

# Code of Conduct, Guidance and Disciplinary Procedure



# Foreword

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This publication is divided into three parts:

## Part 1

Code of Conduct

## Part 2

Code of Conduct – Guidance

## Part 3

IOSH Disciplinary Procedure

IOSH has been granted a Royal Charter to act in the interests of the general public benefit.

IOSH's Code of Conduct ("the Code") is a public document. It has at its heart the IOSH vision of "a world of work which is safe, healthy and sustainable". It provides a strong ethical foundation for all our members working towards this vision.

The purpose of the Code is to help members demonstrate their value and reliability through adhering to high standards. The aim of the Guidance is to support members in their efforts to reach and maintain the standards, which are expressed as integrity, competence, respect and service. The standards are based on public expectations of professionalism. The meaning of each standard is presented as a set of obligations expressed as individual Code Points.

In scope, the Code applies principally to the activities of members as health and safety professionals. Members owe a primary loyalty to those at risk and should seek to ensure professional independence in the execution of their duties. In a profession, it is essential that members demonstrate integrity by being honest and acting fairly. Members must also avoid departing from the standards of integrity, competence and respect in their private lives in any way that could undermine public trust and confidence in the profession.

Wherever possible, IOSH has provided practice-based examples in the Guidance to help interpret the Code. Members may also contact IOSH staff with queries about the Code and how it relates to particular situations. IOSH will supplement the Guidance to address frequently-asked questions.

IOSH may investigate apparent or alleged non-compliance with the Code. Under Byelaw 8(1), all members have a duty to comply with the Code, which is effective from 04 March 2013. [Prior to that date the Code of Conduct approved by Council in September 2004 will apply.] Primarily the Code and Guidance are to assist members to do the right thing. When IOSH makes enquiries about members' compliance with the Code, it will give them the opportunity to explain the reasonableness of their actions or omissions.

# Part 1 Code of Conduct

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## 1 Integrity

Members are required to:

- 1.1 Be honest;
- 1.2 Abide by the law;
- 1.3 Notify the Institution in writing promptly if they have been
  - (a) convicted of a criminal offence by a Court or
  - (b) charged with a criminal offence contrary to health and safety legislation or
  - (c) adjudged bankrupt or have entered into a formal arrangement with their creditors; and
- 1.4 Avoid conflicts of interest wherever possible and if one arises promptly take appropriate steps to manage it.

## 2 Competence

Members are required to:

- 2.1 Ensure they are competent to undertake proposed work;
- 2.2 Ensure persons working under their authority or supervision are competent to carry out the tasks assigned to them;
- 2.3 Undertake appropriate continuing professional development and record it in the manner prescribed by the Institution; and
- 2.4 Ensure that they make clients, employers and others who may be affected by their activities aware of their levels of competence.

## 3 Respect

Members are required to:

- 3.1 Cooperate fully with IOSH and abide by its Charter, Byelaws and Regulations;
- 3.2 Respect the rights and privacy of other people and organisations;
- 3.3 Cooperate with employers or clients in fulfilling their legal duties under the terms of their employment or consultancy contracts;
- 3.4 Have due regard for the effect their professional activities may have on others;
- 3.5 Ensure that their professional and business activities are reasonable; and
- 3.6 Respond promptly and appropriately to disputes and complaints.

## 4 Service

Members are required to:

- 4.1 Ensure that the terms of appointment and scope of work are clearly recorded in writing;
- 4.2 Ensure that, where necessary, they have adequate professional indemnity insurance when providing consultancy services;
- 4.3 Carry out their professional work in a timely manner;
- 4.4 Ensure that professional advice is accurate, proportionate and communicated in an appropriate format;
- 4.5 Have due regard for levels of service and customer care reasonably expected of them; and
- 4.6 Inform any person overruling or neglecting their professional advice of the potential adverse consequences and keep a written record of the date, time and nature of this action.

# Part 2 Code of Conduct – Guidance

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## Introduction

While this Guidance on the Code of Conduct is primarily addressed to IOSH's members, it is also a public document. It provides explanation on how to apply the Code in practice. It will be updated as and when necessary; you should check the IOSH website for the latest version. In particular, investigation of future complaints will serve to clarify the interpretation of particular Code Points.

## 1 Integrity

Members are required to:

### 1.1 *Be honest*

You must be honest in discharging your duties as a health and safety professional. In litigation concerning other professionals, courts have decided that defendants have been dishonest if they knew that what they were doing would be regarded as dishonest by honest people.

Knowingly misleading anybody for financial or other gain that could not have been made honestly is most likely to be unacceptable. Examples include giving misleading information about qualifications and/or memberships, either to a prospective or current client, in order to gain or retain instructions, or to a prospective or current employer, in order to obtain employment or to attain a promotion or enhanced benefits. Assisting others to gain from the provision of false information is also unlikely to be acceptable. Examples include entering misleading details on policies, procedures, risk assessments or similar documentation or records.

You must be honest when you are 'off duty' too. However, IOSH will be reluctant to investigate if what is alleged, even if true, would not materially affect either your reputation as a health and safety professional, other members' professional reputations or the reputation of IOSH itself.

### 1.2 *Abide by the law*

To gain public trust and confidence, you must obey the law in all aspects of your life. Convictions for some criminal offences may lead to disciplinary proceedings being taken against the convicted members by IOSH.

Historically IOSH has not given an exhaustive list of these criminal offences and we consider that doing so would be unwise. Generally, offences under health and safety legislation, and any involving dishonesty (see guidance to Code Point 1.1), are likely to lead to

disciplinary proceedings. Sexual offences and offences involving violence are also likely to lead to disciplinary proceedings. Factors affecting IOSH's decision whether to bring disciplinary proceedings will include the maximum sentence available on a first conviction for the offence, the extent to which you did or stood to profit from the offence and the extent of the actual or possible loss or harm to any victim.

- 1.3 *Notify the Institution in writing promptly if they are*
- (a) *convicted of a criminal offence by a Court or*
  - (b) *charged with a criminal offence contrary to health and safety legislation or*
  - (c) *adjudged bankrupt or enter into a formal arrangement with their creditors.*

Transparency in all the matters covered by this Code Point underpins the integrity standard.

- (a) You must be proactive and give IOSH details of the offence(s) and the Court as a bare minimum, whether or not you are awaiting sentence and/or intend to appeal.

If you accept an offer of a fixed penalty for an illegal act, without reference to a court, then IOSH does not anticipate taking disciplinary proceedings. For instance, in England fines and driving licence endorsements for speeding may be concluded without court involvement. These matters fall outside the scope of Code Point 1.3 (a). You should, however, reflect on the particular threat to your own professional reputation, the reputation of other members and the reputation of IOSH presented by such illegal acts.

- (b) Being charged with an offence under health and safety legislation potentially could also affect the reputation of other members and/or IOSH itself, so self-reporting is imperative.
- (c) You should give full details of all the circumstances: the reasons why you were unable to pay your debts in full as and when they fell due; the steps you took to minimise losses to your creditors; and any reports prepared on your financial position, breaking down your assets and liabilities, including the nature of those liabilities. IOSH is likely to look more favourably on situations where your culpability for your predicament is low.

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1.4 *Avoid conflicts of interest wherever possible and if one arises promptly take appropriate steps to manage it.*

Conflicts of interest occur where your judgement may be affected by more than one interest, meaning an interest in the outcome: what may happen as a result of your involvement. Something that could benefit one interest may be detrimental to the other interest. An interest may be personal or professional. You usually have a personal interest in being able to provide for yourself and any dependants. This should not be allowed to interfere with the professional interest of giving appropriate health and safety advice.

If you recognise a dangerous procedure but do not recommend a shutdown in case it ultimately leads to the closure of the company and your redundancy, then that could point to a lack of integrity. Similarly, as a consultant, if you are aware that your recommendations are not being implemented, but you continue to advise the organisation for the fee income you derive, then that may be similarly questionable.

You are unlikely to be able to avoid having a personal interest in earning a living but should be able to put the welfare of the workforce or others affected by your activities first. Where you are acting as an expert witness in judicial proceedings the overriding objective will be to assist the decision-maker to deal with the case justly. If you take on the role of giving expert witness evidence, you should disclose any previous or continuing relationship that you have with any of the parties in the case at the time you are instructed and in any report prepared for the case.

The conflicts that you are required to avoid include situations such as accepting responsibility for advising both parties to a contract. This is because the interests of the parties are competing interests that are in conflict, as each wants the best outcome for them. If you advise company A on selecting an external training provider and company B on tendering for providing training services to A, without disclosing to A or B that you act for the other, then that is likely to lead to a breakdown in trust and the possibility of complaint. A wants the best value it can get for its training budget and B wants to win custom at the highest rate possible. If the full extent of your involvement becomes known, A and B are likely to

doubt that you could have at all times acted in their best interests and may resent you earning two fees. Indeed both may regard the second fee as an inappropriate secret profit made by exploitation.

Conflicts of interest may also arise through the offer or acceptance of inducements. Inducements can include gifts, hospitality, preferential treatment and inappropriate appeals to friendship or loyalty. An inducement could affect your professional independence. You should not encourage any inducements which a reasonable observer may perceive to be factors that could affect your or another member's objectivity, and thus the health and safety of others.

There will be occasions where people approach you for a professional opinion that implicitly agrees with their interest. For example, a relative or friend wants you to give expert evidence in judicial proceedings for which the friend or relative's interest is in an outcome favourable to them, which may not be a fair one. Even if you disclose your relationship and satisfy yourself that you are giving your genuine opinion that coincidentally favours your relative or friend, there is a real danger that the perception will be that you have allowed your objectivity to be clouded by family or friendship. If you fail to disclose this conflict of interest, it may look like you are concealing material information that undermines your credibility as an expert. Such concealment could point towards a lack of integrity. You need to consider whether, for professional reasons, you need to decline to take on certain work in the first place.

If a conflict of interest arises, you should take appropriate steps to manage it. This may involve informing parties of the conflict and seeking their approval for adjustments to the situation designed either to remove the conflict entirely or significantly reduce its actual impact. Best practice, before continuing to act, is to seek written confirmation from each affected party that they have considered your disclosure and whether to take advice from an alternative source. In some circumstances the conflict may be of such a nature as to prevent a reasonable observer from concluding the situation can be managed satisfactorily. If so, you may need to consider ceasing to act for a party and possibly withdraw completely. When in doubt you should contact IOSH to discuss the matter.

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## 2 Competence

Members are required to:

### 2.1 *Ensure they are competent to undertake proposed work.*

Competence is a combination of knowledge, skills, experience and recognition of the limits of your capabilities. Knowledge can be gained or developed by studying for qualifications, but a qualification, by itself, is not evidence of competence. It must be enhanced by skills and knowledge that you develop through experience. For example, as a health and safety practitioner you will have studied the harmful effects of noise along with prevention and control strategies for noise. You may not, however, have been taught the skills or have had the experience to be competent to undertake a detailed noise survey. In this case you would seek the services of a competent person in noise assessment or attend the appropriate course and gain experience to raise your competence to an appropriate level to undertake the survey.

If you provide expert witness services, you must take particular care to meet the requirements of the legal jurisdiction where you are providing them. Court rules may specify a number of mandatory statements and declarations for inclusion in reports. Members are strongly encouraged to undertake preparation for and familiarisation with the role of expert witness. Your overriding duty will be to the Court rather than to any person instructing you or with an interest in the outcome of the proceedings. Where a party to a case regards your evidence as unfavourable to their desired outcome then that party may seek to discredit you. If you do not demonstrate a grasp of both the duties of an expert witness and the Court rules that apply to your evidence, then this is one possible line of attack on your competence.

### 2.2 *Ensure persons working under their authority or supervision are competent to carry out the tasks assigned to them.*

Where you are responsible for managing or supervising individuals, you are required to ensure that they are competent to carry out the tasks assigned to them. This may include: determining whether an individual is competent when recruited to a role; engaging the services of a consultant; or managing a team of advisors who provide a range of functions for an employer. It may also include making arrangements for persons under your authority to undertake appropriate Continuing Professional Development to maintain their level of competence.

It is advisable, as a supervisor or manager, to have a clear idea of the range of competences present in your team to avoid placing individuals in a situation where they may feel obliged to undertake a task, even when they are not competent to do so.

### 2.3 *Undertake appropriate continuing professional development and record it in the manner prescribed by the Institution.*

Competence is not attained through qualification alone. You should maintain and improve your competence by participating in Continuing Professional Development (CPD) activities throughout your professional career.

The CPD regulations require chartered fellows, chartered members, graduate members and technical members to undertake a programme of CPD. You should document your CPD through the IOSH system. CPD is not limited to attending training events and conferences. You are encouraged to reflect on all aspects of your professional activities, to identify positive areas of practice that have led to new insights, and to identify gaps in knowledge. Further advice on how to maintain your CPD is available from IOSH. You should expect IOSH to take a look at your compliance with the CPD regulations if it has cause to make any enquiries about your compliance with other parts of the Code.

### 2.4 *Ensure that they make clients, employers and others who may be affected by their activities aware of their levels of competence.*

There may be occasions when you are asked to carry out a specific task that requires specialist skills or knowledge that are beyond the limits of your competence. In these circumstances you should inform the client or employer of the limitations of your competence and consider the following options.

- (a) Decline the work, indicating where specific competences are required. It is recommended that you identify a suitable person or organisation with such competences to complete the work.
- (b) Agree to carry out the work, provided it is supervised and/or peer-reviewed by another suitably competent person. This may be the best way to extend your current competences, if you desire that.
- (c) Agree to carry out the work, but with your initial advice subject to review in the light of wider experience. This option may be appropriate for novel situations for both you and your client or employer, and where the risks to all involved are assessed and acceptable. You should make efforts to avoid such situations and learn how to minimise them, but they may be the only realistic option in certain circumstances.

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Remember that stopping or delaying work to consult others with appropriate competences is also a safe option in most cases. Working outside your competence area may have legal implications to you and the employer/client, and also to your continued membership of IOSH.

### 3 Respect

Members are required to:

#### 3.1 *Cooperate fully with IOSH and abide by its Charter, Byelaws and Regulations.*

Cooperation with IOSH includes providing information as requested. For example, you may be asked to provide copies of letters, emails, advertising material, business cards, policy and procedures documents, risk assessments or reports. You could be asked to clarify CPD details by providing copies of attendance certificates to conferences or courses following an audit of your CPD. If any doubt about your financial propriety is raised, you may be asked for financial records. Code Point 1.3 already requires that you notify IOSH of specified criminal actions or allegations, and IOSH may request further details concerning these.

You must have regard to the reputation and good standing of IOSH and other members. You should avoid conduct that brings you and/or other members and / or IOSH into disrepute; and/or is prejudicial to the interests of IOSH. Such conduct may include injuring the reputation of a member and inappropriate behaviour, such as using foul language, when representing IOSH at an event. Conduct that is prejudicial to the interests of IOSH may include using the IOSH logo or name without permission for financial gain.

#### 3.2 *Respect the rights and privacy of other people and organisations.*

As an occupational safety and health professional, disagreements will happen from time to time. To avoid making disagreements personal, it is important to remember that it is often acceptable to criticise ideas but often unacceptable to criticise individuals, particularly in an offensive manner. Respecting other people includes behaving in an appropriate manner. Inappropriate behaviour includes the use of foul language or acting in an intimidating or threatening way.

Respecting an individual's rights will include ensuring that you do not discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Race includes colour, nationality and ethnic or national origin. You should not discriminate on the grounds of socio-economic status either.

You must specifically respect the privacy of the individual. Information technology may have an adverse affect on an individual's privacy, and advice should be sought on data protection legislation when storing personal information.

#### 3.3 *Cooperate with employers or clients in fulfilling their legal duties under the terms of their employment or consultancy contracts.*

As a competent person, you have an obligation to provide appropriate advice concerning the health, safety and welfare of employees and others in assisting employers and clients in fulfilling their legal duties. Employers may from time to time request further information to clarify advice given and, where this is clearly within the terms of your contract, you have an obligation to provide it.

#### 3.4 *Have due regard for the effect their professional activities may have on others.*

You should take all reasonable care to maintain the confidentiality of personal, managerial, technical, commercial and/or security information obtained as a result of your professional activity.

Where information obtained as a result of the professional activity relates directly to the health and safety of individuals, you should endeavour to ensure that such information is communicated to the individuals concerned by working through the information owners.

#### 3.5 *Ensure that their professional and business activities are reasonable.*

The following are examples of unreasonable behaviour, lack of transparency and impartiality that are likely to be considered to be a breach of 3.5:

- Providing inappropriately bundled services to clients, causing them to pay for things they do not need;
- Failing to respond to a client who had repeatedly requested a response relating to work undertaken;
- Recommending suppliers of, say, personal protective equipment, or the services of any third party, without mentioning any benefit, such as commission for the introduction, that could accrue to you (this may fall under Code Point 1.4); and
- Making claims of success rates (either in assisting with contractor accreditation scheme applications or for examination candidates tutored or trained by you or by your organisation) that cannot be substantiated and/or are not adjusted from time to time in order to reflect the latest outcomes.

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### 3.6 *Respond promptly and appropriately to disputes and complaints.*

A dispute can include a disagreement or a difference of opinion between two or more parties. A complaint is an expression of dissatisfaction requiring a response. Completely ignoring a complaint or failure to manage a dispute, whether you feel it is justified or not, is generally not acceptable. As a professional you are expected to take steps to resolve disputes and respond to complaints whenever possible. Consideration should also be given to the guidance under Code Point 3.2.

## 4 Service

Members are required to:

### 4.1 *Ensure that the terms of appointment and scope of work are clearly recorded in writing.*

It is possible to have a legally binding oral contract. The problem in the event of any dispute, however, is that it is one person's word against another's.

One of the most likely causes of a dispute is a lack of contractual clarity. Professional indemnity insurers will expect written agreements because defending claims for inadequate professional service based on oral contracts will be harder. Written agreements should aid debt recovery. If you are seeking to recover fees via a Court process and the client contests, why should your word automatically be preferred over the client's? If you expect to be believed as a 'professional', you may find that a Judge cannot understand why you – the professional – have acted without a written agreement.

### 4.2 *Ensure that, where necessary, they have adequate professional indemnity insurance when providing consultancy services.*

Independent consultants will require professional indemnity insurance (PII) cover. Further advice on the recommended levels of cover can be obtained by contacting an insurance broker.

A member who is in full-time employment or working for a larger consultancy will probably be covered by the organisation's indemnity cover. Members, however, have an obligation to confirm this with their employer.

### 4.3 *Carry out their professional work in a timely manner.*

Delays in issuing reports, conducting inspections, producing policies and procedures may have implications on the health, safety and welfare of employees. Agreeing the terms and scope of the work in advance, in accordance with Code Point 4.1, will help clarify the time requirements. Delays in work can happen due to unforeseen circumstances. If so, members are advised to inform the employer or client at the earliest opportunity so that they can seek other sources of advice if they need an urgent response.

### 4.4 *Ensure that professional advice is accurate, proportionate and communicated in an appropriate format.*

Minor mistakes do not generally amount to a breach of the Code but may result in complaints or disputes, which fall under Code Point 3.6. Other matters may have more serious consequences. For example, citing legislation inaccurately in a report could have serious implications in the workplace and may be viewed differently. If a Court makes a finding that you have been negligent when providing professional advice, then that will not automatically lead IOSH to disciplinary proceedings against you. In deciding what action, if any, to take, IOSH will look at the wider circumstances. If you are practising as a consultant and pay damages awarded against you, then that would be a mitigating factor. Hence the need to have adequate PII cover as required at Code Point 4.2 above. Aggravating factors could include inability to pay damages awarded and any failure to comply with Code Points 2.1 and 2.3.

A proportionate approach to professional advice is required. For example, over-stating the risk may lead to excessive expenditure or further consultancy not necessarily needed. The format used when providing professional advice will vary. In most situations best practice will be to provide written advice, or written confirmation of advice provided orally, as soon as is reasonably practicable. You should bear in mind that, for PII purposes, it is highly desirable to have an audit trail of information received and advice given, in order to deal efficiently with any subsequent claims.

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4.5 *Have due regard for levels of service and customer care reasonably expected of them.*

You should keep appropriate records. This includes contemporaneous attendance notes for detailed telephone conversations. In particular, any significant changes to the originally agreed service level and payment terms should be documented. Inertia when it comes to recording agreed variations could cause future disputes.

You should also have some type of records management system. If you use external storage facilities you need to know exactly what you have sent there and be able to retrieve records efficiently. You should have regard to other IOSH publications such as the Consultancy Good Practice Guide.

Where a client has contracted out a service to you, it would be inappropriate to then further sub-contract that service to another party without the client's express agreement. This would be less appropriate still if the sub-contractor's level of competence was lower than your own. (See also Code Points 2.2 and 3.5.)

You should consider giving advance notice to clients of periods where you will be unavailable in order to manage their expectations. Good communication can make complaints far less likely. If you expect to observe religious or cultural festivals that are not public holidays, then letting clients have early notification of dates you will be unavailable is likely to aid relations. If you practise on your own and know in advance that you will be unavailable for more than a few working days then think about making arrangements to prevent the impression forming that you do not answer letters, return calls, etc. It is also a good idea to have some contingency plans for unexpected absences. A common cause of complaints to professional bodies is failure to respond to clients. A common cause of these complaints escalating to disciplinary proceedings is failure by members to respond to their professional bodies. If you are unable to work normally you need to be able to depend on somebody to relay that news on your behalf.

If you are moving you should ensure continuity of service is not broken. You need to consider postal redirection for the maximum period if you have not informed all current and recent clients of your change of address in advance.

4.6 *Inform any person overruling or neglecting their professional advice of the potential adverse consequences and keep a written record of the date, time and nature of this action.*

As a health and safety professional, you may find employers or clients occasionally either ignore your advice or fail to act on all of it within your recommended timescales. There can be times when the employer or client is ignoring advice on something that presents an imminent danger to the workforce. Health and safety professionals are required to exercise professional independence and to remain as objective as they can. If you believe your advice is not being followed, you should take reasonable steps to make the person overruling your advice aware of the potential consequences. This would normally be in writing, and you should ask for a confirmation receipt. If this does not work, then you are expected to escalate the matter to the next tier of management in a further effort to see changes implemented. In a situation where you have a genuine concern that death or serious injury might result, then the right thing to do is contact an enforcement agency such as the Health and Safety Executive (HSE). You are expected to "do the right thing" regardless of the possible cost to you. In extreme cases, this might mean resigning or ending a relationship with a client.

HSE provides information on the Public Interest Disclosure Act 1998, which is designed to protect workers who 'blow the whistle' about a wrongdoing. A wrongdoing may include where you have a reasonable belief that your disclosure tends to show one or more of the following: a criminal offence; a breach of a legal obligation; a miscarriage of justice; a danger to the health and safety of any individual; damage to the environment; or the deliberate covering-up of information tending to show any of the above.

# Part 3 Disciplinary Procedure

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## Foreword

The Board of Trustees has made these Regulations that are required under Byelaw 8 'Discipline'. Council has approved these Regulations. This version came into force on 01 February 2017.

Under its Royal Charter, IOSH acts in the interests of the general public benefit by doing what may be necessary to maintain and improve the professional status of its members. Accordingly members must follow the IOSH Code of Conduct, the purpose of which is to enable them to uphold standards of integrity, competence, respect and service so that there is public trust and confidence in them and IOSH itself.

IOSH will provide guidance explaining how complaints may be made against IOSH members. It is important that the facility to complain exists but complaints will only lead to disciplinary proceedings in serious cases.

## 1 Interpretation and definitions

1.1 In these Regulations, unless the context otherwise requires:

1.1.1 Words importing the singular number only shall include the plural number and vice-versa;

1.1.2 Words importing the masculine gender only shall include the feminine gender, and shall be taken to include reference to organisations;

1.1.3 Words denoting persons shall include organisations.

1.2 Unless the context otherwise requires, words and expressions used in these Regulations shall have the meanings given to them in the Charter and Byelaws of IOSH, and the following words and expressions shall have the meanings set out below:

- 'the Complainant' means the person who made the allegation of misconduct and may be an employee or appointee of IOSH;
- 'the Director' means the Head of Governance or another employee of IOSH authorised by the Board of Trustees who may delegate his role under these Regulations to an employee or appointee of IOSH, so references to the Director within these Regulations shall be read as references to the employee or appointee to whom the Director has delegated;
- 'Hearing' means a meeting of either the Disciplinary Committee or the Appeal Committee at which the Director and the Subject may be heard as prescribed by these Regulations;
- 'a Higher Penalty' means removal from the Board of Trustees and/or Council and/or any other IOSH committee or suspension of membership of IOSH or expulsion from membership of IOSH;
- 'Misconduct' means conduct that
  - (i) breaches the Code of Conduct and/or
  - (ii) amounts to unacceptable professional conduct within the standards expected in the health and safety profession and/or
  - (iii) may bring IOSH or the health and safety profession into disrepute and/or
  - (iv) is prejudicial to the interests of IOSH and/or
  - (v) is in breach of a decision made, or penalty imposed under these Regulations;
- 'the Professional Ethics Committee' means the Professional Ethics Committee or such other committee as the Board of Trustees may from time to time authorise;
- 'the Public Interest' means the interests of the general public benefit and 'what is in the Public Interest' means what is necessary in order to maintain public trust and confidence in IOSH members and IOSH;
- 'the Relevant Committee' means the Professional Ethics Committee, Disciplinary Committee or Appeal Committee all of which shall make decisions under these Regulations by simple majority; and
- 'the Subject': means a member of IOSH who is the subject of an allegation of misconduct.

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## 2 Aim

These Regulations set out the procedure to be followed where an allegation of misconduct is made against a member of IOSH. The aim of these Regulations is fairness, so the fact that any allegation of misconduct is made will not automatically lead to the imposition of any penalty. A member will be given reasonable opportunity to put their case where the allegation is suitable for investigation. In performing their roles under these Regulations the Director and the Relevant Committee shall have regard to the Public Interest, proportionality and any current policy document concerning these Regulations published by IOSH.

## 3 General provisions

### 3.1 *Time limits*

The Director may, at his discretion, vary any time limit set out in these Regulations.

### 3.2 *Requirements for an allegation of misconduct*

3.2.1 An allegation of misconduct must be made in writing, or a written summary of it agreed between the Director and the Complainant, and accompanied by copies of any documentation relevant to it.

3.2.2 IOSH shall not be obliged to investigate an allegation of misconduct if

- (i) the allegation is made anonymously; or
- (ii) the alleged incident occurred more than one year prior to receipt of the allegation.

### 3.3 *Legal proceedings*

3.3.1 The Director may at his discretion suspend investigation of an allegation of misconduct under these Regulations where the existence of any criminal investigation or other legal proceedings indicates that this is appropriate.

3.3.2 In considering an allegation of misconduct, the Relevant Committee shall be entitled to rely on a certificate of criminal conviction and/or transcript of the criminal court's judgment as evidence of the offence committed, or the decision of a civil court or tribunal as evidence of the issues determined by that court or tribunal.

### 3.4 *Standard of proof*

Subject to the provisions of these Regulations the Relevant Committee may find an allegation of misconduct proven or confirm a finding that an allegation of misconduct is proven provided it is satisfied on the evidence available that it is more likely than not to be true.

### 3.5 *Precautionary suspension*

3.5.1 If the Subject is charged with or convicted of a criminal offence under health and safety legislation or any other serious criminal offence the Director may suspend him with immediate effect.

3.5.2 Unless determined otherwise by the Director, a member who is suspended shall not, throughout the period of suspension, be permitted to use any designation or initials appropriate to membership, and may not attend or vote at any general meetings of the members.

3.5.3 Unless determined otherwise by the Director, the period of suspension shall continue until the conclusion of any disciplinary proceedings.

3.5.4 A member who is suspended may make written representations to the Director within 10 working days of the suspension being imposed.

3.5.5 A member who is suspended may apply in writing to the Director for the suspension to be reviewed every four weeks.

## 4 Initial stages

### 4.1 *Decision by the Director whether to investigate or not*

4.1.1 Within 15 working days of receiving an allegation of misconduct the Director shall:

- (i) contact the Complainant to acknowledge receipt; and
- (ii) assess whether it is necessary to seek any further information relating to the allegation of misconduct from the Complainant or elsewhere and if so request it.

4.1.2 As soon as is reasonably practicable the Director shall decide whether to investigate the allegation of misconduct.

4.1.3 If the Director decides not to investigate he shall send the Complainant reasons for his decision in writing.

4.1.4 If the Director decides to investigate he shall send the Subject formal written notice of the allegation of misconduct, together with copies of any documentation submitted by the Complainant or obtained from any other source that affected his decision to investigate, and require a written response from the Subject.

4.1.5 Within 20 working days of receiving a notice from the Director in accordance with paragraph 4.1.4, the Subject shall submit a written response stating whether he admits or denies the allegation of misconduct, and must provide copies of any documentation upon which he wishes to rely.

### 4.2 *Decision by the Director whether to refer to the Professional Ethics Committee or not*

4.2.1 After 22 working days have elapsed from the date of notice given in accordance with paragraph 4.1.4 the Director shall decide whether to refer the allegation of misconduct and any response from the Subject for consideration by the Professional Ethics Committee.

4.2.2 If the Director decides not to refer to the Professional Ethics Committee he shall send the Complainant and the Subject reasons for his decision in writing.

- 4.2.3 If the Director decides to refer the allegation of misconduct to the Professional Ethics Committee he shall provide the Professional Ethics Committee with copies of the documentation sent to the Subject in accordance with paragraph 4.1.4 together with copies of documentation received from the Subject (if received).

## 5 Professional Ethics Committee

### 5.1 *Jurisdiction*

The Professional Ethics Committee shall consider allegations of misconduct referred to it by the Director under paragraph 4.2.3.

### 5.2 *Composition*

The composition of the Professional Ethics Committee is prescribed in separate Regulations made pursuant to Byelaw 13.

### 5.3 *Procedure*

The Professional Ethics Committee shall make decisions based solely on documentation provided to it.

### 5.4 *Powers*

The Professional Ethics Committee may:

- (a) adjourn on such terms as it considers appropriate; or
- (b) dismiss the allegation of misconduct on the grounds that there is no case to answer or that any further formal action under these Regulations is disproportionate; or
- (c) if the Subject admits the allegation, either
  - (i) invite the Subject to make written representations by way of mitigation and, after considering any representations received, provide guidance on his conduct, or issue a reprimand; or
  - (ii) if the Professional Ethics Committee considers that a Higher Penalty ought to be imposed, refer the matter to the Disciplinary Committee under paragraph 5.4(d); or
- (d) refer the matter to be considered by the Disciplinary Committee.

### 5.5 *Notification of decisions*

- 5.5.1 The Professional Ethics Committee shall notify the Director of its decision in writing within 10 working days of the decision being made. The notice must set out the reasons for the Professional Ethics Committee's decision.
- 5.5.2 Within 10 working days of receipt of the Professional Ethics Committee's decision, the Director must notify the Subject and the Complainant of the decision.
- 5.5.3 There is no right of appeal against the decision reached in paragraph 5.4 above.

## 6 Disciplinary Committee

### 6.1 *Jurisdiction*

The Disciplinary Committee shall consider matters referred to it by the Professional Ethics Committee in accordance with paragraph 5.4 (d) unless the Director elects to cancel the referral on any of the following grounds:

- (a) the Subject has died; or
- (b) in light of new information since the referral there no longer appears to be a realistic prospect of a finding that the allegation of misconduct is proven; or
- (c) for any other reason by reference to factors including the seriousness of the allegation it no longer appears to be in the Public Interest for a hearing to be held and both the Complainant and the Subject have had an opportunity to make representations to the Director about a possible cancellation.

### 6.2 *Composition*

- 6.2.1 The Disciplinary Committee shall consist of one IOSH member and two independent members.
- 6.2.2 An individual will not be eligible to be appointed as a member of the Disciplinary Committee if he has had any previous involvement in the matter or is a member of the IOSH Council or the IOSH Board of Trustees.
- 6.2.3 The Disciplinary Committee shall appoint one of the independent members as Chair.

### 6.3 *Clerk*

An employee or appointee of IOSH who has not previously been involved in the matter and who is not a member of the IOSH Council or the IOSH Board of Trustees shall act as clerk to the Disciplinary Committee.

### 6.4 *Procedure*

- 6.4.1 Subject to the following and to the provisions of these Regulations, the Disciplinary Committee shall determine its own procedure.
- 6.4.2 The Disciplinary Committee may adjourn at any time to discuss decisions or determine a procedural query.
- 6.4.3 The Disciplinary Committee may obtain such legal, technical or other advice as it thinks fit.
- 6.4.4 Any advice received by the Disciplinary Committee in accordance with paragraph 6.4.3 shall be disclosed, before the Disciplinary Committee exercises any of the powers available to it under paragraph 6.6, to the Director and the Subject.

### 6.5 *Hearing arrangements*

- 6.5.1 The Disciplinary Committee shall hold a hearing to consider the matter afresh. The case against the Subject shall be presented by the Director. The Subject and the Director may call witnesses in support of their cases.

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- 6.5.2 The Subject shall be informed in writing of the substance of the allegations against him at least 30 working days before the hearing. Notice of the allegations must include the date and time of the hearing and be accompanied by copies of any documentation (including witness statements) to be considered at the hearing, together with details of any witnesses to be called by the Director.
- 6.5.3 At least 15 working days before the hearing, the Subject shall confirm in writing if he admits or denies the allegations, and provide copies of any documentation (including witness statements) on which he intends to rely, together with details of any witnesses to be called.
- 6.5.4 At least 10 working days before the hearing, the Clerk to the Disciplinary Committee shall circulate to Committee members and to the parties a bundle consisting of the documentation referred to at paragraphs 6.5.2 and 6.5.3, together with a copy of these Regulations.
- 6.5.5 The Disciplinary Committee may proceed in the absence of the Subject if:
- the Subject has been properly notified of the date and time of the hearing in accordance with paragraph 6.5.2; and
  - it is satisfied that doing so is fair, taking account of any information given by or on behalf of the Subject balanced against the Public Interest.
- 6.5.6 The Subject may be represented at the hearing by a friend, legal or other representative.
- 6.5.7 Unless determined otherwise by the Disciplinary Committee, the hearing shall be open to the Complainant, IOSH members and to the general public. The Disciplinary Committee may exclude or expel any person from all or part of the hearing if that person disrupts, or is likely to disrupt, the hearing, or if fairness otherwise requires.
- 6.5.8 The Subject and the Director may question, at the hearing, witnesses called by the other party. The Disciplinary Committee may ask questions of any person present at the hearing. Unless determined otherwise by the Disciplinary Committee, only those witnesses whose details and statements have been provided to the other party in advance (in accordance with paragraphs 6.5.2 and 6.5.3) shall be entitled to speak at the hearing.
- 6.5.9 Unless determined otherwise by the Disciplinary Committee, evidence shall be taken in the following order:
- the Director will present the case against the Subject;
  - the Subject will present his case;
  - the Director will be invited to give a closing statement;
  - the Subject will be invited to give a closing statement.
- 6.6 *Powers*
- 6.6.1 The Disciplinary Committee may:
- adjourn on such terms as it considers appropriate;  
or
  - dismiss the allegation; or
  - find the allegation proven, and may also by way of imposing a penalty or penalties take any one or more of the following actions in respect of the Subject, on such terms as it thinks fit:
    - provide guidance on his conduct;
    - issue him with a reprimand;
    - remove him from the Board of Trustees and/or Council and/or any other IOSH committee as applicable;
    - suspend his membership of IOSH; or;
    - expel him from membership IOSH.
- 6.6.2 Before imposing a penalty the Disciplinary Committee shall consider mitigation, if any, offered by the Subject.
- 6.6.3 If in the opinion of the Disciplinary Committee it is appropriate in the interests of fairness, the Disciplinary Committee may order IOSH or the Subject to contribute to the costs incurred by the other in the conduct of the hearing.
- 6.7 *Notification of decisions*
- The Disciplinary Committee shall inform the Complainant, the Director and the Subject of its decision in writing within 10 working days of the decision being made. The notice must set out the reasons for the Disciplinary Committee's decision, and, if appropriate, must inform the Subject of his right of appeal under paragraph 7.1.1.

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## 7 Appeal Committee

### 7.1 *Jurisdiction*

- 7.1.1 The Subject may appeal against the decision of the Disciplinary Committee to the Appeal Committee, by submitting full grounds of appeal in writing to the Director within 10 working days of receiving the Disciplinary Committee's decision.
- 7.1.2 Examples of grounds of appeal include:
- (a) serious errors in the procedures followed by the Disciplinary Committee;
  - (b) the imposition of an unreasonably excessive sanction by the Disciplinary Committee; or
  - (c) the emergence of new material evidence, which could not reasonably have been submitted to the Disciplinary Committee.
- 7.1.3 If the Director wishes to submit a response to the Subject's grounds of appeal, he shall do so within 10 working days of receiving it.

### 7.2 *Composition of Appeal Committee*

- 7.2.1 The Appeal Committee shall consist of one IOSH member and two independent members.
- 7.2.2 An individual will not be eligible to be appointed as a member of the Appeal Committee if he has had any previous involvement in the matter or is a member of the IOSH Council or the IOSH Board of Trustees.
- 7.2.3 The Appeal Committee shall appoint one of the independent members as Chair.

### 7.3 *Clerk*

An employee or appointee of IOSH who has not previously been involved in the matter and who is not a member of the IOSH Council or the IOSH Board of Trustees shall act as clerk to the Appeal Committee.

### 7.4 *Procedure*

- 7.4.1 Subject to the following and to the provisions of these Regulations, the Appeal Committee shall determine its own procedure.
- 7.4.2 The Appeal Committee may adjourn at any time to discuss decisions or determine a procedural query.
- 7.4.3 The Appeal Committee may obtain such legal, technical or other advice as it thinks fit.
- 7.4.4 Any advice received by the Appeal Committee in accordance with paragraph 7.4.3 shall be disclosed, before the Appeal Committee exercises any of the powers available to it under paragraph 7.6, to the Director and the Subject.

### 7.5 *Hearing arrangements*

- 7.5.1 The Appeal Committee shall hold a hearing to review the Disciplinary Committee's decision unless, exceptionally, the Appeal Committee determines that a full re-hearing is appropriate.
- 7.5.2 The Subject shall be informed in writing of the date and time of the hearing at least 30 working days in advance.

- 7.5.3 At least 10 working days before the hearing, the Clerk shall circulate to members of the Appeal Committee, the Subject and the Director copies of the Disciplinary Committee's decision, the grounds of appeal submitted in accordance with 7.1.1, the response of the Director, if any, and a copy of these Regulations.
- 7.5.4 The Appeal Committee may proceed in the absence of the Subject if:
- (a) the Subject has been properly notified of the date and time of the hearing in accordance with paragraph 7.5.2; and
  - (b) it is satisfied that doing so is fair, taking account of any information given by or on behalf of the Subject balanced against the Public Interest.
- 7.5.5 The Subject may be represented at the hearing by a friend, legal or other representative.
- 7.5.6 Unless determined otherwise by the Appeal Committee, the hearing shall be open to the Complainant, IOSH members and to the general public. The Appeal Committee may exclude or expel any person from all or part of the hearing if that person disrupts, or is likely to disrupt, the hearing, or if fairness otherwise requires.
- 7.5.7 The Subject may present his grounds of appeal and the Director may respond. The Appeal Committee may ask questions of any person present at the hearing.
- 7.5.8 If the Appeal Committee determines, in accordance with paragraph 7.5.1, that the appeal will be a full re-hearing, the re-hearing shall be conducted in accordance with the provisions of paragraph 6.5, and references to the Disciplinary Committee shall be read as references to the Appeal Committee.

### 7.6 *Powers*

- 7.6.1 The Appeal Committee may:
- (a) adjourn on such terms as it considers appropriate; or
  - (b) confirm the Disciplinary Committee's decision; or
  - (c) overturn the Disciplinary Committee's decision; or
  - (d) vary the Disciplinary Committee's decision with any one or more of the actions that were available to the Disciplinary Committee in paragraph 6.6.1 (c) being available to the Appeal Committee by way of imposing a penalty or penalties in relation to the Subject on such terms as it sees fit.
- 7.6.2 Before imposing a penalty the Appeal Committee shall consider mitigation, if any, offered by the Subject.
- 7.6.3 If in the opinion of the Appeal Committee it is appropriate in the interests of fairness, the Appeal Committee may, order IOSH or the Subject to contribute to the costs incurred by the other in the conduct of the hearing.

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## 8 Publication of disciplinary decisions

Unless the Relevant Committee determines otherwise, decisions made under paragraphs 5.4 (c) (i), 6.6 and 7.6 shall be published in the official magazine of IOSH and/or on its website. Unless requested in writing by the Complainant or by the witness concerned, the published decision shall not identify the complainant or any witnesses involved in the proceedings.

## 9 Former members

9.1 This paragraph applies where:

- (a) an allegation of misconduct meeting the requirements of paragraph 3.2.1 is required; and
- (b) the Subject has ceased to be a member of IOSH by the time the allegation of misconduct is received; and
- (c) the allegation of misconduct relates to matters which occurred during the time the Subject was a member of IOSH.

9.2 The Director shall decide at his absolute discretion whether or not to investigate an allegation of misconduct falling within paragraph 9.1. If the Director decides to investigate the allegation of misconduct, then these Regulations shall apply to the Subject as if he had not ceased to be a member of IOSH.

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IOSH is the Chartered body for health and safety professionals. With more than 46,000 members in over 120 countries, we're the world's largest professional health and safety organisation.

We set standards, and support, develop and connect our members with resources, guidance, events and training. We're the voice of the profession, and campaign on issues that affect millions of working people.

IOSH was founded in 1945 and is a registered charity with international NGO status.

## Institution of Occupational Safety and Health

Founded 1945

Incorporated by Royal Charter 2003

Registered charity in England and Wales No. 1096790

Registered charity in Scotland No. SC043254



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