

Rating Surveyors Association

Complaints and Disciplinary Procedures

A Disciplinary Committee of the Rating Surveyors' Association (RSA) shall be a sub-committee of the Committee of the Association and its task is to promote confidence in governance and adherence to the Rules of the Association through the regulation of all categories of membership of the Association by providing effective procedures for handling with complaints and disciplinary matters.

Contractual matters relating to the relationship between a Surveyor and the ratepayer are outside the scope of these procedures. The Association will not consider any such complaint if, in its opinion, it relates solely to such a contractual relationship.

The Association is however prepared to investigate any alleged misconduct by any member in relation to a potential breach of the Rules of the Association or the alleged non-compliance with any Code of Practice or similar that those associated with the RSA are required to adhere to – including the current Rating Consultancy Code of Practice issued RICS / IRRV / RSA

Disciplinary Procedures

1. Introduction

- 1.1 These procedures refer to a member and that includes all categories which includes a full Member, Honorary Member, Affiliate or Junior. It is a condition of all categories of membership of the RSA that individuals observe the highest standards of ethical conduct in connection with their activities. If any member acts unethically or displays serious incompetence they may be considered to be in breach of the Rules. If any member otherwise brings the RSA into disrepute through their behaviour, acts or omissions, whether or not related to their consulting activities, then they may be subject to the Disciplinary Code set out here.
- 1.2 Complaints may – upon adequate proof - be upheld against any member who:

- (a) acts unethically, displays serious incompetence or otherwise bring into disrepute the RSA through their behaviour; or
- (b) is found to breach the Rules of Conduct of the Association; or
- (c) is found guilty of any serious criminal offence; or
- (d) is subject to a disciplinary sanction imposed by any other regulatory or professional body; or
- (e) intentionally makes false or misleading statements to the Association or those performing the functions of the Association on its behalf or at its request.

A serious criminal offence would include anything impacting upon the individuals fitness to act as a rating surveyor or otherwise affecting the honesty, integrity or trustworthiness of the person concerned including the adverse consequences of insolvency or bankruptcy.

- 1.3 The President of the Association, the Chairman of the Disciplinary Committee and the Association's Committee as a whole may at any time delegate their tasks under these Rules to other suitable persons whether within or outside the Association provided due Notice is given to the complainant and the Member or Affiliate concerned and subject to the President or the Chairman as defined having at all times responsibility to the Association's elected Committee for the actions or proposed actions of those alternates.
- 1.4 Any changes to the Disciplinary Procedures may be made by the majority vote of the Committee of the Association and will be indicated by a revision of the contents of the RSA website within a reasonable time after their adoption following their presentation to the elected Committee for ratification.

2. Making a Complaint against a Member or Affiliate

- 2.1 An eligible complainant is a Client of any member of the RSA, or another regulatory body (such as another professional organisation), an Affiliate or Member of the Association, or any person who has cause for concern about the conduct of any category of member of the RSA and makes an allegation of a breach of the appropriate Codes of Conduct of the RICS/ IRRV / RSA Rating Consultancy Code of Practice or Rules of the Association.

- 2.2 Each Complaint must be made in writing, supported by appropriate documentary evidence. It must be addressed to the President of the Association.
- 2.3 A Complaint may be made by any person including any Member or Affiliate of the Association.
- 2.4 Each Complaint will be recorded in a Complaints Register and acknowledged by the RSA or on its behalf within a reasonable time.

3. Disciplinary Committee

- 3.1 The Disciplinary Committee shall consist of five members including a Chairman, who shall be a member of the Committee of the Association. The other four members of the Disciplinary Committee shall be appointed once a complaint is received and declared to be validly made.
- 3.2 The members of the RSA Committee not otherwise conflicted out from sitting are eligible to be members of the Disciplinary Committee. Should no member of the committee be eligible any Member of the RSA may be appointed for the purposes of considering any complaint or disciplinary matter.
- 3.3 The Disciplinary Committee will be chaired by a person appointed by the RSA Committee. That person will usually be a senior RSA member but where necessary an external appointee may be chosen.
- 3.4 No-one subject to a complaint shall be a part of any related Disciplinary Committee.
- 3.5 If any member of the Disciplinary Committee is the complainant or has any business or other relationship/conflict of interest with the complainant or the complained against then he/she shall not take part.

4. Handling of Complaints

- 4.1 When a complaint is received the President (or the person duly authorised to act on his behalf) shall refer the Complaint and all documents submitted with the Complaint or which are known to the President to be relevant to it, to the person appointed to be Chairman of the Disciplinary Committee. The Disciplinary Committee shall then appoint one of its members or a member of the Committee as an Independent Investigator for that Complaint. The person so appointed must be suitably professionally qualified and independent from the persons or

firm involved in the complaint as complainant or as complained against. If an independent member of the Disciplinary Committee or the RSA Committee cannot be appointed due to rule 3.5, the RSA Committee may after due consideration appoint a suitable independent external investigator.

- 4.2 The member subject to a complaint, may within a reasonable time of being advised of the name of the person appointed but not exceeding 14 days object with reasons to that person's appointment to investigate the complaint. The Disciplinary Committee excluding the objected person shall decide whether that objection should be upheld or not. If it is upheld a fresh appointment shall be made
- 4.3 The Independent Investigator shall determine whether, on the basis of all the available evidence, the Complaint is arguable and justifies a formal investigation. The Independent Investigator may require that the individual complained against, the Complainant or any member who must provide any information or evidence that may be relevant to any matter raised by the Complainant. This must be provided within 21 days. Whether or not any such evidence is available in writing or otherwise the Independent Investigator shall be entitled to arrive at his / her final judgement within 30 days of the request for further detail
- 4.4 If the Disciplinary Committee takes the view that any matter arising during the investigation of a Complaint should be reported to any other regulatory body, it may do so at any time once that view has been confirmed by its members during the Complaint proceedings.

5. Formal Investigation

- 5.1 Where the Disciplinary Committee receives a report from the Independent Investigator concluding that a valid complaint has been made and needs a determination it shall institute a formal investigation and it shall then appoint three of its members to form a Disciplinary Panel to consider the matter. The Disciplinary Panel shall appoint one of its members as Chairman for that complaint. The Procedure adopted by the Disciplinary Panel shall be determined at the discretion of the panel. This may, but is not required to, include an oral hearing at which the member may be required to attend. The Disciplinary Panel must invite the Complainant to attend any such hearing. The Panel may draw any necessary inferences from any failure to attend. All RSA members are expected to co-operate in all reasonable ways with the Disciplinary Panel in its investigation of complaints.

- 5.2 It shall be open to, but not incumbent on, the Disciplinary Panel to try to resolve differences between the Complainant and the member by whatever means it considers appropriate. .
- 5.3 When the Disciplinary Panel has completed its formal investigation into the Complaint it will report its findings to the President and the Disciplinary Committee in writing with reasons which may be incorporated by reference to any other document. The Disciplinary Committee after the declaration of any interest which shall require that person to leave the meeting and not to vote thereupon shall then decide whether to uphold the Complaint in whole or in any respect. The Disciplinary Committee shall reach its decision by simple majority voting. In the event that the Disciplinary Committee is unable to reach a simple majority on any matter, the Chairman's vote shall be decisive.
- 5.5 Any member of the Disciplinary Committee and the Independent Investigator wishing to express his/her dissent from the decision may do so and that dissent and any reasons for it will be attached to the Decision.
- 5.6 The Decision of the Disciplinary Committee shall, subject to these rules, be binding on all members. It shall be communicated to the Complainant and, to the member.

6. Sanctions

- 6.1 The Disciplinary Committee may recommend dismissal of the Complaint in full or in part. If it recommends the upholding of the Complaint in any respect, it shall be entitled to impose one of the sanctions set out below but subject to the rules of the Association. In determining the sanction it may have regard to all matters brought to its attention even where those matters in themselves could not have substantiated on their own the subject matter of a successful Complaint.

6.2 A Reprimand

The Disciplinary Committee may reprimand and suggest a specific action be taken. This may take the form of a written reproach sent by the RSA Secretary on behalf of the Association. That reproach may consist of a communication that the Complaint is upheld and that the member has been reprimanded. The Disciplinary Committee may determine that this be a public or private response.

6.3 **Suspension**

The Disciplinary Committee may suspend for a specified period of time, not exceeding 1 year, of the individual's right to remain a member/affiliate of the Association and may also require a specific action or actions be taken to permit the person to be re-admitted.

6.4 **Expulsion**

The Disciplinary Committee may recommend to the Committee of the Association expulsion from the Association. Any decision to expel shall have effect whether or not the person complained of has already sought to resign from the Association – such prior resignation not being recognised during the complaints process accordingly.

6.5 The Disciplinary Committee shall recommend the extent of the publicity (if any) to be given to such of its recommendations as may be adopted by the Committee. It may recommend communication of its findings be forwarded to any appropriate regulatory or professional body.

7. **Appeals**

7.1 An appeal may only be brought where the Disciplinary Committee has recommended the expulsion or suspension from the RSA. The appeal shall be by way of re-hearing before a fresh Disciplinary Panel but that shall have access to any recorded, written or verbal commentary received or given in relation to the initial hearing.

7.2 Any decision by the Disciplinary Committee shall be communicated in writing and shall indicate that an appeal must be brought within 14 days of the decision and otherwise shall not be entertained. Appeals shall be made in writing to the President

7.3 The notice of appeal should state the grounds on which the member believes that the decision should be altered. The President may extend any time limit here if he/she considers it appropriate.

7.4 Any decision against which an appeal may be brought shall only come into effect when the time limit for any appeal has expired. Any validly made appeal shall suspend the effect of the

sanction until a re-hearing has taken place. There shall be no publicity or disclosure even of preliminary conclusions until the appeal is re-heard and a fresh determination complying herewith is made or the application for an appeal is rejected, as appropriate.

- 7.5 Appeals against the decision or recommendation of the Disciplinary Committee shall be to the elected Committee of the Association. The usual expectations as regards conflict of interest/s shall apply.
- 7.6 In the event of a validly made appeal the Committee of the RSA shall appoint a fresh Complaints Panel to consider the appeal and it shall determine the procedures to be adopted in determining the appeal in conformity with the foregoing save that he/she shall not be required to convene an oral hearing or meeting with the parties in any form.
- 7.7 On an appeal, the fresh Disciplinary Panel may recommend to the RSA Committee that the decision and any penalties imposed shall stand, or may vary either the decision/s or the penalty/is imposed.
- 7.8 The decision of the Committee shall be communicated by the President to the person subject to the Complaint and the Complainant.

8. Membership of Disciplinary Committee

- 8.1 It shall normally consist of the at least two past- Presidents of the Association plus two current elected committee members, plus one other. One of whom shall be appointed by the RSA Committee as Chair of the Disciplinary Committee.
- 8.2 Any member of a Disciplinary Committee who has a real or apparent conflict of interest shall declare that interest and shall stand down unless all the parties agree otherwise.

9. General

- 9.1 In this document unless the context otherwise requires, words importing one sex shall include the other and words importing the singular shall include the plural and vice versa. Similarly, reference to professional bodies shall include incorporated or unincorporated bodies as necessary.

9.2 All rules or codes of conduct applicable to these procedures shall be those applicable, published or prevailing at the time of the alleged act (or inaction) complained of and no more recent amendments thereto or later revised versions shall be considered by any committee as being relevant to any allegations made at the time the allegation was said to have first occurred. Evidence as to the state of the regulations or other requirements shall be adduced by any committee as apart of its findings and recommendations

9.3 Any communication shall, unless the contrary is proved be deemed to be received within 7 working days of posting.

9.4 These procedures and any amendment thereto shall take effect on the date specified by the Committee of the RSA (which cannot be retrospective) and published on its website and shall apply to existing and future Complaints alike provided that nothing herein shall require previous steps taken in relation to a complaint or determination or action to expel or suspend.

9.5 Interpretation

The RSA Committee shall have referred to it any matter that requires clarification, explanation or decision in connection with this procedure – these rules - and its decision shall be final. For this purpose it shall use it’s discretion to determine whether (or when) to take or not to take external advice.

ENDS

Adopted by Order of the Committee
Honorary Secretary S Hile 29th November 2012