



## **Ethics case study - Competing for consultancy business**

### Query

IOSH member X runs a health and safety consultancy business.  
X subcontracted work for some of their clients to another member Y.  
Y offered to provide the same service to those clients independently.  
Several clients took up the offer and switched from X to Y.  
X wrote to them saying that Y had breached the IOSH Code of Conduct.  
Y asked IOSH to comment on X's view.  
Y also queried whether they could lose their membership for a breach of the Code of Conduct.

### Note

X's letter to clients alleged Y had:

- a) misused confidential information; and
- b) made unfounded claims about the future of X's business.

IOSH did not receive a complaint about Y's conduct from X or anybody else.

### Comment

Code point 1.1 in the IOSH Code of Conduct (the Code) requires members to be honest.

If Y made false statements about X in order to 'poach' X's clients then that potentially is more serious than anything else. The Code also requires members to:

- ensure that their professional and business activities are reasonable (Code point 3.5).
- avoid conflicts of interest wherever possible and if one arises promptly take appropriate steps to manage it (Code point 1.4).

Y may have allowed their self-interest to conflict with the interest of X to whom they were contracted. The self-interest may have been financial – the opportunity to undercut X's pricing structure whilst still earning more themselves for doing the same thing. Clients may have switched from X to Y as a means of 'cutting out the intermediary' to get cheaper services.

IOSH did not know what evidence X had to support a complaint so could not form a view. Consultants who subcontract work need to consider what enforceable restrictions can be built into written agreements with subcontractors. Any enforcement is a matter for the consultants rather than IOSH. It's a legal issue. The Code of Conduct is not a tool to prevent competition but members must behave with integrity.

The IOSH disciplinary procedure includes penalties that Committees may impose for proven misconduct. The highest penalty is expulsion from membership. There have been expulsions for dishonest behaviour. Members have received reprimands for breaches of Code points 3.5 and 1.4. A reprimand is a formal rebuke. Disciplinary penalties are normally published. They are accessible from the same area of the website from which the Code of Conduct can be downloaded. From the home page of the IOSH website go to 'About us' then 'Regulating the profession'. This case study is not a guide to sentencing for misconduct. In each case there may be aggravating or mitigating factors. Depending on all the circumstances, a higher penalty than a reprimand may be proportionate.

To raise a query on the IOSH Code of Conduct you can email [Simon.Buckler@iosh.co.uk](mailto:Simon.Buckler@iosh.co.uk).