

## **INSTITUTE OF WATER DISCIPLINARY PROCEDURE**

### **Introduction**

Members of the Institute of Water are required to uphold the reputation of the Institute and the water industry, safeguard the public interest, observe the governing rules and regulations and comply with the Code of Professional Conduct.

The primary purpose of this procedure is to protect the public, to maintain public confidence in the integrity of the water industry and to uphold proper standards of behaviour.

Where a member is alleged to have breached the Code of Conduct or the governing rules and regulations or has been convicted or accepted a caution for a criminal offence then an investigation will be conducted in a clear, open, fair and unbiased manner as outlined below.

### **Preliminary Investigation**

Complaints or allegations shall be submitted in writing to the Registered Address. Upon receipt the Chief Executive shall inform the member concerned, giving him or her the opportunity to respond, and the National Chair.

The National Chair shall convene a Preliminary Investigation Committee (PIC) comprising one senior Board Member and one Lay Member. The PIC shall consider the complaint, any supporting evidence and any response from the subject and shall determine whether or not there is a case to answer. If there is no case to answer, the complaint shall be dismissed and the National Chair, the complainant and the subject shall be informed.

The complainant has a right to appeal against a 'no case to answer' outcome within 30 days (see Right of Appeal). Records need only be maintained until the time allowed for the complainant to appeal against the decision has elapsed.

Where there is a case to answer, the PIC should determine whether any criminal or civil court proceedings relating to the alleged misconduct are likely or under way. If so, the disciplinary hearing should not proceed until court proceedings, including any appeal, are complete.

A member who resigns or whose membership lapses through non-payment of subscriptions after a complaint has been lodged shall remain in membership until completion of the disciplinary process.

### **Disciplinary Hearing**

A disciplinary hearing shall be conducted by a Disciplinary Panel (DP), appointed by the National Chair, of not less than three experienced and trained persons including one senior Board Member and one Lay Member. Members of the DP will not have been part of the Preliminary Investigation Committee.

The DP shall collect, examine and clarify evidence. The complainant and the subject shall have timely access to evidence and responses. The DP shall arrange a hearing - to which all parties are invited - giving not less than 14 days notice. Parties involved are entitled to be accompanied by a 'next friend' who may be a lawyer instructed to represent them, including to speak on their behalf. The DP should consider adjourning the hearing if the subject is unable to be present or be represented. If the member concerned has declined to be present or has not responded by the date of the hearing, the hearing shall proceed without the subject being present.

The hearing must be conducted with transparent fairness and will normally comprise a statement (from the DP) of the complaint and any supporting evidence, followed by a reply (from the subject or their representative) with evidence which is open to cross-examination. Evidence may also include written statements. The complainant, although invited to attend, is not entitled to speak unless called as a witness.

If the complaint is admitted or upheld, the DP determines which section(s) of the Regulations or Code of Professional Conduct has been breached and decides what sanction, if any, to apply. Sanctions are likely to comprise a formal warning, suspension of membership privileges, suspension of membership or exclusion from membership. Fines are not appropriate since the intention is to protect the public, maintain public confidence in the integrity of the water industry and uphold proper standards of behaviour as opposed to punishing an offender. An order for costs may be appropriate if for example the Institute had found it necessary to engage a lawyer.

### **Right of Appeal**

An appeal can be made by the complainant following the Preliminary Investigation or by the subject following the Disciplinary Hearing. In either case the complaint must be submitted in writing to the Registered Address within 30 days of the decision.

An appeal can only be made on one or more of the following grounds, which must be clearly stated:

- Jurisdiction (whether the alleged misconduct is within the scope of the Rules and Codes of Conduct)
- Procedure (procedures were not followed)
- Perversity (the decision was perverse in the light of the evidence)
- New evidence which could not reasonably have been produced at the Disciplinary Hearing
- Proportionality (the sanction was disproportionate to the gravity of the breach)

On receipt of an appeal by the complainant against a 'no case to answer', the National Chair shall appoint an independent reviewer, not part of the Preliminary Investigation Committee (PIC). If there are valid grounds for appeal, the independent reviewer shall review the material presented to the PIC, the record of its decision and any additional evidence submitted. If the independent reviewer decides that there is a 'case to answer' the case shall be referred to a Disciplinary Panel. If the appeal is dismissed, the complainant, the subject and the National Chair shall be informed and the records shall be destroyed.

On receipt of an appeal by the subject against the Disciplinary Panel decision, the National Chair shall convene Appeal Panel (AP) comprising three experienced and trained persons including one senior Board Member and one Lay Member. Members of the AP will not have been part of the PIC or the Disciplinary Panel (DP). If there are valid grounds for appeal, the AP shall consider the evidence considered by the DP, the record of proceedings at the Disciplinary Hearing and any new evidence which could not reasonably have been produced at the Disciplinary Hearing. A full re-hearing is not essential but may be required by the AP. If the appeal is dismissed, the complainant, the subject and the National Chair shall be informed and the records shall be destroyed. If the appeal is upheld, the AP may reverse the decision of the DP or uphold its decision but reduce the sanction.

### **Notification**

The Chairman will inform the Institute of Water Board of the outcome of a disciplinary case. If the outcome is expulsion from membership, the Engineering Council, the Science Council or the Society for the Environment must be informed if the subject is registered, even through another licensed body.