

## REPRESENTATIVE BODY BREACH OF CONDUCT PROCEDURE

This procedure deals with breaches of good governance. This includes failure to adhere to the Representative Body Code of Conduct.

Representative Body Members bring a variety of skills and opinions to the Society. Challenge is a positive thing and part of the role of Representatives is to hold the Board to account. Individuals may have differing views on issues and this is recognised as a positive and healthy contribution to the decision making process. Disagreement and challenge when issues are being discussed are not grounds for action when conducted in an appropriate manner.

### A. Suspension

When a Representative is suspended from the Representative Body, the individual involved will not be permitted to attend meetings of the Representative Body or any other associated activities, other than those relating to the breach of conduct procedure. Suspension shall only be considered in exceptional circumstances and only when appropriate.

A Representative may be suspended by the Chair of the Representative Body in consultation with the Secretary and the Chief Executive. A Representative may only be suspended if they are:

- In material dispute with the Society; and/or
- The Representative is alleged to have committed a breach of the Code of Conduct; and/or
- The Representative's continuing association with the Society is likely to bring the Society into disrepute in the opinion of the Secretary.

If the above relates to the Chair of the Representative Body, the Vice Chair shall be substituted to the role of the Chair in the breach of conduct process.

For the avoidance of doubt, in the event an employee Representative is subject to disciplinary proceeding relating to their employment, they shall be automatically suspended from their role as a Representative.

When a decision to suspend is made, reasonable efforts shall be made to inform the Representative of the decision immediately. The Representative shall be notified of the decision to suspend and the reasons for their suspension within one working day. They will also be informed of the timescale in which the matter will be dealt with. If the Society holds a valid email address for the Representative, correspondence shall be sent electronically, unless the Representative has specifically requested otherwise.

## **B. Informal Action**

Should concerns arise about a Representative regarding their attendance at meetings, conduct or actions outside of the Representative Body, it shall be considered whether informal action is appropriate.

Informal Action may be used if:

- The breach is a relatively minor offence
- It is the first instance of this breach of policy/procedure
- Informal Action is likely to have the desired impact to improve

The Representative will be invited to attend a meeting with the Chair of the Representative Body and the Secretary to discuss the issue. The aim of the discussion is to understand the reason for the concern and provide an opportunity for the Representative to provide an explanation.

Depending on the discussion, an action plan will be agreed with the Representative and monitored over an agreed period of time in order to ascertain whether there is an improvement from the initial concern. This may include additional training, regular 1:1s with the Chair etc but may vary from case to case.

Information regarding the matter is to be treated as confidential however, should it become necessary to instigate the formal action against a Representative for the same or similar concerns, this information may be relied upon.

## **C. Complaints**

Any Representative or the Board of Directors may complain in writing to the Secretary that a Representative has committed a serious breach of the Code of Conduct, or acted in a way that is detrimental to the interests of the Society. The Secretary will then, in consultation with the Chair of the Representative Body and the Chief Executive, conduct an initial investigation into the allegation. If the complaint relates to the Chair of the Representative Body, the report will be made to the Deputy Chair of the Representative Body.

## **D. Formal Action**

- i. The Chair of the Representative Body and Chief Executive shall consider the alleged breach of the Code of Conduct. If they are satisfied that a Representative has a case to answer, then the Chair will request that the Secretary instigates the formal procedure and informs the Representative that an allegation has been made.
- ii. An investigation will be undertaken by the Secretary. The investigation will usually require an interview of the Representative subject to the formal action and any other relevant witnesses. Who will be involved in the investigation will be

determined on a case by case basis and is dependent on the circumstances of the alleged breach of the Code of Conduct.

- iii. The Representative Body must itself consider the complaint. This will be a two stage process:
  - a) A formal breach of conduct hearing by a Breach of Conduct Panel;
  - b) A final decision by the Representative Body.

## **E. Formal Breach of Conduct Process**

- i. At a meeting the Representative Body will:
  - a) Be presented with a summary of allegations and findings of the investigation. The Summary shall ensure that sufficient information is provided to enable them to understand and confirm if there is a case to be answered;
  - b) Appoint a Breach of Conduct Panel consisting of no more than 5 Representatives including a minimum of two Tenant Representatives and two Employee Representatives. The Chair of the Representative Body shall not sit on the Breach of Conduct Panel;
  - c) Arrange for a resolution to take breach of conduct action against the Representative complained of at the next meeting of the Representative Body and pending the findings of the Breach of Conduct Panel.
- ii. The Secretary will then convene a meeting of the Breach of Conduct Panel and advise the Representative of the date and time of the Panel meeting and the next Representative Body meeting.
- iii. Prior to any hearing, the Representative will be advised that he/she has the right to be heard and, if he/she chooses, to be represented. The Representative may be accompanied by a Representative who is not a member of the Panel or the Chair of the Representative Body.
- iv. The Legal / Governance Manager will prepare the case for presentation to the Breach of Conduct Panel.
- v. The meeting will be convened to hear and consider the allegations which will be presented by the Legal / Governance Manager.
- vi. All papers to be referred to at the hearing, together with the names of any witnesses, should be submitted to the Secretary by both the Representative and the Legal / Governance Manager 10 working days before the date of the hearing (unless a shorter period has been agreed).
- vii. Copies of all papers will be distributed by the Secretary to all parties involved 5 working days prior to the hearing taking place (unless a shorter period has been agreed).
- viii. The Panel will hear the full facts of the allegations made against the Representative and allow the Representative to state his/her case.
- ix. The Legal / Governance Manager and the Representative may call witnesses to give evidence. These witnesses can include the complainant.
- x. The Secretary will act as Clerk to the Panel.

## **F. The Hearing**

At the Hearing:

- i. The allegations against the Representative will be presented by the Legal / Governance Manager (including the evidence of witnesses if appropriate);
- ii. The Representative, or their representative, will be allowed to question the Legal / Governance Manager or witnesses;
- iii. The Panel Members may question the Legal / Governance Manager or witnesses;
- iv. The Representative, or their representative, will present his/her case calling any witnesses;
- v. The Legal / Governance Manager may question the Representative and /or witnesses;
- vi. The Panel Members may question the Representative and/or witnesses;
- vii. The Legal / Governance Manager and the Representative, or their representative, will make final submissions.

## **G. Findings**

Following the hearing, the Breach of Conduct Panel will:

- i. Notify the Representative Body of its findings and recommendation within three days of the Panel meeting.
- ii. Where, in the opinion of the Breach of Conduct Panel, the allegation is proven and having regard to the seriousness of the misconduct and any previously proved misconduct, the Panel shall make a recommendation to either:
  - a) Require a Representative to issue a formal and/or public apology;
  - b) Suspend a Representative for a fixed or indeterminate period;
  - c) Issue a First written warning – for instances of serious misconduct or repetition of minor misconduct. A first written warning will remain on the Representative's record for a period of 12 months;
  - d) Issue a Final written warning – for instances of misconduct following a first written warning. A final written warning will remain on the Representative's record for their full term of office.
  - e) Permanently remove the Representative from office if:
    - 1) They have committed a serious breach of the Code of Conduct; or
    - 2) They have acted in a manner detrimental to the interests of the Society; and
    - 3) They consider that it is not in the best interests of the Society for them to continue as a Representative.

## **H. Representative Body Final Decision**

- i. The Representative Body meeting is not an opportunity for the case to be heard again. The Representative Body will only be presented with a summary of the case and enough information to enable them to understand how the Breach of Conduct Panel has reached their recommendation.
- ii. The Representative Body will make the final decision. The course of action must be approved by not less than two-thirds of the remaining Representatives present and voting at a meeting.
- iii. If the Representative complained of fails to attend the meeting without due cause, the meeting may proceed in their absence.

## **I. Notification of Breach of Conduct Decision**

A Representative removed from office will cease to be a Representative upon the declaration by the Chair of the meeting that the resolution to remove them is carried.

The Secretary will send written notice of the decision to the Representative or removed Representative. The notification will include details of the right of appeal, which will be to the Non-executive Directors.

## **J. Appeals**

A Representative removed from office may appeal against that decision to the Non-Executive Directors and if successful will be reinstated. An appeal hearing will not consider any new evidence and will merely examine the process followed in reaching the original decision. If the complaint against the Representative originated from the Board then an appeal relating to the process itself should be made to the Society's Internal Auditors.

There is no further right of appeal.