# Part Five: Disputes Resolution Process

1. **What our Constitution says right now**

There is no Disputes Resolution Process outlined in the current Constitution that meets the requirements of the Act. This can either be something that the Assembly designs for itself, or it can adopt the Safe Harbour provisions in Act.

1. **Why it’s important and our proposed approach**

First and foremost, the Disputes Resolution Process must meet requirements of the Act which include:

* 1. The process must be consistent with Natural Justice,
	2. How a dispute can be raised,
	3. What your rights are if you raise a dispute, and
	4. What your rights are if the dispute is against you.

### **About a Disputes Resolution Process**

### A dispute is between two or more people or the Assembly and another person or group, who are members of the organisation. It is a process used to resolve any disagreement, conflict, or issue between members or the Assembly and a member or members.  The dispute could relate to misconduct, a breach of the Assembly’s rules or the Act, or where the Assembly’s rights or interests have been damaged, or where a member’s rights or interests as a member have been damaged. Any member or the Assembly can bring a complaint against another member or the Assembly.

Before a dispute process begins, a complaint must be investigated. All parties involved have the right to be heard and a fair amount of time should be given for response by a member affected by the complaint. The process should follow natural justice.

Any process can also be resolved by a tikanga approach if both parties agree.

1. **What the proposed Constitution will say**
	1. **How a complaint is made:** any person can make a complaint to an Officer of the Assembly
	2. **The complaint must be made in writing:** Assistance will be provided to be able to write out a complaint
	3. **Acknowledgement of complaint:** Upon making a complaint, your complaint will be acknowledged within a reasonable amount of time.
	4. **You have made a complaint, here is what you can expect:** You can expect to hear from the Assembly within five (5) working days to acknowledge your complaint.
		1. **Complaint to be investigated:** all complaints will be investigated to see if there is a dispute to be raised.
		2. **Clear and regular communications:** That you will receive regular communications about the progress of your complaint.
		3. **Right to mediation:** If a dispute is found, you will be given the opportunity to engage in mediation, if appropriate.
	5. **You are the person who the complaint is about, here is what you can expect:**
		1. You will be given the opportunity to respond to a complaint, you must do so within 20 working days of receiving the information about the complaint.
		2. If a dispute is found, you will be given the opportunity to engage in mediation, if appropriate.
	6. **What the Assembly will do**
		1. **Investigate the complaint:** The Assembly, any independent person or organisation, or subcommittee of the NEC may investigate the dispute.
		2. **Uphold the Assembly’s values, rules and code of conduct:** The Assembly will ensure that the Assembly’s values, rules, and code of conduct are upheld during the investigation.
		3. **Take action if the matter is serious:** no action will be taken against any member before a determination is made about the complaint, except for in extreme cases, where the NEC may suspend a member until the process is completed and a decision is reached.
		4. **Assembly may decide not to proceed:** The Assembly may at any time decide not to proceed further with the complaint, or refer the matter to another body if it cannot make a clear decision.

* 1. **Other things to expect:**
		1. The process and timelines will be clear, and if they need to change they will be communicated as soon as possible
		2. If a dispute is confirmed, then the Assembly will ensure that the resulting determination will be:
			1. Independent
			2. Impartial
			3. Fair
			4. Offers a tikanga-based resolution process if all parties agree
			5. Does not conflict with the Act or the Assembly’s rules
			6. Binding on all parties, with the Assembly implementing the decision.
	2. **A tikanga-based approach is encouraged:**
		1. This is an option for a mediation approach that is agreed to by all parties, and where the tikanga, or values and procedure is agreed.
		2. If this approach is requested, the Assembly may appoint an independent provider to undertake the process on its behalf.