

# Complaints & Disciplinary Regulations 2019

## Contents:

1. Complaints and Disciplinary Regulations
2. Disciplinary Process for Individual Members
3. Disciplinary Process for Organisational Members & Corporate Supporters
4. Appeals Process
5. Relevant Extracts from the Institute's Articles of Association

## 1. Complaints & Disciplinary Regulations

### 1.1 Commencement

These regulations were updated by the Board of Trustees in JUNE 2019 under Articles 13 and 30 of the Articles of Association. They supersede all previous Complaints and Disciplinary Regulations.

### 1.2 Powers Retained by the Trustees

Notwithstanding these regulations, Trustees retain the power under Article 30.2.7 of the Articles of Association. This states that a Member shall cease to be a Member if, at a meeting of the Trustees at which at least half of the Trustees are present, a resolution is passed resolving that the Member be expelled on the ground that his, her or its continued Membership is harmful or is likely to become harmful to the interests of the Institute. Such a resolution may not be passed unless the Member has been given at least 14 clear days' notice that the resolution is to be proposed, specifying the circumstances alleged to justify expulsion, and has been afforded a reasonable opportunity of being heard by or making written representations to the Trustees. A Member expelled by such a resolution shall nevertheless remain liable to pay to the Institute any subscription or other sum owed by him, her or it.

### 1.3 Complaints

Any person may make a complaint in writing to the Institute concerning the conduct of a Member.

Any Trustee or the Chief Executive can him/herself initiate a complaint where he/she becomes aware of any matter concerning the conduct of a Member which in his/her opinion warrants inquiry under these regulations.

### 1.4 Grounds for Disciplinary Action

It shall be a ground for disciplinary action if a Member is deemed guilty of unprofessional conduct. This is defined as a Member having:

(a) Conducted it/him/herself in such a manner as would, in the opinion of the Institute of Fundraising:

- i. render it/him/herself unfit to be a Member and/or
- ii. cause its/his/her Membership to be undesirable and/or
- iii. be detrimental to the character or position of the Institute

**or**

(b) acted in serious or repeated breach of the Articles or of any applicable Code of Conduct or Code of Fundraising Practice or other rules and regulations of the Institute.

In determining whether there are grounds for disciplinary action any individual, Committee or Panel shall have specific regard to the Institute's Code of Conduct and to any relevant Code of Fundraising Practice in force at the relevant time.

### **1.5 Disciplinary Sanctions**

Any one or more of the following courses of disciplinary action may be ordered by the Investigation Committee or Disciplinary Panel or recommended by the Appeal Committee as is considered appropriate (and on such terms and conditions and for such periods as is considered appropriate) having regard to the nature and seriousness of the unprofessional conduct (including in particular any lack of integrity on the part of the Member which will usually lead to expulsion), the Member's character and past record and to any other relevant circumstances.

An Individual Member, an Organisational Member or Corporate Supporter may:

- a) be expelled from Membership of the Institute;
- b) have his/her/its Membership suspended;
- c) be reprimanded and/or given a written warning;
- d) give a written undertaking to refrain from continuing or repeating the unprofessional conduct in question;
- e) undertake (at his/her/its own expense) an Institute of Fundraising approved course of professional development or training in order to prevent future unprofessional conduct;
- f) have no action taken;
- g) (whether or not action is taken), he/she/it pay to the Institute a sum in respect of costs, not exceeding such maximum figure as the Board may set from time to time.

Only an Individual Member may:

- a) have his/her eligibility for Institute office reviewed;
- b) have his/her Membership grade redesignated.

An Organisational Member or Corporate Supporter may be ordered to remove its Representative and to replace him/her with another Representative approved by the Institute.

### **1.6 Decision of the Trustees**

In all cases, covered by the procedures detailed herein or disposed of under the provisions in the Articles of Association, the decision of the Trustees of the Institute of Fundraising shall be final.

## **2. Disciplinary Process for Individual Members**

### **2.1 Acknowledgement**

Following receipt of a complaint, the Institute will acknowledge receipt within 2 working days and will commence initial enquiries.

### **2.2 Suspension without Prejudice**

In the event of a serious allegation, the Chief Executive, or anyone delegated by the Chief Executive (“the Investigating Officer”), in consultation with the Chair or Vice Chair shall suspend the Member without prejudice pending the outcome of the investigation if it is considered that continued Membership would be harmful or is likely to become harmful to the interests of the Institute. Their decision is final and there is no right of appeal. The Member shall be advised accordingly.

During a suspension without prejudice, the Member shall not publicly claim affiliation with or Membership of the Institute. The Member shall nevertheless remain liable to pay to the Institute any subscription or other sum owed by him, her or it.

The Institute reserves the right to publish the fact that a Member has been suspended without prejudice pending the standard disciplinary procedure if this is considered to be in the best interests of the Institute.

### **2.3 Initial Enquiries**

The Investigating Officer shall undertake initial enquiries. This will include seeking evidence relating to the allegation from the Complainant, and inviting the Member in question to attend a face to face meeting to discuss the allegations or (if the member refuses to attend a face to face meeting or is not possible to arrange a meeting within 15 working days) requesting a response in writing from the Member under investigation.

Based on the outcome of the initial enquiries, the Investigating Officer will decide either:

- a. that there is a potential disciplinary case to answer, and the matter will proceed to the next stage (detailed at 2.4); or
- b. that there was a breach of the Institute’s rules or a breach of professional standards, but the breach is considered, in their opinion, to be isolated or minor; or
- c. that there is no disciplinary case to answer.

The Member will be notified of the outcome of the initial enquiries as soon as reasonably practical. Specifically that:

- i) a formal Investigation will be launched (and any suspension will be maintained); or

- ii) a written warning relating to a minor or isolated breach of the rules or unprofessional conduct, including advice, where appropriate, of any steps he or she should take to remedy the breach; or
- iii) no further action will be taken.

If the Member acknowledges the written warning in writing and commits to undertaking the recommended steps to remedy the breach, no further action will be taken. The case will be closed and the Complainant notified of the outcome.

If the Member fails to acknowledge written warning and/or refuses to commit to undertaking the recommended steps to remedy the breach in writing within 14 days of the date of the written warning, the Investigating Officer will decide whether or not to refer the matter to an Investigations Committee under the Formal Investigation stage of the process.

The Member may appeal against the written warning (Section 4) within 14 days of the date of the written warning.

Any suspension without prejudice will be revoked in the event that a written warning is given at this stage or if no further action will be taken.

The Complainant will be notified of the outcome of the initial enquiries as soon as reasonably practical.

## **2.4 Formal Investigation**

When the Institute receives or initiates a complaint that is not disposed of under the provisions set out above, the standard procedure shall apply as follows:

Following a decision under paragraph 2.3 (a) above, that there appears to be a case which should be pursued, the Investigating Officer shall appoint an Investigations Committee comprising at least one Trustee of the Institute and one Full Individual Member of the Institute (who may also be a Trustee).

At least one Member of the Investigations Committee should, if possible, have relevant expertise in the matter under investigation.

The Investigations Committee shall thereafter undertake such further inquiries as it considers necessary. An Investigation will feature, as a minimum, reviewing the evidence supplied by the Complainant, interviewing the Member under investigation and a review of any other relevant information.

## **2.5 Decision of Investigations Committee**

Upon completion of the investigation, the Investigations Committee shall decide:

- (a) whether or not there are grounds for disciplinary action in accordance with paragraph 1.4 and, if there are,
- (b) what disciplinary action (if any) it recommends in accordance with paragraph 1.5.

Upon a decision by the Investigations Committee that there are no grounds for disciplinary action, the Institute shall inform the Member and Complainant (where applicable) and the case will be closed. Any suspension in place at the time of the decision will be revoked.

Upon a decision that there are grounds for disciplinary action, the Institute shall serve written notice to the Member informing him or her of the decision and of the disciplinary action (if any) that the Investigations Committee requires him or her to consent to the proposed order. The Member will be notified that a response is required within 14 days of the date of the proposed order.

## **2.6 Member's Response to the Decision of the Investigations Committee**

If the Member confirms in writing that he or she acknowledges and accepts the sanction, action or remedy within 14 days, the case will be closed and the Complainant notified of the outcome.

A Member may submit an Appeal against the decision of the Investigations Committee (Section 4) in writing within 14 days of the date of the proposed order.

If the Member fails to acknowledge or accept a sanction, action or remedy within 14 days and fails to Appeal within 14 days, the Investigations Committee will consider escalating the sanction (up to and including expulsion from the Institute).

In the event that an escalation of the original sanction is considered, the Institute shall serve a second written notice to the Member informing him or her of the proposal to escalate the sanction and giving a further opportunity for the Member to consent to the originally proposed order. The Member will be notified that a response is required within 7 days of the second written notice.

If the Member confirms in writing that he or she acknowledges and accepts the original sanction, action or remedy within 7 days of the second written notice, the case will be closed and the Complainant notified of the outcome.

If the Member fails to acknowledge the second written notice, the Investigations Committee will impose the escalated sanction. The Member will be notified in writing of the decision of the Investigations Committee and shall have no right of Appeal against an escalated sanction. The case will be closed and the Complainant notified of the outcome.

## **3. Disciplinary Process for Organisations and Corporate Supporters**

### **3.1 Acknowledgement & Referral**

Following receipt of a complaint, the Institute will acknowledge receipt within 2 working days and will advise the Complainant to refer their complaint to the Fundraising Regulator or another appropriate Regulatory Body (such as the Charity Commission, OCSR or the Information Commissioner).

The Institute will notify the Member that a complaint has been received and referred to the appropriate regulator.

### **3.2 Suspension without Prejudice**

In the event of a serious allegation, the Chief Executive or anyone delegated by the Chief Executive (“the Investigating Officer”) in consultation with the Chair or Vice Chair, shall suspend the Member without prejudice pending the outcome of the investigation if it is considered that continued Membership would be harmful or is likely to become harmful to the interests of the Institute. Their decision is final and there is no right of appeal. The Member shall be advised accordingly.

During a suspension without prejudice, the Member shall not publicly claim affiliation with or Membership of the Institute. The Member shall nevertheless remain liable to pay to the Institute any subscription or other sum owed by him, her or it.

The Institute reserves the right to publish the fact that a Member has been suspended without prejudice pending the standard disciplinary procedure if this is considered to be in the best interests of the Institute.

### **3.3 Decision of the Fundraising Regulator**

On publication of a decision by the Fundraising Regulator (or other appropriate Regulatory Body), the Chief Executive in conjunction with the Chair or Vice Chair will decide whether there is a potential further disciplinary case to answer.

The outcome of the Chief Executive’s decision will be either:

- a. that there is a potential disciplinary case to answer, and the matter will proceed to the next stage (detailed at 3.4); or
- b. that there was a breach of the Institute’s rules or a breach of professional standards, but the breach is considered, in the opinion of the Chief Executive, to be isolated or minor; or
- c. that there is no disciplinary case to answer.

The Member will be notified of the outcome, specifically that:

- i) a formal Disciplinary Panel will be convened to consider the decision of the Fundraising Regulator (and any suspension will be maintained); or
- ii) a written warning relating to a minor or isolated breach of the rules or unprofessional conduct, including advice, where appropriate, of any steps the Member should take to remedy the breach; or
- iii) no further action will be taken and any suspension in effect at the time will be revoked.

If the Member acknowledges the written warning in writing and commits to undertaking the recommended steps to remedy the breach, no further action will be taken. The case will be closed and the Complainant notified of the outcome, and any suspension in effect at the time will be revoked.

If the Member fails to acknowledge written warning and/or refuses to commit to undertaking the recommended steps to remedy the breach in writing within 14 days of the date of the written warning, the Chief Executive will decide whether or not to refer the matter to a Disciplinary Panel.

The Member may appeal against the written warning (Section 4) within 14 days of the date of the written warning.

Any suspension without prejudice will be revoked in the event that a written warning is given at this stage or if no further action will be taken.

### **3.4 Disciplinary Panel**

Following a decision under paragraph 3.3 (a) above, that there appears to be a case which should be pursued, the Chief Executive shall appoint a Disciplinary Panel comprising at least one Trustee of the Institute and one Full Individual Member of the Institute (who may also be a Trustee).

The Disciplinary Panel shall review the investigation and report of the Fundraising Regulator and may choose to interview the Member under investigation.

### **3.5 Decision of Disciplinary Panel**

Upon completion of the review, the Disciplinary Panel shall decide:

- a. whether or not there are grounds for disciplinary action in accordance with paragraph 1.4 and, if there are,
- b. what disciplinary action (if any) it recommends in accordance with paragraph 1.5.

Upon a decision by the Disciplinary Panel that there are no grounds for disciplinary action, the Institute shall inform the Member and Complainant (where applicable) and the case will be closed. Any suspension in place at the time of the decision will be revoked.

Upon a decision that there are grounds for disciplinary action, the Institute shall serve written notice to the Member informing him or her of the decision and of the disciplinary action (if any) that will be taken. The Member will be informed that the Disciplinary Panel requires him or her to consent to, or Appeal against, the proposed order within 14 days of the date of the proposed order.

### **3.6 Member's Response to the Decision of the Disciplinary Panel**

If the Member confirms in writing that he or she acknowledges and accepts the sanction, action or remedy within 14 days, the case will be closed and the Complainant notified of the outcome (if appropriate).

A Member may submit an Appeal against the decision of the Disciplinary Panel (Section 4) in writing within 14 days of the date of the proposed order.

If the Member fails to acknowledge or accept a sanction, action or remedy within 14 days and fails to Appeal within 14 days, the Disciplinary Panel will consider escalating the sanction (up to and including expulsion from the Institute).

In the event that an escalation of the original sanction is considered, the Institute shall serve a second written notice to the Member informing him or her of the proposal to escalate the sanction and giving a further opportunity for the Member to consent to the originally proposed order. The Member will be notified that a response is required within 7 days of the second written notice.

If the Member confirms in writing that he or she acknowledges and accepts the original sanction, action or remedy within 7 days of the second written notice, the case will be closed and the Complainant notified of the outcome (if appropriate).

If the Member fails to acknowledge the second written notice, the Disciplinary Panel will impose the escalated sanction. The Member will be notified in writing of the decision of the Disciplinary Panel and shall have no right of Appeal against an escalated sanction. The case will be closed and the Complainant notified of the outcome (if appropriate).

## **4. Appeals**

### **4.1 Appeal Process & Timescales**

A Member may Appeal against a decision made by the Chief Executive or Investigating Officer (see sections 2.3 and 3.3) or the Investigations Committee (section 2.5) or Disciplinary Panel (section 3.5) within 14 days of issue of a written warning or written notice.

A Member may not Appeal against a sanction that has been escalated as a result of his or her failure to respond within 14 days of the original written warning or written notice.

### **4.2 Appeal Committee**

When an Appeal is made within the correct timeframe, the Institute will appoint an Appeal Committee, which will consist of at least two Trustees of the Institute who were not involved in the Investigations Committee or Disciplinary Panel).

The Appeal Committee will review the evidence compiled by the Investigations Committee or Disciplinary Panel and any new information that may be available. The Appeal Committee will decide whether or not to interview relevant individuals.

### **4.3 Decision of the Appeal Committee**

The Appeal Committee will decide whether or not to uphold the Appeal. The decision of the Appeal Committee will be final.

If the Appeal is upheld, the Member will be notified in writing of the decision. Any suspension in place at the time of the decision will be revoked and the sanction, action or remedy requested by the Investigations Committee or Disciplinary Panel will also be revoked. The Complainant will be notified of the outcome (if applicable).

If the Appeal is not upheld, the Member will be notified of the decision and any sanction, action or remedy. If the Member confirms in writing that he, she or it acknowledges and accepts the sanction, action or remedy within 14 days, the case will be closed and the Complainant notified of the outcome.



#### **4.4 Member's Response to the Decision of the Appeal Committee**

If the Member fails to acknowledge or accept a sanction, action or remedy within 14 days, the Appeal Committee will consider escalating the sanction (up to and including expulsion from the Institute).

In the event that an escalation of the original sanction is considered, the Institute shall serve a second written notice to the Member informing him or her of the proposal to escalate the sanction and giving a further opportunity for the Member to consent to the originally proposed order. The Member will be notified that a response is required within 7 days of the second written notice.

If the Member confirms in writing that he or she acknowledges and accepts the original sanction, action or remedy within 7 days of the second written notice, the case will be closed and the Complainant notified of the outcome.

If the Member fails to acknowledge the second written notice, the Appeal Committee will impose the escalated sanction. The Member will be notified in writing of the decision of the Appeal Committee and shall have no further right of Appeal against an escalated sanction. The case will be closed and the Complainant notified of the outcome.

## **5. Relevant Extracts from the Articles of Association**

### **Article 13 Rules**

13.3 The Trustees shall make (and may alter) rules, to be known as the Institute's "Complaints and Disciplinary Regulations" for the purpose of handling and resolution of complaints and disciplinary matters relating to the conduct of Members.

### **Article 30 Termination of Membership**

30.2 A Member shall cease to be a Member:

30.2.7 if, at a meeting of the Trustees at which at least half of the Trustees are present, a resolution is passed resolving that the Member be expelled on the ground that his, her or its continued Membership is harmful or is likely to become harmful to the interests of the Institute. Such a resolution may not be passed unless the Member has been given at least 14 Clear Days' notice that the resolution is to be proposed, specifying the circumstances alleged to justify expulsion, and has been afforded a reasonable opportunity of being heard by or making written representations to the Trustees. A Member expelled by such a resolution shall nevertheless remain liable to pay to the Institute any subscription or other sum owed by him, her or it.

30.2.8 if a Member is subject to the Institute's disciplinary procedures set out in the Complaints and Disciplinary Regulations adopted under Article 13 and a finding is made in accordance with those regulations that the Member should be removed from Membership.