



# Policy: Whānau Complaints

<b>Description:</b>	Policy of Ngāti Whātua Ōrākei Trust
<b>Approved by:</b>	Board Resolution
<b>Date:</b>	6 August 2021

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## 1 Purpose

- 1.1 To provide guidance in relation to managing and responding to complaints raised by Members.

## 2 Scope

- 2.1 This policy applies to Ngāti Whātua Ōrākei Trustee Limited (**NWOT**) and provides guidance to the Ngāti Whātua Ōrākei Group.
- 2.2 This policy does not apply to complaints made by Employees which are covered by NWOT employment policies.
- 2.3 This policy does not bind third parties.

## 3 Interpretation and Application

- 3.1 The mātaḥono of Ngāti Whātua Ōrākei are the values that guide our actions and ground us in tikanga Māori. This policy will be interpreted and applied in accordance with the mātaḥono of Ngāti Whātua Ōrākei, with particular emphasis on the following:
- Rangatiratanga – kia whakatinana i ngā āhuatanga tika o te rangatiratanga puta noa te hapū  
*Leadership – to live and practice positive leadership throughout the hapū*
  - Kaitiakitanga – kia tiakina ō tātou whānau, o tatou whenua, ā tatou taonga me ā tatou rawa mō āke tonu atu  
*Guardianship – to protect our people, our lands, our resources and our taonga forever*
  - Mana taurite – kia taurite te whai wāhi atu on ngā uri ki ngā painga me ngā angitu  
*Equity – all hapū members have equal access to benefits and opportunities*
  - Ahi kā – kia kōwhiwhiutia tonutia te ahi kā, kei pūrēhua ā ka kewa  
*Keeping the home fires burning - to uphold the unique and important role that Ōrākei papakāinga maintains across Tāmaki Makaurau*

## 4 Policy Statement

### Complaints

- 4.1 Complaints under this policy are an expression of dissatisfaction by Members and must clearly relate to:
- an NWOT policy or process;
  - an NWOT decision; or



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- c) The action/inaction, behaviour or performance of an Elected Representative, Employee, or Contractor of NWOT.

**4.2** In the context of this policy, a complaint is not:

- a) a request for service or information;
- b) an internal Employee complaint;
- c) feedback as part of a hui, wānanga or other consultation process; or
- d) a complaint about an individual which does not relate to an action/inaction, behaviour or performance relevant to their role as an Elected Representative, Employee, or contractor.

**4.3** Complaints that relate to a Group Entity shall be referred in full or in part, as the case may be, to the relevant Group Entity to be dealt with in accordance with the relevant Group Entity's complaints policy.

**4.4** The criteria in paragraphs 4.1 and 4.2 above are, together, the "**Complaints Criteria**".

### **Receiving and Investigating Complaints**

**4.5** Where any Member wishes to make a complaint, the complaint must be submitted in writing to the CEO, (or Chair, if the complaint is in relation to the CEO) in a timely manner following the matter to which the complaint relates. The complaint must include:

- The complainant's name, contact phone number and email address;
- Details to demonstrate that the complaint satisfies the Complaints Criteria, for example, a description of the action by an Elected Representative Employee, or Contractor that is the subject of the complaint (including time, place and the people involved) and an explanation of the Member's dissatisfaction.
- A description of the complainant's desired outcome.
- Any additional information or evidence that the complainant believes will help assessment of the complaint.

### **Process on Receipt of Complaint**

**4.6** The complaint recipient must:

- a) acknowledge receipt of the complaint within 3-5 Working Days of receipt;
- b) request the information required under this policy; and
- c) promptly submit the complaint to the Complaint Owner with a copy provided to the General Counsel. The Complaint Owner will be the General Counsel, the CEO or, if the complaint relates to the CEO and the General Counsel is unavailable, the Chair.

**4.7** The role of the Complaint Owner is to:

- a) Make an initial assessment of the complaint in accordance with the guidelines outlined below;
- b) If applicable, delegate investigation of the complaint to the appropriate parties;
- c) If applicable, provide any necessary support and logistics associated with the investigation of the complaint (e.g. co-ordination of meeting times and locations); and



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- d) Maintain communication with the complainant and the person/s who the complaint is about in regard to the process, timeframes and outcomes of the complaint.

### Initial Assessment

- 4.8** The Complaint Owner must determine whether the Complaint is a Major Complaint. A Major Complaint must be:
- a) promptly forwarded to the Elected Representatives;
  - b) addressed by the Elected Representatives at their next meeting or more urgently if appropriate; and
  - c) forwarded to an independent investigator for investigation pursuant to 4.15 below.
- 4.9** Where the complaint is not considered a Major Complaint, the Complaint Owner must determine whether the complaint should be investigated (whether by an independent investigator, the Complaint Owner, a delegate or a third party whether independent or not), dealt with informally, including by way of the tikanga process pursuant to 4.19 below, or dismissed. The rationale for this decision must be documented.
- 4.10** The Complaint Owner, when making a determination pursuant to 4.9 above, must give fair consideration to the complaint and, if it is not a Major Complaint, must also consider the nature of the issue(s) which is the subject of the complaint and the likely outcome of an investigation in its initial assessment of the complaint.
- 4.11** With the exception of Major Complaints, the Complaint Owner will not refer complaints for independent investigation where the nature of the complaint is not sufficiently serious to justify the cost of an independent investigation.
- 4.12** The Complaint Owner may determine to take no action in relation to a complaint where they are satisfied of one or more of the following factors:
- a) the complaint is about something which happened a long time ago and is minor;
  - b) the complaint appears not to warrant further action;
  - c) the complaint appears to be malicious, politically motivated, vexatious or tit for tat;
  - d) there is insufficient information or evidence to investigate the matter;
  - e) the same or a substantially similar complaint has already been the subject of an investigation and there is nothing further to be gained by seeking further sanctions;
  - f) an apology in respect of the matter has been given and accepted, or meaningful attempts at reconciliation have been made; or
  - g) the complaint is about someone who is no longer an Elected Representative, Employee or Contractor;
- 4.13** The Complaint Owner may obtain independent advice on whether a complaint is a Major Complaint and, if not considered a Major Complaint, how a complaint is to be managed.
- 4.14** Any decision in relation to the initial assessment and proposed course of action must be documented and communicated in a reasonable time to the complainant, ideally within 2



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weeks of original receipt of the complaint.

### Investigation

- 4.15** Investigations of Major Complaints covered by this policy are to be conducted using an independent investigator(s) with input from a tikanga expert where required. For the purposes of this policy, independent means a person outside of NWOT who is either a registered private investigator, human resources professional, auditor or a practising lawyer, and has experience as an investigator of complaints. The Investigator must not have any interests which could conflict with their duty to investigate the complaint impartially.
- 4.16** Where the complaint involves or centers on matters of tikanga, an expert in Ōrākei tikanga will be appointed to provide input on such tikanga matters. The Ōrākei tikanga expert must be a descendant of Tuperiri but, as far as is practicable, should not be closely related to or from the same descent line as either the complainant or the person/s who the complaint is about.
- 4.17** Where the complaint is a Major Complaint or the initial assessment determines an independent investigation is required, the following process must be followed:
- a) After the initial assessment all documentation associated with the complaint will be sent to the independent investigator, and Ōrākei tikanga expert if relevant.
  - b) The investigator will then conduct such interviews and work as considered necessary to understand the details of the complaint and to form a conclusion. This will involve working with the Ōrākei tikanga expert (if relevant) to ensure appropriate Ōrākei tikanga input and ensuring appropriate transparency between the parties involved.
  - c) Once this process is complete, the investigator and Ōrākei tikanga expert (if relevant) will together produce a draft report and submit it to the complainant, the person/s who the complaint is about, and the Complaint Owner for review and feedback. The investigator and Ōrākei tikanga expert (if relevant) will include any feedback received in their final report which will be provided to the complainant, the person/s who the complaint is about, and the Complaint Owner.
  - d) Unless there are compelling legal reasons (e.g. privacy) the report and any recommendations/conclusions must be tabled with the Board at a meeting of the Elected Representatives and provided separately to the Risk Assurance and Audit Committee.
  - e) Any decisions or actions required by the Board as a result of the investigation must be passed as a formal resolution or otherwise in accordance with the Delegations Policy.
  - f) Throughout the process, confidentiality must be maintained by all parties associated with the complaint to maintain the integrity of the investigation. This must be reiterated to the complainant and any others involved in the investigation, the investigator may at any time require participants to sign a confidentiality agreement.
- 4.18** The investigation will be undertaken diligently and completed as quickly as reasonably practicable, taking into account the subject matter and complexity of the complaint and the availability of the investigator, complainant, the person/s who the complaint is about, and any witnesses. The timeframe for investigations is dependent on the details of each complaint.



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### Tikanga Process

**4.19** If the Complaint Owner considers a tikanga process appropriate to resolve the complaint, and the complainant and the person/s who the complaint is about consent to a tikanga process, the complainant and the person/s who the complaint is about will enter a resolution process in accordance with Ōrākei tikanga and kawa. The tikanga process will be guided by the NWOT Mātāpono and may include:

- a) a series of ā-tinana hui at Ōrākei Marae between the complainant and the person/s who the complaint is about and their support people;
- b) appropriate karakia, karanga, whaikōrero, waiata, and mihimihi;
- c) the use of an appropriate facilitator, for example a member of the Ngāti Whātua Ōrākei Taumata; and
- d) the presence and participation of Ōrākei kaumatua,

as agreed between the Complaint Owner, the complainant and the person/s who the complaint is about.

## 5 Reporting

**5.1** The General Counsel will monitor and report to the Risk Assurance and Audit Committee and the Board on the number and nature of complaints received and the methods used to manage them pursuant to this policy.

## 6 Related Policies

**6.1** Where applicable, this policy should be read alongside the:

- Policy Framework Policy;
- Fraud and Corrupt Conduct Policy;
- Protected Disclosures Policy;
- Code of Conduct Policies;
- Privacy Policy

**6.2** Where the process of investigating a complaint under the Protected Disclosures Policy is inconsistent with the process in this Whānau Complaints Policy, the Protected Disclosures Policy will prevail.

## 7 Relevant Legislation and Authoritative Guidance

**7.1** All persons performing a function under this policy are required to comply with all applicable legislation (and any successor legislation) and authoritative guidance, including but not limited to:

- a) Ngāti Whātua Ōrākei Trust Deed;
- b) Ngāti Whātua Ōrākei Trust Settlement Act 2012;
- c) Privacy Act 2020;
- d) Employment Relations Act 2000;
- e) Human Rights 1993;



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- f) Protected Disclosures Act 2000;
- g) Companies Act 1993; and
- h) Trusts Act 2019.

### 8 Definitions

8.1 The following definitions apply to this policy:

<b>Board</b>	Means the board of directors of Ngāti Whātua Ōrākei Trustee Limited
<b>Contractor</b>	Means contractors engaged in providing services to Ngāti Whātua Ōrākei Trustee Limited
<b>Elected Representative</b>	Means the representatives appointed from time to time to act as the directors and shareholders of the Trustee of the Trust
<b>Employees</b>	means employees of Ngāti Whātua Ōrākei Trustee Limited
<b>Group Entity</b>	means an entity of Ngāti Whātua Ōrākei Trustee Limited, including Ngāti Whātua Ōrākei Whai Maia Limited, Ngāti Whātua Ōrākei Whai Rawa Limited, or Komiti Marae Ōrākei Trust
<b>Major Complaint</b>	Means a complaint that satisfies the Complaints Criteria and is significant because: <ul style="list-style-type: none"><li>• it is unusually complex;</li><li>• there is a serious reputational risk and the Trustee and/or hapū could be brought into disrepute if the complaint is established;</li><li>• serious and significant criminal offending, unlawful behaviour has been alleged; or</li><li>• <u>evidence of fraud, corruption, gross negligence, or gross mismanagement has been provided.</u></li></ul>
<b>Members</b>	means members of Ngāti Whātua Ōrākei as defined under section 1.1 of the Ngāti Whātua Ōrākei Trust Deed
<b>Working Day</b>	means any day other than a weekend, public holiday in Auckland, New Zealand, day of tangi leave or participation, office closure or shutdown.

### 9 Policy Review

9.1 This policy is to be reviewed biennially, with any changes to be approved by the Board.

9.2 Date of next review: August 2021