Chartered Institute of Environmental Health

# Disciplinary Regulations for Elected Members

## Interpretation and definitions

In these regulations, unless the context otherwise requires, references to regulations and paragraphs are to the regulations and paragraphs herein. Expressions used in these Regulations shall have the same meaning as in the Byelaws of the CIEH unless otherwise provided.

**Appellant** means a respondent who is appealing against a decision of a Disciplinary Committee.

**Complainant** means a person making a complaint against an Elected Member, and may include the CIEH.

**Complaint** includes any fact or matter brought to the attention of the CIEH.

**Elected member** means:

1. A member of the CIEH who is elected to Council by the method described in the Election of Council Regulations; and
2. A member of the CIEH who is appointed to a committee or sub-committee; and
3. A member of the CIEH who is appointed to the Management Board of a region or Special Interest Group; and
4. The President of the CIEH; and
5. Any other person who has expressly undertaken to the CIEH to be bound by the Code of Conduct for Elected Members.

**Lay moderator** means a person (who is neither a member nor a member of staff of the CIEH) appointed by the CIEH for the purpose of regulation.

**Lay person** means a person (who is neither a member nor a member of staff of the CIEH) appointed for the purpose of regulation.

**Misconduct** means misconduct as defined in Byelaw 9.

**Respondent** shall mean an Elected Member against whom a complaint has been made.

**Screener** means a person appointed by the CIEH for the purpose of regulation.

## A complaint against an Elected Member

1. It shall be the right of any person to bring to the attention of the Chief Executive any facts or matters indicating that an Elected Member may have become liable to disciplinary action.

2. A member shall be under a general obligation of bringing to the notice of the Chief Executive any facts or matters indicating that an Elected Member may have become liable to disciplinary action.

3. Where a complaint against an Elected Member is made to the CIEH or any fact or matter comes to the attention of the Chief Executive indicating that an Elected

Member may be guilty of misconduct, the Chief Executive shall initiate procedures as provided by these regulations.

## Screening and referral

4. In the circumstances described in Regulation 3 the Chief Executive shall refer the complaint and any supporting evidence to a screener. The screener may make further enquiries or require them to be made (including enquiries seeking comments from the respondent) and shall determine whether or not there is a prima facie case to answer.

5. If the Screener determines that there is a prima facie case to answer, the case shall be referred to a Disciplinary Committee. The complainant shall be advised of this action. The Elected Member shall then be suspended from their duties as an Elected Member until consideration of the complaint has been concluded.

6. If the screener determines that there is no case to answer the matter shall be referred to a lay moderator. The lay moderator shall consider the decision made by the screener and shall confirm or overrule that decision.

7. If the lay moderator overrules the decision of the screener and determines that there is, in fact, a prima facie case to answer, then the matter shall be referred to a Disciplinary Committee. The complainant shall be informed of the lay moderator's decision.

8. If the lay moderator confirms the decision that there is no case to answer then the complaint will not be considered further. The complainant shall be informed of the lay moderator's decision.

9. Where a case is referred to a Disciplinary Committee, the respondent shall be advised of the proposed date of hearing and of his rights

   - to make a submission in writing or in person
   - to be represented
   - to call and cross examine witnesses

## Appointment of Disciplinary Committee

10. A Disciplinary Committee shall be appointed by the CIEH and shall consist of a Chartered Environmental Health Practitioner, and two other persons. At least one member of the committee shall be a lay person.

11. No member of the Council or appointees to the Membership Committee may be appointed to a Disciplinary Committee.

12. The three members of the Disciplinary Committee shall determine which of them shall be chairman.

## Consideration of the complaint by a Disciplinary Committee

13. Subject to regulation 9, the Disciplinary Committee shall meet as soon as practicable to consider a case referred under regulation 5 or 7.

14. The respondent shall have a right to appear before the committee.

15. The complainant may attend the meeting only if invited to do so by or on behalf of the Disciplinary Committee or if called as a witness by the respondent.

16. The committee may be attended by staff of the CIEH who may respond to requests for information from the committee.

17. The committee may seek independent legal advice.

18. Subject to these regulations, the committee may determine its own procedure. The chairman may decide whether the proceedings shall be open, in whole or part, to the public, who may be excluded at any time at the Chairman's discretion.

## The decision of the Disciplinary Committee

19. The Disciplinary Committee shall consider the case, may deliberate in camera, and shall determine whether the respondent is guilty of misconduct.

20. If a finding of guilty is reached, the committee may:

    20.1 admonish or reprimand the respondent, in terms which may also give advice as to future conduct including recommending a course of action; or

    20.4 terminate the respondent's elected membership.

## Costs

21. The Disciplinary Committee may require a respondent who has been found guilty of misconduct to pay an amount in respect of the costs of the proceedings, including the expenses reimbursed to any witness.

22. In determining sanctions, the Disciplinary Committee may take into account the respondent's previous conduct record, provided that information relating to such record may not be provided to the Committee before it reaches a determination under regulation 20.

23. If an Elected Member resigns after receiving notification of a complaint, then the Chief Executive will determine whether or not to accept the resignation.

    If the resignation is accepted then the Elected Member will be informed that the consideration of the complaint against them will lapse on the condition that it will recommence should they seek to rejoin the CIEH in the future.

24. The Disciplinary Committee shall advise the Chief Executive promptly of its decision. The Chief Executive shall inform the respondent of the decision in writing within 14 days. The Chief Executive may also publish the decision in accordance with guidance issued by Council.

25. The complainant shall be informed of the Disciplinary Committee's decision if no appeal is lodged.

## Appeals

26. A respondent who is subject to a guilty finding and sanction may appeal, but only on one or more of the following grounds:

    26.1 That the decision of the Disciplinary Committee was unreasonable given the evidence placed before it

    26.2 That additional evidence (which was not available at the time of the meeting) has subsequently become available and that this evidence could have materially affected the decision of the Disciplinary Committee

    26.3 That the provisions of these regulations were not followed in a material respect resulting in prejudice to the respondent's ability to defend himself

    26.4 That the proposed sanction is disproportionate.

27. Any appeal shall be made in writing to the Chief Executive, to be received within 31 days of the date of posting of the letter containing the decision of the Disciplinary Committee. To be within the deadline, an appeal under this regulation must be substantive (not simply a notice), and shall include any new evidence if this ground is relied upon.

28. Upon receipt of an appeal, the CIEH shall appoint an Appeal Panel.

29. The Appeal Panel shall consist of one Chartered Environmental Health Practitioner and two persons who are not members of the CIEH, one of whom shall chair the panel. The panel may not include a member of the Council, appointee to the Membership Committee, or any person who was a member of the Disciplinary Committee sitting for the case in question.

30. The Appeal Panel shall meet as soon as practicable to consider the appeal.

31. The decision of the Appeal Panel, which may be taken by simple majority, shall be binding and shall be communicated to the Chief Executive. Such a decision may be to uphold or overturn or vary the decision and/or sanction of the Disciplinary Committee (and for such a purpose the Appeals Panel shall be vested with the powers indicated in regulation 20).

32. The decision of the Appeal Panel shall be final.

33. If the Appeal Panel upholds an appeal under regulation 26.1, 26.2 and/or 26.3 above, then the case may be referred back to the Disciplinary Committee for re-

consideration in the light of the additional evidence. That committee shall have power to uphold, set aside, or vary its previous decision.

34. The Chief Executive shall inform the appellant and the complainant in writing of the decision of the Appeal Panel, and may publish the decision in accordance with guidance issued by Council.

## Expenses and indemnity

35. The Council shall have power to pay attendance and other fees to members of the Disciplinary Committee or Appeals Panel and may reimburse to any person attending a Disciplinary Committee or Appeal Panel their reasonable expenses for travelling and subsistence.

36. The members of the Disciplinary Committee and Appeal Panel are indemnified by the Chartered Institute against all or any legal liability arising out of the disciplinary proceedings and to the extent permissible at law.

## Commencement and amendment of Regulations

These Regulations shall take effect on the date of adoption by the Council and may only be amended, varied or rescinded by the Council.

These Regulations supersede and replace those made by the Council on 22 April 1999.

**ADOPTED** as Regulations by Council on 6 December 2007 and amended on 9 December 2010 and 8 September 2011.