

# Complaints and disciplinary procedure

## 1. Introduction

- 1.1 The Recruitment & Employment Confederation (REC) has an important role to play in setting and raising standards in the recruitment and staffing industry. On joining the REC or REC Professionals, members must sign up to the REC Code of Professional Practice for Corporate Members, and/ or the REC Professionals Code of Ethics and Professional Conduct for Individual Members, along with any specialist sector specific Codes(together the REC Codes).
- 1.2 The REC will investigate Members' ongoing compliance with the REC Codes through the REC's online Compliance Test and Compliance Reviews.
- 1.3 The REC will investigate complaints against Members that allege a breach or breaches of any of the REC Codes.
- 1.4 The REC will use 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	Any person (including a non REC member) which holds REC Audited/ REC Audited Education, or held Accredited Status at the time the REC received the complaint, or started the investigation.
Accredited Status	the holding of REC Audited/ REC Audited Education.
"Member"	<ul style="list-style-type: none"> <li>• Corporate Members (including Full Corporate members, Overseas Corporate members, Associate Corporate Members and Unqualified Corporate Members); and</li> <li>• REC Professionals (including Fellows, Full Individual Members, Affiliate Individual Members)</li> <li>• all as further defined in the REC's Articles of Association.</li> </ul> <p>For the purposes of this Procedure only "Member" also includes an Accredited Person unless otherwise stated.</p>
"Membership"	Corporate membership of the REC or membership of REC Professionals. For the purposes of this Procedure only, Membership also includes the holding of Accredited Status

Procedure	means the REC's Complaints and Disciplinary Procedure, set out in this document;
Professional Standards Committee (PSC)	Means as set out in Section 6.
"Suspension"	Means as set out in section 3.3.  "Suspend" and "Suspended" shall be construed accordingly.

### 3. Complaints against members

#### 3.1 Who may complain

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

#### 3.2 Evidence or allegations in the public domain

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

#### 3.3 Suspension of a Member

The REC Chief Executive and the Chair of the PSC may immediately suspend the Member's membership of the REC (and Accredited Status where relevant) if the REC receives a complaint, or becomes aware of an allegation whether in the public domain or not, about a Member, which suggests a significant breach of any of the REC Codes and which, if proven, would potentially bring the industry into disrepute. The REC may publicise such a suspension.

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;
- be removed from the REC online directory of Members and REC Audited/REC Audited Education directory where relevant; and
- be required to cease actively promoting their REC membership;
- where the member holds Accredited Status, be required to cease actively promoting their Accredited Status where relevant.

The REC will conduct an investigation as set out in this Procedure.

#### 3.4 Anonymous complaints

We will not accept anonymous complaints – if the complainant wishes to remain anonymous, the REC will advise them to complain to the relevant statutory authority. As stated in section 5.5 the REC can only deal with a complaint if the complainant gives REC permission to send their complaint to the Member.

#### 3.5 Resignation of Membership during an investigation

A Member cannot-resign its REC membership:

- whilst the REC is dealing with a complaint or investigation under this Procedure; and
- until the complaints investigation has been concluded or
- any disciplinary sanction issued under this Procedure has expired. REC will 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.

### 3.6 Refusal to co-operate

If a Member refuses to co-operate with this Procedure, with REC staff or the PSC, the PSC may issue a sanction against that Member and/ or the REC may refer the matter to the relevant statutory authority.

### 3.7 The REC Compliance Process

#### **Unqualified and Full Corporate Membership**

Members are reminded that in order to be a Full Corporate Member 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 3 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.

#### **The Compliance Test**

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

#### **Compliance Reviews**

REC wishes to support its Corporate Members through the Compliance Test. Corporate Members agree that the REC may carry out Compliance Reviews 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.

#### **The Compliance Process**

The Compliance Process is made up of 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.

## 4. The Complaints Process

### 4.1 Time period in which to make a complaint

Complaints must be made in writing and within six months of (a) the incident complained about, or (b) a finding by a legal or regulatory authority. The REC may start an investigation within six months of becoming aware of an allegation against the Member in the public domain. If it is not possible to raise the matter within six months due to specific circumstances, such as, maternity or sick leave, the complainant must give reasons for the delay. If, in the reasonable opinion of the REC, the reasons do not justify the delay the REC may refuse the complaint.

### 4.2 Complaints which the REC will investigate

The REC will refer the following complaints that are relevant and relate to the Member's operation within the recruitment industry directly to the PSC that is, without prior investigation by the Complaints Manager:

- criminal convictions;
- civil court judgments;
- an employment tribunal decision;
- the revocation of a licence issued by the Gangmaster's Labour Abuse Authority;
- Evidence or allegations in the public domain which suggests a significant breach of the REC Code and/or if proven would bring the industry into disrepute (even if we do not

have a judgement or finding at the time). Such evidence or allegations may include but are not limited to worker exploitation or issues relating to safeguarding.

REC will write to the Member and give them the opportunity to submit a response to go to the PSC.

#### 4.3 Complaints which the REC will not investigate

The REC will not investigate:

- complaints that arise from legal or contractual disputes. The REC may investigate to the extent that they also involve a breach of the Codes. If a court or tribunal has reached a decision or made a finding which amounts to a breach of the REC Codes then it will be referred to the PSC; see 4.2.
- disputes between Corporate Members and their employees or Individual Members and their employers;
- actions which are already subject to investigation by a regulatory/statutory authority which is ongoing. On the conclusion of the relevant authority's investigation REC will investigate alleged breaches of the REC Codes.

## 5. The Complaints & Disciplinary Procedure

### 5.1 The Member's internal complaints procedure

All Members must have a complaints procedure in place. The complainant should first raise their complaint with the Member, which should then follow its internal complaints procedure. If the Member does not reply to the complainant's satisfaction, the complainant may complain to the REC. The REC cannot accept a complaint if the complainant has not first complained to the Member.

### 5.2 Complaints must be in writing

The REC can only accept complaints made in writing, using the REC complaint form, together with any evidence supporting the complaint. REC will assess the complaint for any potential breach of the REC Codes. REC will let the complainant know if the complaint is being taken forward.

### 5.3 Consent to forward the complaint to the Member

The complainant must give their permission for their complaint to be forwarded to the Member.

### 5.4 Formal investigation of a complaint

The REC will tell the Member if they are going to investigate the allegations. REC will send a copy of the complaint, any supporting documentation and questions to the Member which should respond to the REC within 10 working days. REC will tell the complainant when it that the member has been requested to respond within 10 working days.

REC require all communications to be in writing. The REC will send all communications during an investigation by email.

### 5.5 Responding to a complaint

The Member must respond to the complaint in writing within 10 working days of the date of the REC's request – the REC will tell the Member in writing when it must respond by. The Member must notify the REC if they are unable to meet the timescale and we may, at our discretion, extend the period for a response. The maximum extension will be 28 working days.

If the REC thinks that the reasons given do not justify the delay the REC may refer the complaint directly to the PSC. If the member does not make contact with the REC to agree an

extension and/or does not respond within 10 working days and/or the member's response is unsatisfactory, the REC may refer the complaint directly to the PSC.

#### 5.6 Requests for further information

On receipt of the Member's response, the REC may contact both the complainant and the Member to ask for further information or clarification. All parties must respond within 10 working days of the REC's request or by the date agreed with the REC. The REC may refer the complaint directly to the PSC if a Member does not respond and/or co-operate with an investigation and/or their response is unsatisfactory.

If the REC asks the complainant for further information but the complainant does not send such information, the REC may not be able to continue its investigation.

#### 5.7 Disclosure of information received during an investigation

The REC will send all written communications from either the complainant or the Member to the other party.

#### 5.8 Resolving a complaint

When the REC has enough information to make a finding, REC will do one of the following:

- i) If there is no breach of an REC Code, REC will write to both the complainant and the Member to tell them.
- ii) If the REC makes a finding that the Member has breached any of the REC Codes, REC will write to both parties to confirm this. The REC will request assurances from the Member that there will be no further breaches of the Code. REC may also require the Member to undergo a Compliance Review (or accept other support offered by the REC).

If the Member responds with evidence and/or assurances that there will be no further breaches of the REC Codes, and REC is satisfied the REC may consider the matter resolved. The REC will write to both parties stating the outcome.

If the Member does not respond and/or the response is unsatisfactory, and/or fails to co-operate the complaint may be referred directly to the PSC.

- 5.9 If the complainant or Member is not satisfied with the REC's decision, they may request in writing, within 10 working days of the date of that decision, that the matter be referred to the PSC. They must support this request with reasons.

## 6. The Professional Standards Committee (PSC)

- 6.1 The REC Council has delegated authority to the PSC to consider evidence of non-compliance with the REC Codes and to impose sanctions as set out in sections 7, 8, 9 and 10 below. The PSC shall have full authority to investigate complaints against Members.

- 6.2 The PSC will have at least three members including at least one REC Board member, one Independent Committee member and one Member (not including Accredited Persons which are not Corporate Members of the REC). The PSC will appoint one of their number as Chair.

- 6.3 The PSC meets quarterly on pre-arranged dates. In exceptional circumstances and at the discretion of the PSC a matter may be heard by a specially convened PSC.

A valid PSC must have a quorum of three (3) members. REC staff shall attend as appropriate to advise the PSC but they do not vote on PSC decisions.

## 7. 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 the PSC believes there is sufficient evidence of a serious and continuing breach of any REC Codes it may:

- i) require the Member to provide a written undertaking not to engage in particular conduct and/or
- ii) suspend their membership of the REC or Accredited Status pending conclusion of the PSC's investigation of the complaint.

### 7.2 Expulsion from REC membership

Failure to provide an undertaking when requested may result in the PSC, expelling the member from REC membership **immediately** (with no refund of either the membership fee or the annual subscription or the Audited fee).

### 7.3 Notification to third parties

The REC reserves the right to notify the Employment Agency Standards Inspectorate and any other relevant parties of the matter under investigation, at any stage in this process. Other relevant parties include but are not limited to HMRC, the GLAA, framework providers, other trade bodies/professional associations.

## 8. Attendance at PSC meetings

- 8.1 The PSC shall consider the complaint on the basis of all written evidence produced in the investigation or the Compliance Process. It may also ask for further information from either the complainant or Member and may require the attendance of either or both parties at the next scheduled PSC meeting.
- 8.2 Where such attendance is required, each party is entitled to be represented and may ask questions of any other party present. Alternatively either a complainant or a member may request to attend the PSC meeting to ask questions of the other party present.
- 8.3 REC will give at least 10 working days' notice of a PSC meeting. REC will advise all parties of the procedure to be followed at any meetings called under 8.1 or 8.2.
- 8.4 PSC meetings will be held at the REC offices on pre-arranged dates. If either party is unable to attend the meeting, they must notify the REC within five (5) working days of the notice of the meeting explaining why they are unable to attend. The Chair of the PSC may at their discretion agree to postpone the meeting to a later date, in which case the REC will notify the parties within five working days of this decision. If either party cannot or declines to attend the

second scheduled meeting, the Chair of the PSC may decide that the meeting should go ahead without them. There will be no further postponements except in exceptional circumstances.

- 8.5 Before reaching a decision if the PSC feels that it needs further information, it may require the Member to go through a Compliance Review (or other support offered by the REC)
- 8.6 Having reached its decision, with or without the attendance of the parties, the PSC will agree upon the action to be taken against the member, if any. The PSC's decision shall be agreed by a simple majority of members of the PSC. In the event that there is an equal number of votes the Chair of the PSC shall have a casting vote.

## 9. Decisions and Disciplinary Sanctions

### 9.1 Decisions of the PSC

The PSC's decision may be one or more of the following:

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

### 9.2 Sanctions available to the PSC

If the PSC finds there has been a breach of any of the REC Codes it may order the following sanctions:

- A reprimand for a specified period.
  - This will specify the breach in question and will 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 the reprimand period; or
    - the Member ceases to be a member and later applies to be readmitted to REC Membership.
- Where there is a continuing breach or evidence that further breaches of the REC Codes might occur:
  - a Compliance Order that requires the Member to take a specified course of action and/or give a written undertaking as to their future conduct and compliance with the REC Codes;
  - that the Member should go through 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 REC Professionals:
  - If a Member is expelled it will not be able to apply for re-entry to the REC and/ or REC Professionals within one 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 REC Professionals, 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.
  - This means that the former Audited Person will 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 one year of the removal.

**Where expulsion or removal of an accreditation is considered likely REC will strongly recommend that the member attends the meeting in order represent themselves.**

## 10. Notification of decisions of the PSC

- 10.1 The REC will notify the Member and the complainant in writing of the PSC's decision and the reasons for this.
- 10.2 The PSC may decide to publicise its decision once the period for appeal set out in 11 below has passed. The REC may publish PSC Decisions 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.
- 10.3 The publications or methods chosen will be at the discretion of the PSC. If the PSC decides to publicise a decision, REC will notify the parties 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.

## 11. Appeals against decisions of the PSC

11.1 The complainant or the Member may appeal the PSC's decision within 10 working days of the date the REC notifies the parties in writing. Either of the complainant or the Member may appeal if they have grounds to do so, as set out in section 11.3(ii).

### 11.2 The Appeal Panel

The appeal shall be heard by an Appeal Panel which will be made up of at least three REC Fellows, who shall nominate one of their number to act as Chair

### 11.3 The appeals process

Appeals shall be dealt with as follows:

- i) The party which wishes to appeal a PSC decision must do so within 10 working days of the date the REC notifies the parties in writing. Where a decision has been sent by email the decision will be considered delivered on the date the email is sent.
- 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.

REC will review the appeal. If the REC finds there are no valid grounds for appeal it will reject it and inform the relevant party in writing.

- iii) If the REC find that there are grounds for appeal it will:
  - send copies of the reasons for the appeal and any supporting documents to both parties or their agreed representative.
  - arrange an appeal hearing date, giving both the complainant and the Member at least 15 working days' notice of the meeting date. In that notification REC will advise all parties of the procedure to be followed at the appeal hearing.



- iv) If either the complainant or the Member cannot attend the meeting they must notify the REC within five working days of receipt of the notice of the meeting together with written reasons why they are not able to attend
- v) The Appeal Panel may agree to postpone the meeting to a later date and the REC will advise the parties within five working days of this decision
- vi) The REC will confirm the venue and the time of the Appeal Meetings.
- vii) vi)The Appeal Panel will consider the appeal based on all information and evidence already submitted together with any additional evidence and the written reasons for appeal. The REC will send all documentation to the Appeal Panel and the relevant parties no later than 10 working days before the meeting. The Appeal Panel will only consider additional information submitted after this point at their discretion provided the information is relevant and helps their understanding of the matter or if it has been requested.
- viii) The Appeal Panel may at its discretion and by prior appointment visit any office or address connected with the Member against whom the complaint has been made. In these circumstances the Appeal Panel's final decision will be delayed until after the visit.
- ix) The Appeal Panel's decision shall be by simple majority vote and shall be final. The Chair of the Appeal Panel shall have the casting vote if a majority cannot be reached.

## 12. The Appeal Panel's decision

### 12.1 The Appeal Panel may:

- agree with the PCS's decision;
- overturn the PSC's decision; and/or
- vary the PSC's decision by requiring any of the alternative sanctions as outlined in 8.2

### 12.2 Notification of the Appeal Panel's decision

The REC will notify the parties 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.

### 12.3 No further right of Appeal

There is no further right of appeal after an Appeal Panel's decision.

June 2020