

REC complaints and disciplinary procedure

1 Introduction

1.1 The Recruitment and Employment Confederation (REC) has an important role in raising and setting standards in the recruitment and staffing industry. The REC requires Members on entry into REC membership to sign up to the REC Code of Professional Practice for Corporate Members, any specialist REC sector-specific and/ or the Professional Code of Ethics and Professional Conduct for Individual Members, (together the REC Codes).

1.2 In order to maintain high standards Members agree that the REC shall investigate members' ongoing compliance with the REC Codes through the REC's online Compliance Test and Compliance Reviews (inspections).

The REC will also investigate complaints against Members that arise out of an allegation of a breach or breaches of any of the REC Codes.

1.4 The REC will use also this procedure to investigate complaints against an Accredited Person where such complaints arise out of an allegation of a breach or breaches of the REC Codes (Accredited Persons are required under the REC Audited Terms and Conditions to comply with the REC Codes).

2 General

2.1 Definitions

"Accredited Person" means any person which holds [a current] REC Audited/ REC Audited Education, including a non-REC member.

"Accredited Status" means the holding of current REC Audited/ REC Audited Education.

For the purposes of the Complaints and Disciplinary Procedure (this Procedure) "Member" means as defined in Article 1 of the REC's Articles of Association, namely:

- Corporate Members (including Full Corporate members, Overseas Corporate members, Associate Corporate Members and Unqualified Corporate Members); and
- Individual Members (including Fellows, Full Individual Members, Affiliate Individual Members)

For the purposes of this Procedure only "Member" also includes an Accredited Person.

"Membership" means corporate membership of the REC or membership of the Institute of Recruitment Professionals. For the purposes of this Procedure only, Membership also includes the holding of Accredited Status.

"Suspension" means that if a Member is suspended from Membership, the Member will continue to have access to any applicable REC services but will be required to remove the REC logo (and REC Accredited logo where relevant) from public display. Additionally, the Member will be removed from the REC online directory of Members (and Accredited Persons where relevant) and will be required to cease actively

promoting their REC Membership (and Accredited Status where relevant). “Suspend” and “suspended” shall be construed accordingly.

2.2 Complaints against Members

Any person may complain to the REC that a Member's conduct has breached any of the REC Codes. Any such complaint will be considered under this Procedure.

2.3 Evidence or allegations in the public arena

The REC may instigate an investigation if evidence or allegations made in the public domain come to its attention that suggests that a Member may have breached any of the REC Codes.

2.4 Suspension of a Member

Where a serious allegation is made about a Member which indicates a significant breach of any of the REC Codes and which, if proven, would potentially bring the industry into disrepute the REC Chief Executive and the Chair of the Professional Standards Committee may immediately suspend the Member's membership of the REC (and Accredited Status where relevant). Such action may be taken in respect of, but is not limited to, allegations which are in the public domain. The REC may publicise such a suspension.

An investigation will then be conducted in accordance with this Procedure.

2.5 Anonymous complaints

The REC will not under normal circumstances accept anonymous complaints but will require full disclosure from all parties in a complaint. The REC may at the discretion of the Chief Executive, accept an anonymous complaint. The REC may refer anonymous complaints to the relevant statutory authority as appropriate.

2.6 Resignation of Membership during an investigation

A Member will not be permitted to resign its membership of the REC if it is the subject of a complaint which has been made under this Procedure, and until the complaints investigation has been concluded or the expiry of any disciplinary sanction issued under this Procedure. We will continue to investigate a complaint made against an Accredited Person whilst it held Accredited Status even if it ceases to hold Accredited Status at a later date.

2.7 Refusal to co-operate

Any refusal to co-operate with this Procedure, with REC staff or the Professional Standards Committee may result in further and more serious sanctions under this Procedure (including referral to the Professional Standards Committee where this has not already taken place) and/or the matter being referred to the Employment Agency Standards Inspectorate at the Department of Business, Innovation and Skills (BIS) or other appropriate authority.

3 The REC compliance process

3.1 Unqualified and Full Corporate Membership

Members are reminded that in order to be a Full Corporate Member (as defined in Article 1 of the Articles of Association) they will have three attempts to take and pass the REC's online compliance test (the Compliance Test). They must pass the Compliance Test within 6 months of submitting their application for Membership. **Members are also reminded that their status will be that of Unqualified Corporate Member until they pass the Compliance Test. Unqualified Corporate Members are not permitted to use the REC logo but do have access to all other REC services.**

3.2 The Compliance Test

Corporate Members will have three attempts to pass the Compliance Test within each two year period starting from 2013. If a Corporate Member does not pass the Compliance Test within this period it will not be able to renew its Membership.

3.3 Compliance Reviews

REC wishes to support its Corporate Members through the Compliance Test. Corporate Members agree that the REC may carry out Compliance Reviews (inspections) at that Member's premises. Both the Compliance Test and Compliance Reviews are designed to assess a Corporate Member's compliance against key aspects of recruitment industry law and the REC Codes.

3.4 The Compliance Process

The Compliance Process comprises the Compliance Test and Compliance Reviews, together with any support the REC considers necessary to assist members to achieve compliance with the Codes. Serious or persistent failure to comply with the Codes or with the Compliance Process will result in the Member being referred to the Professional Standards Committee for its consideration.

4 Complaints

4.1 Time period in which to make a complaint

Complaints must be made to the Complaints Officer in writing. A complaint must be made within one year of (a) the incident complained about, or (b) a finding by a legal or regulatory authority. In the event that a complaint is brought after one year, the complainant must provide written reasons for the delay. If, in the reasonable opinion of the Complaints Officer, the reasons given do not reasonably justify the delay in bringing the complaint, the Complaints Officer shall have the discretion to refuse the complaint.

4.2 Complaints which the REC will investigate

The REC will investigate the following complaints which come to the attention of the REC and which, in the opinion of the REC are relevant and relate to the Member's operation within the recruitment industry:

- criminal convictions;
- civil court judgments;
- an employment tribunal decision against a Member;
- the revocation of a licence issued by the Gangmasters Licensing Authority.

The Complaints Officer will investigate a complaint in accordance with the procedure set out in sections 5 and 8 below. The Complaints Officer will write to the member concerned and give them an opportunity to submit a response together with any relevant evidence. The investigation may result in the matter being referred to the Professional Standards Committee.

4.3 Complaints which the REC will not investigate

The REC will not investigate:

1. complaints that arise from legal or contractual disputes, where there is an alternative means of redress, such as a right of action in a court of law or a tribunal. However, the REC may investigate such matters to the extent that they also involve a breach of an REC Code or unprofessional conduct by a member that is not otherwise actionable in a court or tribunal. However, if a court or tribunal has reached a decision or made a finding which amounts to a breach of either of the REC Codes then the matter may be referred to the Professional Standards Committee in accordance with 4.2 above.
2. disputes between Corporate Members and their employees or Individual Members and their employers;

3. actions which are already subject to investigation by a regulatory authority (including but not limited to the Office of Fair Trading, the Gangmasters Licensing Authority or Information Commissioner's Office) which has not yet concluded. The REC can investigate such matters on conclusion of the relevant authority's investigation so far as they refer to alleged breaches of the REC Codes

5 The complaints and disciplinary procedure

5.1 The REC Complaints and Disciplinary Procedure is set out below and should be considered in conjunction with the REC Codes.

5.2 The Member's internal complaints procedure

The REC requires all Corporate Members to operate a complaints procedure. The complainant should in the first instance raise the matter with the Member concerned, following their internal complaints procedure. If the Member does not reply to the complainant's satisfaction, the complainant may refer his/ her complaint to the REC.

5.3 Complaints should be in writing

Complaints should be submitted in writing to the REC, preferably using the REC complaint form, together with all relevant documentary evidence supporting the complaint. The complaint will be referred to the Complaints Officer who will assess the complaint for any potential breach of the REC Codes. The Complaints Officer will decide whether and how the complaint may be taken forward and will advise the complainant accordingly.

5.4 Formal investigation of a complaint

If the Complaints Officer decides that a formal REC investigation is required, s/he will notify the Member in writing of the nature of the complaint, along with a copy of the complainant's complaint and any supporting documentation. A letter of acknowledgement will also be sent to the complainant advising that the member has been requested to respond within 10 working days of the date of sending out the notice of complaint. Complaints that become subject to an investigation will only be dealt with in writing and will not be discussed by telephone.

In appropriate circumstances the Complaints Officer may exercise discretion to mediate a settlement between the parties without instituting the formal Procedure. In these circumstances the Complaints Officer may contact either or both parties by telephone or in writing in order to reach an agreed settlement and will document the agreed outcome in writing to both parties within 5 working days of the outcome having been agreed.

5.5 Consent to forward the complaint to the Member

If there is any reasonable doubt about the complainant consenting to their complaint being forwarded to the Member, such consent will be sought by telephone or by letter before a copy of the complaint is forwarded. If the complainant does not give permission to forward the complaint to the Member, the complainant will be asked to redraft their complaint so that they are willing to allow the Complaints Officer to send it to the Member. If the complainant does not wish to do so, the Complaints Officer will be unable to take the matter further.

5.6 Responding to a complaint

The Member must respond to the complaint in writing within 10 working days of the date of the REC's notification of the complaint. If the Member is unable to do so, they must notify the REC in writing giving reasons. The REC will, at its discretion, extend the period for response to a given date, which shall not be longer than 28 days after the original request to investigate the complaint. Alternatively, if in the REC's opinion the reasons given for the delay do not reasonably justify the delay, it may refer the matter

directly to the Professional Standards Committee. If the member does not make contact with the REC to agree an extension and/or does not respond within 10 working days as outlined above and/or the member's response is unsatisfactory, the REC may refer the matter directly to the Professional Standards Committee.

5.7 Requests for further information

Upon receiving the Member's response, the Complaints Officer may contact both the complainant and the Member to seek further information or clarification of any matters raised. All responses to such contacts should be received within a period of 10 working days of the date of the request for further information or clarification, or by the date agreed with the Complaints Officer, if different. **The Complaints Officer may refer the matter directly to the Professional Standards Committee if a Member fails to respond and/or to co-operate with an investigation and/or the Member's response is unsatisfactory.**

5.8 Disclosure of information received during an investigation

The Complaints Officer will forward all responses and enclosures received during the course of an investigation from either the complainant or the Member to the other party.

5.9 Resolving a complaint

When the Complaints Officer has received adequate information with which to make a finding, the Complaints Officer will act in one of the following ways:

- i) If the Complaints Officer is satisfied there is no breach of an REC Code, s/he will write to this effect to both the complainant and the Member.
- ii) If the Complaints Officer makes a preliminary finding that the Member has breached any of the REC Codes, the Complaints Officer will write to both parties to confirm this and to require a specific response from the Member concerned in respect of evidence and/or assurances that there will be no further breaches of the REC Codes. The Complaints Officer may also require the Member to undergo a Compliance Review (or accept other support offered by the REC) in order to ensure that the Member's practices meet the requirements of REC Codes.
 - If the Member responds with adequate evidence and/or assurances that there will be no further breaches of the REC Codes, and the Complaints Officer is reasonably satisfied that standards are in place or improved as a result of the complaint, the Complaints Officer may consider the matter satisfactorily resolved and will write to both parties stating this and that no further action is proposed.
 - If the Member's response is not forthcoming or is unsatisfactory and/or the member fails to co-operate the matter may be referred directly to the Professional Standards Committee.
- iii) If the Complaints Officer considers it appropriate to try to resolve the matter informally between the parties, the Complaints Officer will give the parties a period of 28 days ("the Resolution Period") to reach a resolution either independently or with the assistance of the Complaints Officer.
 - If the parties agree on a resolution and the Complaints Officer is satisfied that the complaint has been resolved and that there are no remaining issues relating to the REC Codes, the Complaints Officer will write to both parties stating this and that no further action is proposed. Alternatively the Complaints Officer may at his/her discretion pursue any remaining issues relating to REC codes of practice arising from the complaint and not resolved.
 - If the matter has not been resolved within the Resolution Period the Complaints Officer may without further notice to the parties refer the matter to the Professional Standards Committee

for consideration. The Complaints Officer may make recommendations to the Committee who shall act in accordance with section 7 of this Procedure.

5.10 If either the complainant or Member is not satisfied with the decision of the Complaints Officer in respect of 5.9 above, he/she should state the reasons in writing within 10 working days of the decision and request that the matter be submitted to the Professional Standards Committee which will consider the complaint on the basis of the evidence submitted.

6 The Professional Standards Committee

6.1 Delegated Authority

The REC Council has delegated authority to the Professional Standards Committee (PSC) to consider evidence of non-compliance with the REC Codes and to impose disciplinary sanctions as set out in section 7 below. The PSC shall have full power to investigate complaints against members in whatever manner it deems appropriate.

6.2 Composition of the PSC

The PSC shall consist of not less than four full members of the REC and at least two but not more than four members, who shall be representatives of relevant stakeholder bodies that can provide an objective perspective on matters brought to the PSC. The PSC may co-opt up to three additional members. The REC Council will appoint the Chair of the PSC. The PSC will have a quorum of three members including co-opted members and the Chair. REC staff shall attend as appropriate to advise the PSC.

6.3 PSC meetings

The PSC meets quarterly on fixed dates prearranged at the beginning of each year. In exceptional circumstances and at the discretion of the PSC a matter may be heard by a specially convened PSC consisting of not less than three members, including the Chair.

7 The PSC - procedure for considering alleged breaches of REC standards

7.1 Referral to the PSC

Once a matter has been referred to the PSC, and if it considers there is sufficient evidence of a serious and continuing breach of any of the REC Codes, it may (a) require the Member to provide a written undertaking not to engage in a particular course of conduct and/or (b) suspend the Member's membership of the REC or Accredited Status pending conclusion of their investigation of the complaint. Failure to provide an undertaking when requested may result in the PSC, at its discretion, expelling the member from REC membership forthwith (with no refund of either the membership fee, the annual subscription or the Audited fee). The REC reserves the right to inform the Employment Agency Standards Inspectorate at BIS or such other authority as appropriate, of the matter under investigation at any stage in this process.

Attendance at PSC meetings

7.2 The PSC shall consider the matter on the basis of all documentary evidence produced in the investigation of a complaint or the Compliance Process. It may also request further evidence from either the complainant or Member concerned and may require the attendance of either or both parties to give evidence in person at the next scheduled meeting of the PSC. Where such attendance is required, each party is entitled to be represented and may ask questions of any other party present. The Complaints

Officer will advise the parties of the procedure to be adopted at such a hearing on or before the day of the hearing.

7.3 Alternatively either a complainant or a member may request to attend before the PSC to be represented and to ask questions of the other parties present. The procedure to be adopted at such a hearing will be communicated to the parties attending on or before the day of the hearing.

7.4 A hearing date will be notified to the parties within 10 working days of referral to the PSC. Hearing dates will normally be the next meeting of the PSC.

7.5 Hearings will take place at a venue and at a time to be decided by the PSC. If either party is unable to attend the hearing on the appointed date they must notify the Complaints Officer within 5 working days of the notice of the hearing with written reasons for non-attendance. The Chair of the PSC may at his or her discretion agree to adjourn the hearing to a later date, in which case the Complaints Officer will notify the parties within 5 working days of this decision. If either party cannot or declines to attend the second scheduled hearing, the Chair of the PSC may at his or her discretion determine that the hearing should proceed in their absence. There will be no further adjournments except in exceptional circumstances.

7.6 In addition, before reaching a decision if the PSC feels that further evidence is required of any potential or ongoing breach of the REC Codes by the Member, it may require the Member to undergo a Compliance Review (or another method of support offered by the REC) with a view to demonstrating compliance with the REC Codes.

7.7 Having reached its conclusion, with or without the attendance of the parties the PSC will agree upon the disciplinary action to be taken against the member, if any. The decision of the PSC shall be agreed by a simple majority of members of the PSC including co-opted members. In the event that there is an equality of votes the Chair of the PSC shall have a casting vote.

Decisions and Disciplinary Sanctions

7.8 Decisions of the PSC

The PSC may decide the matter in one or more of the following ways:

- that there is no evidence of a breach of any of the REC codes;
- that the complaint is not proven; or
- that there has been a breach of one or more of the REC Codes.

7.9 Sanctions available to the PSC

In the event that the PSC finds there has been a breach of the REC Codes it may order the following disciplinary sanctions:

- A reprimand for a specified period. This will specify the breach in question and shall remain on the Member's record for a period of up to two years and shall be taken into account in the event of:
 - further complaints against the Member brought to the attention of the REC during that period; or
 - the Member ceases to be a member and subsequently seeks readmission to REC Membership.
- Where there is an ongoing breach or evidence that further breaches of the REC Codes might occur:

- that by way of a Compliance Order the member be required to take a specified course of action and/or give a written undertaking as to the member's future conduct and compliance with the REC Codes;
 - that the member should undergo a Compliance Review with a view to agreeing a specified course of action and demonstrating its compliance with the REC Codes.
- That the Member should be expelled from the REC and/ or IRP. If a Member is expelled it will not be able to apply for re-entry to the REC and/ or IRP within 1 year of the expulsion. In the case of Corporate Members the PSC may also stipulate that the Member must undergo and pass a Compliance Review before being permitted to regain Membership. In the case of IRP's, the PSC may also stipulate that written reassurances of future conduct must be provided before re-entry to the REC.
 - That Accredited Status be removed from an Accredited Person which shall be prohibited from displaying the REC Audited logo from the date of removal. Where Accredited Status is removed from an Accredited Person it will not be able to reapply for such status within 1 year of the removal.

7.10 Expulsion of a Member/ withdrawal of Accredited Status

If the PSC considers that a decision to expel a Member and/ or remove Accredited Status may be likely or appropriate it will invite the Member and its representatives to attend a hearing in person at the next scheduled meeting of the PSC or other date as appropriate and as outlined in clause 7.4 above.

Expulsion from Membership and/ or removal of Accredited Status will be suspended until that hearing has decided to confirm the expulsion or withdraw it.

7.11 Notification of decisions of the PSC

The decision of the PSC will be notified to the Member and the complainant in writing and shall set out the PSC's reasons for the decision.

7.12 Publication of decisions of the PSC

In addition the PSC may decide to publicise its decision once the period for appeal set out in 8 below has elapsed. Decisions of the PSC may be published in the REC membership publications as well as the general recruitment industry press, local press and national press, or by way of a general press release. The publications or methods chosen in any particular case will be at the absolute discretion of the PSC. If the PSC decides to publicise a decision, the parties will be notified of the publications or methods chosen. If the PSC decides to publicise a decision in which they found there was no evidence of a breach or the complaint was not proven, they will not name the parties to the dispute.

8 Appeals against the decision of the PSC

8.1 Either the complainant or the Member concerned may appeal the decision of the PSC within 10 working days of the date of the written notification of the decision, if they have grounds to do so, as set out in section 8.3(ii).

8.2 The Appeal Panel

The appeal shall be heard by an Appeal Panel which shall be appointed from amongst the Fellows of the REC. The Appeal Panel shall consist of not less than 3 REC Fellows who shall nominate one of their number to act as Chair of the Appeal Panel.

8.3 The appeals process

Appeals to the Appeals Panel shall be dealt with as follows:

i) The party which wishes to appeal a decision of the PSC must do so in writing within 10 working days of the date of the written notification of the decision of the PSC.

ii) The notice of appeal must set out clearly the grounds for appeal, which must be on the basis of:

- additional information or evidence not previously available for submission has come to light;
- that the decision was perverse (i.e. that no reasonable body properly conducting itself could have reached the same conclusion); or
- that there has been a serious irregularity in the application of this Procedure.

Following a preliminary review by the REC Head of Professional Services, if it is found that there are no valid grounds for an appeal, then the REC will reject the appeal and the party appealing will be notified in writing.

iii) If the REC Head of Professional Services find that there are grounds for appeal, copies of the written reasons for appeal together with any supporting documents shall be sent to both parties to the appeal or their appointed representatives.

iv) A hearing date will be arranged upon receipt of the written appeal submitted as above and will give both parties to the appeal at least 15 working days' notice of the date selected. If either party to the appeal is unable to attend the hearing on the date appointed they must notify the Complaints Officer within 5 working days of the date of the notice of the hearing together with written reasons why they are not able to attend on the appointed date. The Appeal Panel may, at its discretion, agree to adjourn the hearing to a later date and the REC will notify the parties accordingly within 5 working days of this decision.

v) Hearings will take place at a venue and time to be notified to the parties but will usually take place at the REC's offices in London. The procedure to be adopted at the appeal hearing will be communicated to the parties attending on or before the day of the hearing.

vi) The Appeal Panel will consider the appeal on the basis of all information and evidence already submitted together with any additional evidence and the written reasons for appeal. All documentation will be sent to Appeal Panel members and the relevant parties no later than 10 working days before the appeal hearing. The Appeal Panel will only consider additional information submitted after this point in their absolute discretion provided the information is relevant and aids their understanding of the subject matter of the appeal or this has been specifically requested.

vii) The Appeal Panel may at its absolute discretion and by prior appointment visit any office or address connected with the Member against whom the complaint has been made. In such circumstances the final decision of the Appeal Panel will be deferred until after such visit.

viii) The decision of the Appeal Panel shall be by simple majority vote and shall be final and binding. Where a simple majority cannot be reached the Chair of the Appeal Panel shall have the casting vote.

8.4 The Appeal Panel's decision

The Appeal Panel may:

- uphold the decision of the PSC;
- overturn the decision of the PSC; and/or

- vary the decision of the PSC by ordering any of the alternative sanctions available as outlined in section 7.9 of this Procedure.

8.5 Notification of the Appeal Panel's decision

The parties to the appeal and, where this has arisen from a complaint, the original complainant will be notified of the Appeal Panel's decision and of any decision to publicise it, in writing within 10 working days of the decision. The extent and method of publication will be at the discretion of the Appeal Panel.

8.6 No further right of Appeal

There is no further right of appeal but nothing in this procedure shall prejudice the ability of any party to pursue any existing legal rights they may have.

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