

Member feedback received 13 August 2025

### Point 1

Now to my issues with the proposed new Constitution and Rules

I have no issues until Rule 11: I believe the system of Judicial and Appeal Boards should be retained.

### **Response**

We appreciate the feedback regarding Rule 11 and the suggestion to retain a separate Judicial and Appeal Board. The Board recognises the value of independent oversight in disciplinary matters; however, under the Incorporated Societies Act 2022, there are important governance and legal considerations that prevent the establishment of an elected judiciary:

- **Governance Accountability:** The Act requires the Board to be fully accountable for all society functions. Creating a separate, independently elected judicial body would establish a parallel governance structure over which the Board has limited control—but for which it would remain legally responsible.
- **Conflict with Statutory Duties:** Committee members have statutory duties under s. 56 of the Act, including acting in good faith, with care and diligence, and in the best interests of the society. If an independent judiciary were to breach natural justice, the Board could face personal liability.
- **Potential Deadlock or Conflict:** Decisions by an elected judiciary could conflict with the Board's view or the society's rules, leaving uncertainty about final authority and increasing the risk of inconsistent or unfair outcomes.
- **Regulator Expectations:** The Registrar expects disciplinary powers to be exercised clearly through the elected Board. Splitting authority could create compliance risks and undermine the society's accountability.

In practice, legal responsibility cannot be fully delegated. Retaining disciplinary decision-making within the elected Board ensures:

- Clear accountability and transparency in all processes.
- Consistent application of rules aligned with the constitution and law.
- Protection against personal liability for committee members.
- Fair and unbiased outcomes for members when disciplinary procedures are properly managed.

Summary: While independent oversight is valuable, the new Act requires that disciplinary authority remain with the elected Board to meet statutory obligations, reduce risk, and ensure the society operates fairly, transparently, and in compliance with the law.

#### Point 2

11.4 This clause allows a Manager to determine the make-up of a Disciplinary Committee against a Committee Member. The Manager could make the complaint then select a Disciplinary Committee of Committee Members who are his friends. Predictable result? Managers should not be involved in disciplining members.

#### **Response**

This is incorrect. The Board will decide who sits on the panel ensuring there are no conflicts. The manager simply convenes the committee.

#### Point 3

11.5 a). Our current rules have a Judiciary that is independent of the Board. I believe that is essential. The proposed rules mean that the Board Members ARE the Judiciary. Separation of powers in a democracy (the Club was established by union members versed in democracy) should be enshrined.

#### **Response**

We acknowledge and respect your concern that a separation of powers is important to ensure fairness and independence in disciplinary processes. Under the current rules, an elected Judiciary has operated separately from the Board, and we recognise that this has given members confidence that decisions are impartial.

However, the Incorporated Societies Act 2022 has changed how governance responsibilities work. The Act places clear legal duties on elected committee members (similar to company directors) to:

- act in good faith and in the best interests of the society (s. 54),
- exercise reasonable care and diligence (s. 55), and
- remain accountable for the society's decisions, even if duties are delegated (s. 50).

This means the Board cannot delegate disciplinary power to a completely independent body and then avoid responsibility for its actions. If an elected Judiciary made a decision that breached natural justice or the law, the Board members could still be held personally liable.

#### Point 4

11.5 c). Traditionally the members have disciplined members and the Management have disciplined non-members. This clause gives a Manager power over members

### **Response**

You are right that under the current rules, discipline of members has been carried out by an elected Judicial Committee, while the Manager has focused on managing non-members and ensuring compliance with licensing and gaming laws.

Under the new Incorporated Societies Act 2022, however, the elected Committee (Board) must retain legal responsibility for all decisions of the society, including disciplinary outcomes. This is why the draft rules shift disciplinary responsibility to the Board, rather than leaving it with an independent judiciary.

It's important to clarify:

The Manager can trespass or exclude any member or non-member on the spot if law requires (to protect the licence, gaming compliance, or health & safety).

But any formal disciplinary action as a member (suspension, expulsion, loss of member privileges) must be referred to the Board's disciplinary process under Rule 11 and consistent with the ISA 2022. Therefore, The Manager does not have power to discipline members. The Manager's role is limited to convening panels and taking immediate action only where required by law (e.g. trespassing an intoxicated or disruptive member under the Sale and Supply of Alcohol Act).

All disciplinary decisions affecting members will still be made by the Board, with independence safeguarded through the use of co-opted members and conflict-of-interest protections.

This ensures the club remains compliant with the Act, while still reflecting the principle that members should not be disciplined solely by management.

### Point 5

11.8 This clause enshrines a two-tier justice system. If the alleged offender is regarded as a friend of the Committee/Manager, he/she is sent to Restorative Justice (without being found guilty of anything: so how can that work?) or "Mediation" where they can get a slap across the wrist with a wet bus ticket. However, if the alleged offender is NOT a friend of the Committee, they go straight to a Disciplinary Hearing. We have seen the latter two scenarios play out recently, in defiance of the current rules. We should never forget the past.

## **Response**

We acknowledge the concern about a ‘two-tier’ system. Under the Incorporated Societies Act 2022, all dispute and disciplinary procedures must be consistent with natural justice (s39). Our rules adopt procedures aligned with Schedule 2 (safe harbour under s41), including options for consensual processes like mediation (Sch 2, cl 7) and requirements that decision-makers be impartial (Sch 2, cl 8). Any use of mediation or restorative processes will be applied consistently and without bias, and members retain the right to a full hearing and appeal

The draft Constitution does not allow the Committee or Manager to choose a process based on personal relationships. The use of restorative justice or mediation is not intended to minimise wrongdoing or favour individuals. Instead, these tools provide alternative ways of resolving disputes where appropriate — but only with the consent of both parties and without removing the member’s right to a full disciplinary hearing if the matter is serious or unresolved.

Importantly, the Board remains fully accountable for all disciplinary outcomes under the Act. Even if mediation or restorative processes are used, the Board must ensure that:

- the choice of process is transparent and consistent,
- natural justice is upheld, and
- members are not disadvantaged by arbitrary or biased decisions.

## Point 6

11.11 a) This prohibition on an accused party being allowed a copy of video, photographic or audio evidence does not reflect the promise of "fair play" highlighted in Sunday's presentation. Several years ago the Board and Manager showed a video purporting to support allegations of assault against a Board Member. The President was an eyewitness against the Board Member. Nobody I spoke to could say what the video was about: it was too dark. The accused was given a copy, Alan Baird tidied up the images and it clearly showed that the accused did not assault the bar staffer. This is why we must look at the past. This clause should be about handing evidence over in the spirit of full disclosure. We should never accept that the truth is what the President and/or Manager says it is.

## **Response**

This is not the case. This clause is intended to preserve evidence so maybe needs to be clarified. To be clear in line with natural justice both the accused and the complainant have the right to view all relevant evidence during the disciplinary process. Copies are restricted only to ensure the integrity of unaltered evidence and to prevent tampering.

## Point 7

11.14 This clause is about refusing access to relevant audio recording which may be vital to someone's Appeal. A transcript can be supplied but it stands to reason that IF there is any doubt about what was said, the audio version must be the accurate (true) version. Therefore, the audio recording should be supplied. Otherwise we are back to the truth being what the Manager says it is.

### **Response**

The intent of this clause is to ensure that audio recordings of hearings are preserved accurately for record-keeping and future reference. The recordings are retained for 12 months and are available to be listened to by either party upon request, ensuring that all parties can review the content in full.

While physical copies are not provided to protect the integrity of the original recording, a transcript can be requested for convenience. Importantly, and in keeping with natural justice, the recordings can be used as evidence during any appeal (see Clause 11.19), so the fairness of the process is maintained, and both parties have the opportunity to fully understand and respond to the evidence.

## Point 7

11.17 b) This clause gives the Manager power of veto over the Disciplinary Committee. Totally unacceptable.

### **Response**

We would like to clarify that it is not the intention of clause 11.17(b) to give the Manager a power of veto over the Disciplinary Committee. The clause is designed only to allow the Manager to act as an initial filter, so that clearly frivolous or invalid complaints do not unnecessarily consume resources.

That said, we acknowledge your point about natural justice. To reduce any perception of unfairness, we agree that the clause could be refined. For example:

- The Manager could continue to screen complaints, but must refer any complaint they propose to dismiss to the Board for confirmation; or
- The Board could collectively decide whether a complaint should proceed to the Disciplinary Committee.

This would maintain efficiency while ensuring that no individual has sole discretion to prevent a complaint from being heard.

#### Point 8

11.22 This takes us back to the two-tier justice system. The current rules have a clear-cut list of offences and the relevant penalties, based on a known history of both. There is no guidance under the proposed system. Further, it magnifies the potential for corruption. Equal and transparent justice should be paramount.

#### **Response**

We understand the concern that the proposed Constitution no longer includes the detailed list of offences and penalties contained in the current Rules.

The new Constitution has been drafted to comply with the Incorporated Societies Act 2022, which does not require a fixed list of offences. Instead, it requires that disciplinary procedures are fair, reasonable, and consistent with natural justice. This ensures members are given notice, a chance to be heard, and a right of appeal.

That said, we agree there is value in retaining the historical list of common offences and penalties as a Bylaw or Policy document. This will provide guidance for consistency and transparency, while still allowing flexibility to deal with new or unforeseen issues. Work can be undertaken with members to review and update that list in a way that reflects both past practice and current expectations.

It is also important to emphasise that all members remain subject to the laws of New Zealand. Any list of offences within Club rules or bylaws does not override or replace the application of NZ law. Rather, it provides guidance for the Club's own internal processes, which must operate consistently with the law.

#### Point 9

11.25 This clause is an affront to any justice system. Justice not only has to be done, it has to be seen to have been done. Under the current rules, the charges and findings are required to be posted on the notice board (although in [REDACTED] case the person required to post said notice not only failed to post it initially, *they* declined to post it after being "reminded" by the Judicial Chair, Alan Baird, and when later approached for the third time by Alan, flat out refused to post the notice. I believe that person to be [REDACTED]).

When I voiced my opinion about this clause after the meeting, [REDACTED] claimed it to be a "privacy" issue. That is the opposite of justice. "Someone" gets to decide whose privacy is protected under the, "may or may not" wording of this clause. Why would my privacy be more important than yours? Or vice versa? Justice isn't seen to be done under this clause.

## **Response**

We understand and agree that justice should not only be done but also be seen to be done. Transparency is an essential part of building and maintaining trust in any disciplinary process.

The clause allowing the Committee discretion over publication is intended to balance two competing principles:

- Transparency for members, so they can see that matters are addressed fairly and consistently; and
- Privacy obligations, including legal requirements and the protection of minors or other sensitive situations.

The Club is also required to comply with the Privacy Act 2020, which sets clear limits on how personal information may be used or disclosed. This means some details cannot be made public in certain circumstances, regardless of member preferences.

It is not designed to conceal decisions arbitrarily or to favour one member over another.

We acknowledge that in the past there have been situations where outcomes were not published as intended. While we do not wish to revisit individual cases here, those experiences highlight the need for clearer and more consistent procedures going forward.

To strengthen confidence in the system, we will develop clear guidelines that will:

1. Define when decisions must be published in full.
2. Provide for anonymised summaries where privacy concerns are genuine.
3. Ensure there is appropriate oversight of any decision not to publish.

This approach ensures that disciplinary outcomes are communicated in a way that respects the Privacy Act and legal obligations, while also maintaining members' trust that justice is fair, consistent, and accountable.

### Point 10

12.1 I note that this clause specifies "Consultation with", not "Agreement with". The Manager is an employee of the Board. This clause enables the Manager to trespass a member without the express agreement of his employer. Maybe against his employer's wishes.

## Response

We acknowledge the concern about the Manager issuing trespass notices.

To clarify: the Manager has authority to immediately ask anyone to leave or trespass:

- Anyone who is not a member, and
- Any member or non-member engaging in violent, threatening, or illegal behaviour, including breaches under the Sale of Alcohol Act or Health and Safety at Work Act, to protect staff and other members.

This is necessary because the Board may not always be in office or available to respond immediately.

However, any trespass involving a member will be referred to the Disciplinary Committee as soon as practicable for review, ensuring the process aligns with natural justice, including the right to be heard and proper consideration before any long-term restrictions are applied.

### Point 11

13.6 f) This can be applied to [REDACTED] situation. *They* were found guilty of suppressed offences but the penalty fell short of the 3 month threshold that prevented *them* from standing for office. *They* made the mistake of appealing and *their* penalty was increased over the threshold thereby preventing *them* from running for office for 2 ? years.

This new clause means that once *they have* done *their* 2 year prohibition, *they* cannot stand for office in the next election. Essentially *their* prohibition period becomes 3 years (minimum). On top of that *they have* to get the consent of a General Meeting to stand at the next Meeting. Presumably *they* need a majority vote to get that permission. Not easy to get 50%+. Not "fair play" either given that none of the Board/Committee members needed a specific percentage of the vote to be elected, some may have been elected unopposed (0% of the vote) and one has been co-opted (also 0% of the vote).

I mention [REDACTED] specifically but others may be affected from the past: there is no statute of limitations on this clause. Under the proposed rules this situation will not apply to guilty verdicts of the future. With undisclosed offences and far reaching unfettered penalties, the offender can be banned from running in perpetuity or perhaps ejected from the Club for criticising the President or Manager. By now you are wondering if I am more than a little bit paranoid! But.....

I object to open-ended penalties. The President who gave the subsequently discredited eyewitness evidence against [REDACTED] was trespassed from the Club (for an offence not necessarily directly connected to his evidence). The ruling was that the trespass notice remained in place until *they* gave a written apology to another member of the Club. *They*



are , or were, a [REDACTED] and cannot attend [REDACTED]. I guess nobody thought that *they* would refuse to apologize but *they are* effectively banned for life for not writing a letter. If given the opportunity, I would support the lifting of the trespass notice. Fair play, as I see it.

## **Response**

We understand the concerns raised about how clause 13.6(f) works and want to clarify how it will be applied fairly:

1. Fairness First: Members who face disciplinary action, including restrictions on standing for office, will have a fair hearing and the chance to respond. Decisions will be reasonable, proportionate, and in line with natural justice.
2. Appeals: Exercising the right to appeal will not automatically result in a harsher penalty. Any change in penalty will reflect the seriousness of the original offence.
3. General Meeting Approval: After a prohibition period, a member may need General Meeting consent to stand for office. This is a safeguard, not an extra punishment, and will be applied transparently and fairly.
4. Looking Forward: The Board is committed to consistent and appropriate penalties. Rules will be applied fairly and prospectively, so past cases are not unfairly affected by new rules.

Our aim is to ensure the Club is safe and well-governed while treating all members with fairness and respect.

## Point 12

16.3 "The Manager shall not be entitled to exercise a vote....." There is no exemption to this clause for a Manager who is also a member. It is obvious why a Manager should not be able to vote in Committee Meetings, but I see no reason why the Member cannot vote in a General Meeting. This should be changed. Fair play.

## **Response**

We agree with your point. While it is important that the Manager does not vote in Committee Meetings to avoid conflicts of interest, there is no reason why they should be prevented from voting at General Meetings in their capacity as a member.

## Point 13

26.3 This clause could prevent a member. sharing information with his lawyer Not fair play.

### **Response**

This rule covers property (Intellectual and documents) it means that information provided by the Club to its members remains the property of the Club and must not be shared with non-members without the Club's written consent. The purpose is to protect the Club's private business from being disclosed publicly or used inappropriately.

However, under NZ law this clause does not remove a member's right to seek legal advice. A member may provide Club information to their lawyer in confidence, as communications with a lawyer are legally privileged and protected by law. This should be done solely for the purpose of obtaining legal advice and not for general distribution.

### Point 14

I like the Complaint, Notice of Complaint and Appeal forms.

### **Response**

Noted, thank you.

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### Point 15

This proposed constitution is a generic document. The legal guys who thought this up would probably never go into a club like ours. We are the ones who must tailor it to our situation. Just saying we must accept it and move on is not an option.

I have a suggestion relating to the issues I have raised about the lack of "offences" and "penalties" in this proposal. I was a [REDACTED] for 20 years. You could have an Offences Schedule A and a Penalties Schedule B. They are not in the Constitution but there is reference in the Constitution that the Schedules must be referred to by the Judicial/Appeals Committees. It must be clear that no penalty be imposed that is inconsistent with the Schedules. That way the committees get guidance and all that hard won experience is not lost. The Committees will not have to re-invent the wheel.

### **Response**

We agree that while the proposed constitution provides a general framework, it is a work in progress and must be tailored to the specific needs of our Club. This is why we are actively seeking input and feedback.

Your suggestion to create schedules for Offences and Penalties is an excellent idea. One way to implement this is through a Code of Conduct bylaw, which would provide clear guidance to the Judicial and Appeals Committees. This ensures consistency,

fairness, and preserves the collective experience of past members, without overcomplicating the constitution.

The constitution should remain a cornerstone document, with detailed procedures, offences, and penalties captured in bylaws rather than within the constitution itself. This approach supports the Board's commitment to natural justice, transparency, and proportionate penalties for any disciplinary matters.

#### Point 16

I am vigorously opposed to the disestablishment of Judicial and Appeals.

Those of you who were not able to attend the Special General Meeting will have missed me speaking of the "Mediation" meetings, which have no standing in our Rules. The meetings were the result of a complaint. This puts it clearly within the parameters of a disciplinary procedure. The proper response to a complaint is for the Manager to forward the complaint to the chair of the Judicial Board. When the men arrived (separately) at the Mediation there was no Mediator. The panel each man faced consisted of two Managers and our President. The Managers are not supposed to be involved in disciplining members. At the conclusion of each "mediation", the men were required to sign a statement. That too is a disciplinary feature, especially if the statements involved wording such as, "written warning." I have not seen the document(s).

There was the refusal to post the notice (prepared by Alan Baird) relating to [REDACTED]

I have been shown an email purporting to be a final written warning to a member from [REDACTED]. Unless *they were* writing on behalf of Judicial (the member assures me Judicial was not involved) I believe [REDACTED] was in breach of the Rules. For the record, [REDACTED] denies sending any such email. If I can get a copy of that email I will forward it to you. The member puts *themselves* in serious jeopardy of retaliation by supplying it to me. I don't know if *they are* that brave.

Consequently I believe the Managers have acted in defiance of our Rules. Why reward them by giving them more powers?

#### **Response**

We sincerely appreciate all feedback on the draft proposal and the time members have taken to review it. The Board is committed to ensuring that all members are subject to fair, transparent, and consistent disciplinary procedures. Everyone has the right to respond to complaints, and decisions are guided by natural justice.

While mediation can be a helpful tool for resolving disputes, it cannot replace formal disciplinary processes. Any outcomes that affect a member's rights, such as warnings or restrictions, must follow proper procedures overseen by the Board.

Under the new Incorporated Societies Act 2022, an elected Judicial Committee is not compatible with governance requirements. Decision-making must remain with the Board, which is fully accountable for compliance, legal obligations, and the wellbeing of the Club, its staff, and its members. This structure ensures fairness while protecting the Club from unnecessary risk. Managers continue to provide advice and operational support, but they do not make disciplinary decisions. This approach balances efficiency, fairness, and accountability.

The new constitution represents an opportunity for a fresh start, and the Board is committed to using the lessons of the past to guide the Club's future at all levels. Adopting a constitution that aligns with the Act is essential—not just for governance, but also for the Club's continued existence.

If an incorporated society in New Zealand does not re-register under the new Act by 5 April 2026, it will cease to exist as a legal entity. This means:

- The Club would lose its separate legal identity.
- Members could become personally liable for any debts or obligations, such as leases.
- The Club's name would no longer be protected.
- The Club would lose the right to make decisions about its assets, and the Registrar could direct how these assets are distributed.
- The Club would not be able to sign new contracts in its name.

To avoid these serious consequences, it is crucial for the Club to adopt a new constitution compliant with the 2022 Act and complete the re-registration process before the deadline. By embracing these changes, we strengthen governance, protect members' rights, and ensure the Club remains safe, fair, and sustainable for everyone.

Finally, we genuinely appreciate the time and thought members have put into reviewing the draft. While many suggestions will be considered in the next draft, it is important to recognise that not every idea can be included. Our priority is to balance members' feedback with the need to fully comply with the new Act, ensuring the Club is secure, well-governed, and positioned for a sustainable future for all members.

#### Point 16

Thank you for encouraging me to consult on the Proposed Constitution.

When compiling this submission I considered sending it to the Board and Management only, but I have come to the conclusion that, in the interests of fair play, I would have to include [REDACTED] as I have referred to *them* by name.

Yours sincerely,

[REDACTED]

[REDACTED]

PS I have problems with computers. I am sending this to Alan with a request that he forward it to Fred, Bevan, Matt, Paul, Sharon, Steve and Mark. Thank you in advance Alan.