

Matters Not Dealt With Under The REC Complaints & Disciplinary Procedure

1. Legal disputes between parties but no breach of REC Code of Professional Practice

- The REC has no powers to settle legal disputes under the REC Complaints and Disciplinary Procedure.
- The scope of the REC complaints procedure is limited to the investigation of complaints that REC members have breached the REC Code.
- Parties involved in legal disputes should be mindful that legal action must be brought within the following time limits in the following circumstances:

County Court	Employment Tribunal
Breach of contract: 6 years of the alleged breach	Unfair dismissal: 3 months of dismissal
Tortious breach (e.g. negligence): 3 years of alleged breach	Redundancy: 6 months of dismissal
	Wrongful dismissal: 3 months of dismissal
	Non-payment/unlawful deductions: 3 months from non-payment/unlawful deduction
	Non-Payment of holiday: 3 months from non payment

2. Legal dispute in progress but also potential breach of REC Code of Professional Practice

The REC will not commence its Complaints and Disciplinary Procedure until the legal proceedings have been concluded.

3. Allegations that one member has “poached” another member’s staff (either permanent or temporary)

This issue was formerly covered by the Code of Practice but was removed in 1998, so as not to prevent the proper exchange of staff. A complaint of this nature can be properly dealt with under the employee’s contract of employment and/or the terms of business with the relevant client.

4. Dispute relating to the complainant’s employment with an REC member

The REC Complaints and Disciplinary Procedure does not cover complaints brought by REC members’ own employees.

5. Potential for a legal dispute but one is not active or imminent at the time the complaint is made and also potential breach of REC Code of Professional Practice

- The REC has no powers to settle legal disputes under the REC Complaints and Disciplinary Procedure.
- Parties in these circumstances should be mindful of the time limits imposed on bringing various actions in the Courts and Employment Tribunals. See point 1.
- Where there is potential for a legal dispute but one is not active or imminent at the time the complaint is made, REC may commence its Complaints and Disciplinary Procedure if appropriate. In investigating a complaint REC may require either party to release information that may also be relevant to the legal dispute. Information that either party submits to REC during its investigation is not subject to legal professional privilege and may therefore have to be disclosed in the course of the legal proceedings.
- If either party does not wish to make such disclosures because of the potential for a legal dispute in the future that is a matter for them. However, the parties should be mindful that failure to disclose vital evidence may prejudice the outcome of the complaints investigation. Failure to co-operate with the REC can become a disciplinary matter in itself.

- If this matter does become litigious at any stage during the REC investigation into it as a complaint, either party may request, in writing, that REC's investigations be adjourned until the conclusion of the legal proceedings. If either party does request an adjournment the REC would need to see documentary evidence to support this request and whether or not an adjournment would then follow will be considered on a case by case basis.
- At the end of a period of adjournment when REC is informed that the legal proceedings have been concluded, it may re-commence the complaints procedure if there are outstanding issues relating to the Code of Practice that have not been resolved. It is incumbent on both parties to inform REC once legal proceedings are at an end.