

## THE EDUCATIONAL INSTITUTE OF SCOTLAND

### COMPLAINTS PROCEDURE

**Rule II 11 of the Institute's Constitution states "The Institute shall constitute a Complaints Procedure for its members. The Complaints Procedure shall be operated according to a Scheme approved by Council." The Complaints Procedure as set out below was approved by Council on 10 May 2019.**

It should be noted that all stages under this Procedure should be expedited as speedily as possible and with due sensitivity to those concerned. The Complaints Procedure is confidential and therefore all participants in the procedure should respect the confidentiality of the process and information shared within that process.

The Complaints Procedure is a formal means for members to seek to address issues that they have been unable to resolve themselves with a view to restoring working relationships. Information regarding what may and may not constitute a complaint is set out in the appendix.

#### **Stage One – Receipt and investigation of a Complaint**

- (1) Should a member wish to register a Complaint to be dealt with under this Procedure then he/she must submit details of the Complaint in writing on the designated Complaints Form to ensure receipt by the General Secretary within a period of 60 days from the incident or event which has triggered the Complaint. If there has been a series of incidents or events, then the complaint must be received within 60 days of the last incident or event. In exceptional circumstances, a complaint may be accepted after 60 days. (The Complaints Form is available for issue from the Institute's Headquarters)
- (2) The General Secretary, on receipt of a Complaint submitted in accordance with paragraph (1) above, shall have the power to dismiss the Complaint if he/she considers it trivial, vexatious, or out-with the scope of the procedure. Alternatively, the General Secretary may re-direct the complaint to the relevant Local Association if it is seen as being primarily within its locus. In the event of this happening, Area Officers may be utilised to support LAs in dealing with complaints appropriately. Where the General Secretary determines the Complaint is not to be investigated under the terms of the Complaints Procedure he/she shall communicate the decision in writing to the complainant. The communication shall include an explanation of the General Secretary's decision and how it may be appealed. The General Secretary, in such instances, shall report the dismissal of a Complaint to a meeting of a lay member panel (of three persons drawn by lots from the Executive Committee overseen by the President) which shall, if the complainant appeals, review the decision of the General Secretary.
- (3) Where the circumstances of a Complaint *appear to* significantly involve the General Secretary his/ her role in this Procedure will be taken by an Assistant

Secretary. If the General Secretary is the subject of a complaint his/her role in the Procedure from paragraph (2) above will be taken by an Office-Bearer, normally the Vice-President.

- (4) Where the General Secretary deems a Complaint to be a local association or self-governing association branch matter he/she may refer it in the first instance to the local association or self-governing association branch for resolution.
- (5) Where the General Secretary deems a Complaint sufficiently serious, he/she may refer the Complaint to be processed directly under the Institute's Disciplinary Procedures. (A copy of which may be obtained from the Organisation Dept).
- (6) If the Complaint is not dismissed the General Secretary shall consider offering appropriate mediation (including external) to the complainant and the subject of the complaint. If mediation resolves the complaint to the complainant's satisfaction, then the Complaint is resolved.
- (7) Otherwise the General Secretary shall refer the Complaint to an Investigator who will normally be an Official or Officer of the Institute not previously involved in the complaint.
- (8) Where a Complaint which is to be investigated under this procedure relates to the acts or omissions of another Institute member or members the member or members will be provided with a copy of the Complaint and invited to respond to the Complaint through the Investigator.
- (9) The Investigator will investigate the Complaint, gather evidence and will present a written report within a reasonable timeframe with a recommendation to a lay member panel for a decision as to whether the Complaint proceeds to the Complaint's Panel or not. A copy of the Investigator's report shall be provided to the complainant and the subject of the complaint 5 days in advance of the lay member panel meeting in order to give them an opportunity to submit a short paper to raise any inaccuracies in the report to the panel.
- (10) It will be open to the Investigator to recommend to the lay member panel following investigation and prior to any Hearing being called that a Complaint should proceed no further. Where the Investigator offers such a recommendation the lay member panel can decide to take no further action on the Complaint or proceed to call a meeting of the Complaints Panel to consider the Complaint.
- (11) The member who has submitted the Complaint will be required to respond to requests by the Investigator to provide further information and/or to attend for interview as part of the investigation into the Complaint. Where the Investigator forms a view that the complainant has unreasonably failed to cooperate with such requests, he/she can recommend to the lay member panel that the Complaint should proceed no further.

- (12) The decision of the lay member panel will be communicated in writing to both the complainant and the subject of the complaint.

### **Stage Two – Hearing a Complaint**

- (1) The quorum for a meeting of the Panel shall be 3. The Panel will be supported by an Official who otherwise has no involvement in the Complaint.
- (2) All documentation relating to the Hearing will be circulated in advance to all parties concerned at least five working days before the date of the meeting.
- (3) All parties concerned may submit a written response to the documentation circulated in paragraph (2) above. Responses, provided they are received by the Convener no later than 24 hours prior to the scheduled commencement time of the meeting, will be tabled for the Panel's consideration.
- (4) Both the member who has submitted the Complaint and the Investigator shall be required to make themselves available to attend the Hearing. Where the Complaint relates to the acts or omissions of another Institute member(s) that member(s) will be invited to be present at parts of the Hearing which are not held in private. The complainant and subject of the complaint has the right to be accompanied to the hearing but not to be represented at the hearing.
- (5) The Procedure will be as follows:
  - (a) The Panel will convene and discuss any preliminary business in private.
  - (b) The Panel will give consideration in private to the written evidence submitted.
  - (c) The Panel may wish to seek further information or evidence as it deems appropriate from the Investigator, the complainant or, if applicable, other members referred to in the Complaint. If so all the parties will be invited into the Hearing and asked to respond only to questions submitted directly to them by members of the Panel. At the completion of this process the parties will withdraw. For the avoidance of doubt there will be no cross-examination or further presentation of evidence permitted.
  - (d) The Panel will resume consideration of the Complaint in private and, if satisfied that the information and evidence required by them is sufficient, will proceed to make a determination on the Complaint.

Nothing in the above shall preclude the Panel from suspending the Hearing and resuming consideration of the Complaint at a later date.

### **Stage Three – The Outcome of a Complaint**

- (1) The Panel can make one of three decisions concerning the outcome of a Complaint, these being:
  - (i) Upheld
  - (ii) Partially Upheld
  - (iii) Not Upheld

- (2) The decision of the Panel will be communicated in writing to the complainant and the subject of the complaint within 10 working days of the Hearing.
- (3) Where the Panel determines that the Complaint has identified issues to be addressed, it may recommend to the Executive Committee that it provides support or intervention to the directly affected members or Local Association.
- (4) Where the Panel determines that Complaint has identified issues to be addressed, it may issue general or specific advice to the affected members or local association as an outcome of any complaint process

The Panel may also decide as a consequence of issues arising from its consideration of a Complaint to initiate the Institute's Disciplinary Procedure under the terms of Rule II 10 (a) of the Constitution, or in the case of the General Secretary initiate the Institute's Disciplinary Procedure for Employees.

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## **Appendix**

The Complaints Procedure is a formal means for members to seek to address issues that they have been unable to resolve themselves with a view to restoring working relationships. These issues will usually revolve around member behaviour, such as inappropriate personal conduct

Reference should be made to the published guidance on complaints procedure evidence.

The Complaints Procedure will not be used in respect of the following:

- (1) Complaints concerning the acts or omissions of any Institute employee with the exception of the General Secretary or Acting General Secretary.
- (2) Complaints concerning decisions taken by the Annual General Meeting of the Institute, Council, Committees of Council (including Sub-Committees and Ad-Hoc Sub-Committees) Self Governing Associations and Local Associations.
- (3) Complaints concerning matters which have already been dealt with through the Institute's democratic processes.
- (4) Complaints concerning the application of the Institute's Standing Orders.
- (5) Complaints concerning any aspect of Case Handling which are normally dealt with under the Institute's Protocol for Case Handling.
- (6) Complaints concerning the services provided to members by third parties either provided directly by the Institute or endorsed by it.
- (7) Complaints concerning matters in connection with a member's employment which should properly be dealt with by employers.

The Educational Institute of Scotland

**COMPLAINTS FORM**

(Please refer to the Notes below prior to submitting this Form)

Complainant's Name .....	EIS Number .....
Address ..... .....	Telephone Number ..... E Mail .....
Member Subject of Complaint ..... LA/Branch.....	
<b><u>Desired Outcome</u></b>	
<b><u>Grounds of Complaint</u></b>	

- (1) The Grounds of Complaint must be set-out in the box above. Any relevant background information in connection with the Complaint should be provided in paper(s) apart. A Complaint which is not submitted on the designated Complaints Form, or is unsigned or undated will be disregarded.
- (2) An acknowledgement of all Complaints received will be issued by the General Secretary within 14 days of receipt. Should you not receive such an acknowledgement within this timescale you are advised to contact the General Secretary to confirm your Complaint has been received by the Institute.
- (3) If the Complaint is deemed to be relevant under the Procedure copies of all documentation submitted by the Complainant will be passed to the member who is the subject of the Complaint.

**Signature of Complainant \_\_\_\_\_ Date**