the Complainant shall be required to provide such further particulars within the period indicated in the Secretary’s correspondence. Failure to provide such further particulars after receiving two reminders in this regard shall result in the complaint lapsing, and any further complaint from the Complainant in relation to the matter must be lodged afresh in line with the preceding provisions.

1.4 The Board of Directors of ACRP may itself initiate disciplinary proceedings against an ACRP affiliate, if in the opinion of the Board the affiliate has, in his or her practice of the Christian Faith, committed unprofessional conduct, violated the ACRP Memorandum of Incorporation and Governance Rules (hereinafter “the ACRP Constitution”), violated the Scope of Practice, or committed conduct of a criminal nature. Such initiation of disciplinary proceedings by the Board shall be subject to the processes contemplated in this Disciplinary Code and Procedures.

2. Procedure for Referring a Complaint to the Committee

2.1 Where a complaint lodged with the ACRP has satisfied the foregoing provisions, the Secretary shall immediately and in general terms, without mentioning the names of the parties or the circumstances relating to the complaint, inform members of the Board of Directors in writing that such a complaint has been lodged with the Professional Body. Where more than one complaint has been lodged within a particular time frame, it would suffice if the Secretary provides a list of such complaints to the Board. It is acknowledged that such a notification to the Board is for informational purposes only and that the structure responsible for dealing with disciplinary matters is the Ethics and Disciplinary Committee (“the Committee”).

2.2 Upon complying with the provisions of paragraph 2.1 hereof, the Secretary shall, without delay, convene an urgent meeting of the Committee to deal with the complaint and shall, in this regard, supply the Committee with all information and documentation relating to the complaint.

2.3 In dealing with the complaint the Committee shall distinguish between a complaint that relates to the relationship between the affiliate and the Professional Body (“membership complaint”), and one that relates to relations between the affiliate and members of the public (“practice complaint”). In respect of a *membership complaint* the Committee shall deal with the matter itself, having regard to the ACRP Constitution, the Ethical Values and Standards, the Scope of Practice and any other relevant rules or standards related to those. In respect of a *practice complaint* the Committee shall, upon satisfaction that the provisions of paragraphs 3.1 – 3.3 below have been satisfied, form a panel comprised of the Chair of the Committee, two other members of the Committee and two other persons who are not members of the Committee, one of whom must be an office bearer of the Professional Body or its structures. In considering the two non-Committee members of the panel the Committee shall look at such considerations as the expertise of the persons concerned (e.g. a lawyer with expertise in matters of this nature); their experience in dealing with such matters; their level of maturity in matters of the Christian faith and similar attributes. With the agreement of the Chair of the Committee, the Committee may elect to appoint one of the non-Committee members of the panel as Chair for purposes of the disciplinary process, if such person possesses the necessary skills in this regard.

3. Procedure for Dealing with a Complaint

Preliminary Considerations

3.1 Where the complaint is a *practice complaint* the Committee must, prior to dealing with the matter, ascertain if the church or ministry to which the Accused belongs has disciplinary procedures capable of dealing with the complaint and if so, if the Complainant has first made use of and / or exhausted such internal disciplinary mechanisms before approaching the Professional Body. It is not the intention of the ACRP to take over or substitute the internal disciplinary processes of a church or ministry but rather to augment them. In this regard the Professional Body, through the Committee, would be willing to assist any affiliated church or ministry with the setting up of disciplinary processes relating to a contravention of proper professional practice by religious practitioners.

3.2 Where the church or ministry to which the Accused belongs has proper disciplinary procedures and the Complainant has first exhausted such disciplinary procedures or the church or ministry concerned has implemented such disciplinary procedures in relation to the complaint, the Committee shall request a report from the church or ministry concerned regarding the outcome of the disciplinary process carried out. If, in the opinion of a majority of the members of the Committee the outcome of the disciplinary process is satisfactory, then the Committee shall, through the Secretary, write to the Complainant informing him or her that, in the opinion of the Committee, the disciplinary process carried out by the church or ministry concerned was adequate and satisfactory and dealt properly with the complaint. If however, in the opinion of a majority of the members of the Committee the outcome of the disciplinary process is not satisfactory, then the Committee shall proceed to deal with the matter on the basis of the Accused’s affiliation with the Professional Body.

3.3 Where, in the circumstances contemplated in paragraph 3.3 hereof, the Complainant has not first exhausted the church or ministry's disciplinary procedures, the Committee shall decline to deal with the matter until the Complainant has first done so. Where however, the church or ministry to which the Accused belongs does not have disciplinary procedures capable of dealing with the complaint, the Committee shall proceed to deal with the matter. It is specifically recorded that the preceding provisions under this section 3 shall not apply where the complaint is a *membership complaint*. In respect of a *membership complaint* the provisions of this Disciplinary Policy and Procedures relating to membership complaints shall be immediately and directly applicable.

Conducting the Disciplinary Process

3.4 The conduct of the disciplinary process is dependent on whether the complaint concerned is a *membership complaint* or if it is a *practice complaint*. The rules of natural justice (namely the *audi alteram partem*¹ and *nemo judex*² principles) shall apply in all disciplinary proceedings. Parties to a complaint may be represented at a hearing by a member of the ACRP. Legal representation may only be permitted in respect of a *practice complaint*, but it is specifically recorded that there is no automatic right to legal representation and whether legal representation shall be permitted shall be considered on a case-by-case basis.

3.5 Process in relation to a Membership Complaint

3.5.1 A membership complaint may only be lodged by another member of the Professional Body, or through the initiative of the Board.

3.5.2 A membership complaint must be addressed to the Secretary and must clearly indicate the provision of the ACRP Constitution or / and Scope of Practice alleged to have been violated by the Accused. The Secretary shall, upon receipt of the complaint, assess if there is *prima facie* evidence to formally institute a hearing. If the complaint is of such a trivial nature that it does not warrant a hearing the Secretary shall refuse to institute a hearing, and may undertake such other interventions as may assist in resolving the dispute in a good, Christian spirit (including making use of conciliatory or mediation efforts).

3.5.3 Notwithstanding the foregoing the Secretary must, within two (2) weeks of taking a decision to decline a request for a hearing, inform the Board in writing (including through electronic means) or at a meeting of the Board, of his decision in this regard and the reasons thereof. The Board may, after considering the matter, resolve either to abide by the decision of the Secretary or to authorise the hearing to proceed. A Complainant may also appeal directly to the Board to challenge a decision by the Secretary to decline a request for a hearing. The Complainant shall in this regard, lodge his or her appeal to the Chairperson of the Board, who shall, within two (2) weeks of this call a special meeting of the Board to consider whether to permit the hearing or not. The Board's decision in this regard shall be final.

¹ The *audi alteram partem* emphasizes the need for a fair hearing and provides that all parties to a dispute need to be heard, which includes being given adequate notice of the hearing to enable a party to prepare for the hearing, and being given an opportunity to respond to case of the other party.

² The *nemo judex* rule (*nemo judex in causa sua*) requires that no person must be a judge in their own case and thus the adjudicating officer should be completely free from bias and must not be involved in a case in which he or she has an personal interest.

3.5.4 Where a decision to permit the hearing has been taken the Secretary shall, within two (2) weeks of the making of such a decision, convene a meeting of the Committee for purposes of making a preliminary consideration of the complaint including asking for such further particulars as the Committee may deem necessary to properly make a decision.

3.5.5 Within a reasonable time thereafter but not exceeding three (3) weeks, the Secretary shall call a formal hearing to consider the complaint by issuing a notice to both the Accused and the Complainant in this regard. Three members of the Committee, including the Chair, shall constitute the panel for the hearing, but other members of the committee shall act as advisors to the panel. The Chair shall identify who shall the other members of the panel are in each hearing.

3.5.6 The procedure for the hearing shall follow a flexible chief examination, cross-examination and re-examination pattern, subject to ensuring that all parties are given a fair chance to present their cases. The parties shall be allowed to make opening statements in which they indicate what the essence of their cases is and whether any witnesses shall be called. The parties shall also indicate before the meeting if they will be represented by a member of the ACRP at the proceedings. If a party calls witnesses, the other party shall be entitled to cross-examine the witnesses. The Chair of the Committee shall decide what evidence is to be allowed for purposes of the hearing, after hearing a presentation from the party concerned as to why such evidence is necessary and after consulting with other members of the Committee.

3.5.7 The panel shall, after the hearing, assess all the evidence provided and decide on the ruling by a majority vote. Within four (4) weeks of the hearing having taken place the panel shall, through the Secretary, communicate the ruling in writing to each of the parties. Within three (3) days of this being done, the Secretary shall communicate the panel's written ruling to all members of the board.

3.5.8 A party that is not happy with the panel's ruling may, within five (5) days of receiving the ruling, write to the Secretary indicating his or her intention to appeal the ruling to the Board of the Professional Body. The Secretary shall forthwith give notice of such an appeal to the Board and within three (3) weeks of receiving the request for an appeal, call a special Board meeting for purposes of considering the appeal. The majority of the members of the Board shall constitute the appeals panel, provided that if a majority of members of the Board is not available, the Chairperson of the Board may co-opt any eminent and / or experienced member of the Professional Body to be a member of the appeals panel.

3.5.9 No new evidence or witnesses shall be permitted at the appeal hearing and the panel may follow any procedure it deems fit, taking into account the provisions of paragraph 3.4 of this Code. The decision of the appeals panel shall be final.

3.6 Process in relation to a Practice Complaint

3.6.1 Where, in practice complaints, a decision has been taken to proceed with disciplinary proceedings after satisfaction of the provisions of articles 3.1 – 3.3 above, the Committee shall, within five (5) days of making such a decision, constitute a panel for the hearing as contemplated in paragraph 2.3. The panel shall meet to consider any preliminary matters, including making a decision of whether legal representation shall be permitted, considering amongst others, the complexity of the case. Where the Committee decides not to hear the matter on the ground of that it is a trivial matter

the provisions of paragraphs 3.5.2 – 3.5.4 shall, with the necessary change of details (“*mutatis mutandis*”) apply to practice complaints, provided that the reference to “Secretary” in those provisions shall be a reference to “the Committee”.

3.6.2 Within two (2) days of the meeting of the panel as contemplated in paragraph 3.6.1 the Secretary shall write to the Complainant to inform him or her that the Committee has taken the decision to proceed with the disciplinary process. Within seven (7) days of the meeting of the panel the Secretary shall cause a written notice to be sent to the Accused, addressed to the Accused’s most-efficient method of communication known to the ACRP (whether email, facsimile, postal address or physical address) and copying the Complainant and members of the panel, providing the Accused with the nature of the complaint lodged against him or her, the name of the Complainant, and the details of the complaint.

3.6.3 The notice referred to in paragraph 3.6.2 shall clearly inform the Accused of his or her right to submit a written Defence Statement within ten (10) business days of receiving the notice. The notice must also indicate if the Accused would be entitled to legal representation or if he or she can only be represented by a member of the Professional Body. Upon receipt of the Notice the Accused shall, within five business days, write to the Secretary informing him of the full particulars of the person, if any, who shall represent him or her at the hearing, clearly indicating the qualifications and / or professional status of such a person: provided that in cases where legal representation is permitted, the Defence Statement shall be submitted by such legal representative together with a mandate letter confirming his her appointment to represent the Accused.

3.6.4 The Accused shall cause his Defence Statement to be lodged with the Secretary within the period stipulated in paragraph 3.6.3 hereof and shall, in this regard, ensure that the Complainant receives a copy of the Defence Statement within the same period. Upon receiving the Defence Statement the Secretary shall prepare a file of the case (“case file” or “case docket”), indicating the nature of the complaint and providing a summary and categorisation of the processes and correspondence undertaken from the time of the lodgement of the dispute until the time of lodgement of the Defence Statement, including within such case file all relevant documents. The Secretary shall forthwith make copies of the case file and distribute them to members of the panel. The Secretary shall update the case file as and when required as the proceedings continue, and shall provide such updated information to the members of the panel upon request.

3.6.5 The procedure for the hearing shall be determined by the panel and shall, *mutatis mutandis*, and subject to other provisions of this Code, conform to the procedure contemplated in paragraphs 3.5.6 – 3.5.7 and the appeal procedures contemplated in paragraphs 3.5.8 – 3.5.9.

4. Referral of Matters to other Authorities

It is specifically recorded that where a matter brought to the attention of Professional Body points to the commission of a criminal act or any reportable matter in terms of applicable legislation (e.g. fraud, bribery, rape, child molestation etc.) the Professional Body shall be compelled to report or refer such a matter to the relevant authorities. The Professional Body shall, if permissible, make the affected party aware of such reporting or referral.