

INSTITUTE DISCIPLINARY PROCEDURES
DEFINITIVE DOCUMENT AGREED BY COUNCIL

THE INQUIRY PANEL

- 1 The Inquiry Panel shall comprise an Inquiry Panel Chairman (being the Chairman of the Professional Standards Panel for the time being in office- referred to hereafter as “The Chairman”) and Secretary appointed by the Council of Management, both (where possible) being members of the Council of Management. such appointments to be reviewed after periods of three years.
- 2 Council may appoint a temporary Chairman and/or Secretary of the Inquiry Panel for any individual case where either, the current Chairman or Secretary of the Inquiry Panel has a personal interest in the particular case or where the complaint is made against them either jointly or as individuals.
- 3 Other persons, none of whom need be members of the Institute, may be appointed to the Panel at the reasonable discretion of the Panel Chairman. Such other persons shall not include either the Chairman of Council, or the General Secretary and shall be competent to hear relevant issues.
- 4 Members of an Inquiry Panel will be expected to bring to the immediate notice of Council any personal interest or **possible** conflict of interest that they might have in a particular case.
- 5 In the event of an Inquiry Panel hearing being established in any particular case, a person shall be appointed as Minute Taker by the Chairman of the panel to be responsible for accurately recording the business of any hearing. Such person shall not form part of the Inquiry Panel. The record of the hearing will be prepared and distributed as soon as practicably possible after hearing and any comments on that record should be sent in writing to the Chairman within 3 days of receipt.
- 6 Ordinary members of the Inquiry Panel need not be appointed for more than one inquiry and shall be invited to form part of the Panel by the Chairman as and when required.

1.0 GENERAL

- 1.1 All complaints must be received in writing, from a named person.
- 1.2 Nothing shall preclude the Professional Standards Panel from instigating a complaint against a member, whether resulting from any enquiry or investigation undertaken by them or not provided there is reasonable ground for doing so.
- 1.3 All complaints should be addressed, in the first instant, to the General Secretary.
- 1.4 In the event that a complaint, which must still be in writing, is received by any other Officer or Member of Council or by the Institute’s Administration Department, it must be passed to the General Secretary without delay.

- 1.5 The General Secretary will acknowledge receipt of the complaint and forward the written complaint, together with all such papers or evidence received, to the Inquiry Panel Secretary. The Chairman of the Panel, together with the Secretary of the Panel, shall examine the complaint and the evidence provided to determine whether there is a case to answer.
- 1.6 The Complainant is to provide the evidence in support of the complaint, however the Chairman of the Inquiry Panel reserves the right to obtain or require any additional evidence he may deem necessary. The Member is expected to co-operate in the provision of answers to requests for documents and/or questions, which will help the Chairman decide whether there is a case to answer. If the Member unreasonably refuses to respond, or does not respond adequately, the Chairman will be entitled to draw inferences from this for the purposes of 1.7 (below).
- 1.7 At whatever time the evidence in total is gathered, the Chairman and Secretary of the Inquiry Panel shall make a decision as to whether or not there are grounds to further pursue the complaint.
- 1.8 Any evidence collated for the purpose of these procedures will be treated as strictly private and confidential except as required by law.
- 1.9 The nature of any complaint lodge will not be made public until there has been a proper determination and the Member has been advised of this.

2.0 PROCEDURES

- 2.1 On receipt of a complaint from the General Secretary, the Inquiry Panel Secretary must, without delay, write to the subject of the complaint, notifying him/her of:
 - i) The composition of the Inquiry Panel no less than 14 days before the commencement of the investigation. If, after the investigation stage, a decision is made to proceed with a hearing, the subject will have a further opportunity to object to the composition of the Panel convened to hear the complaint. If the member has reason to believe that the composition of the Panel will affect his/her right to a fair and reasonable hearing, s/he shall write to the Chairman no less than 7 days before the hearing setting out reasons. The Chairman will respond before the hearing takes place and take such steps as may be appropriate to ensure the overall fairness of the procedure. Where the Panel has to be altered, wherever possible, the hearing will take place on the pre-ordained date. The Chairman, in his absolute discretion may postpone the hearing date in the interests of justice.
 - ii) As and when it may be necessary for additional members to be co-opted onto the Inquiry Panel, to provide expert advice, etc., the subject of the complaint should be given 14 days in which to register any reasonable complaint in writing. Where an expert is called, the Chairman and the Member will either arrange for that expert to be jointly instructed or, if it is not possible to agree this, the Member will be entitled to call his/her own expert. Reports of experts will be exchanged in advance of the hearing and the experts will be asked to discuss areas of agreement in advance of any hearing.

- iii) All available details of the nature of the complaint and all evidence as known at that time, with full details being provided prior to the time allocated for the subject to respond.
 - iv) Full Details of the complainant.
 - v) Invite the subject of the complaint for his/her written observations and provide an early opportunity to rebut the complaint.
- 2.2 The Inquiry Panel must consult within 21 days of receipt of an initial response from the subject of the complaint to review what further action is to be taken. The Council of Management at its next meeting must ratify such action, including that of No Further Action.
- 2.3 If at any stage of an investigation it becomes the view of the Inquiry Panel that No Further Action should be taken, the matter must be referred back to Council for ratification. The Member will be informed promptly if and when a final decision is made to take No Further Action.
- 2.4 In the event that Council are unable to agree with the recommendation of an Inquiry Panel, a new, temporary, Panel should be appointed to consider the case in full, before referring their decision back to Council.
- 2.5 The Chairman of the Panel will use his best endeavours to ensure that the complaint is dealt with in a reasonable time. All parties to a complaint must be kept fully apprised of the progress and/or delays in writing, or email, every 14 days by the Secretary to the Inquiry Panel.
- 2.6 In normal circumstances, a hearing should take place within no more than 2 calendar months of the complaint being received and substantiated by the Complainant.
- 2.7 In the event that there is a specific time delay of more than 28 days, e.g., pending a court hearing, it will suffice to write to both parties advising them of this and stating that further communication will be made after that known date. The Panel is not duty bound to await a court hearing before convening an internal hearing but, where reasonable, should endeavour to do so.
- 2.8 There is no time limit imposed between the commencement of an inquiry and the date of the matter, giving rise to the complaint.
- 2.9 An Inquiry Panel may make whatever and any enquiries it deems reasonably necessary in an investigation.
- 2.10 The Secretary of the Inquiry Panel will update the General Secretary regularly, in writing, of the progress of all matters under investigation. This update may be in electronic format.
- 2.11 The burden of proof to be adopted is ‘on the balance of probabilities’.
- 2.12 Where all the parties are in agreement, the complaint may be dealt with by way of written submissions. Such agreement must be conveyed to the Chairman in writing.
- 3.0 FAILURE TO COMPLY WITH AN INVESTIGATION.**
- 3.1 Where a member wilfully fails to comply with an investigation into his/her conduct, the Inquiry Panel and Council of Management reserve the right to draw conclusions and make inferences in the Member’s absence.
- 3.2 Where a Member resigns from the Institute during the course of an investigation, he/she will nevertheless be entitled to take part in the investigation and any subsequent disciplinary process as if he/she were still a member. If the Member chooses not to

take part in either process, the Inquiry Panel and the Council of Management reserve the right to find in the individual's absence.

4.0 THE DISCIPLINARY HEARING

- 4.1 Before making any finding against a Member, s/he will have the right to a fair hearing.
- 4.2 The Member will be given reasonable notice of not normally less than 21 days of the date of the hearing and will be contacted in advance to determine whether there any specific dates on which s/he will not be available.
- 4.3 The Member will have the right to be accompanied by a qualified (e.g. solicitor or barrister) or non-qualified person. That person may present the Member's case but the Member will be expected to give evidence and to answer questions put to him/her to allow the Panel to assess the credibility of his/her responses. The Member will disclose to the Chairman, 7 days before the hearing, the details of the person who will accompany him/her.
- 4.4 A minute will be taken of the hearing by an independent person and copied to the Member and the Inquiry Panel within 7 days and representations will be made on these to the Chairman within 3 days of receipt.
- 4.5 Any hearing will be open to the Public. However, the Press and Public may be excluded from all or part of the hearing where the interest of juveniles or the protection of the Member or Complainant's private life require otherwise or, in exceptional and strictly necessary circumstances, where the interests of justice require a private hearing.
- 4.6 The Member will be reminded at the beginning of the Hearing of the Complaint and will be asked to summarise the grounds for challenging it. The Chairman will outline the procedures for the Hearing at the commencement and will ask for the Member's comments on these.
- 4.7 At the conclusion of the hearing, the Panel will adjourn and make their decision. If time is needed for the Panel to make that decision, the Member will be advised of the timescale in which to expect written notification. In any event, this should not normally be more than 7 days from the hearing.
- 4.8 If the Panel impose a disciplinary sanction, the Member will be advised of it and also of his/her right to appeal that decision.

5.0 OFFENCE CODE

- 5.1 **Conduct unbecoming a member of the Institute of Traffic Accident Investigators.**

The Inquiry Panel and the Council of Management will judge that conduct which constitutes this offence as conduct falling below that which is properly expected of a Member of this Institute. Examples of such conduct would (and this is not an exhaustive list) include, dishonest or disreputable behaviour or any act or omission which is likely to damage the reputation of the Institute.
- 5.2 **Acceptance of Conditional Fee Arrangements.**

The acceptance of conditional fee arrangements is in direct contravention of the Civil Procedure Rules 1999 and such agreements must not be accepted by Institute members.

6.0 SANCTIONS THAT CAN BE RECOMMENDED TO COUNCIL BY THE INQUIRY PANEL

1. No action
2. To Note with Regret
3. To Rebuke
4. To impose a Severe Rebuke
5. A Chairman's Rebuke which requires the defaulting member to be rebuked by the Chairman in person
6. Caution as to behaviour or actions which initiated the complaint
7. Relegation to Affiliate Member from Full Member status
8. Requirement to resign from the Institute of Traffic Accident Investigators
9. Expulsion from the Institute of Traffic Accident Investigators.

6.1 In arriving at a final decision, the Council of Management shall be entitled to take into consideration any previous complaint - howsoever dealt with – and which was upheld against both the subject of the complaint and the complainant.

7.0 APPEAL

7.1 Any appeal against a decision of the Inquiry Panel or Council of Management shall be dealt with by an "Appeal Board" comprising not less than three members of The Institute. Such Board shall be appointed by Council and must not comprise members of either Council or the Inquiry Panel. The Member will be notified of the composition of the Panel at least 7 days in advance of the Appeal Hearing and will be allowed to make comments to the Chairman of the proposed Board of Appeal who will respond appropriately.

7.2 Notice of appeal must be received in writing within one calendar month of written notification of the decision of the Panel or Council. If no notice of appeal is forthcoming within such period; the matter shall be closed and only in exceptional circumstances will any appeal thereafter be entertained. An appeal will be entertained on the grounds that a finding of fact by the Inquiry Panel was perverse, or that these procedures have been misapplied or that it has been unlawful.

7.3 The decision of the Appeal Board shall be final and no further appeal will be entertained. The grounds for such decision will be set out in writing and will be disclosed to the Member.

8.0 LIABILITY

8.1 No liability shall rest with The Institute if the address to which correspondence is sent is incorrect by virtue of the failure by any Member to notify any change of effective address at any time.

9.0 MEMBERSHIP

9.1 The broad outlines of the above guidelines for dealing with complaints shall be made available to the membership in general. Individual members may be supplied with the guidelines on written application to: The Admin Service, The Institute of Traffic Accident Investigators, Column House, London Road, Shrewsbury. SY9 6NW

. The rules will be posted on the Institutes' Website at www.itai.org .

10.0 CIVIL RIGHTS

These procedures do not affect any member's right to bring an action in the civil courts, in the event of his/her being dissatisfied with the findings of an appeal.

11.0 VARIATIONS TO THESE RULES

The timescales in these rules may be varied by the Chairman, where necessary, to address any logistic or administrative issues. In doing so, the Chairman will ensure that the Member concerned is not deprived of his/her right to a fair hearing. The Chairman will consider any consequential requests for variations made by any Member following on from any changes to the timescales or other matters.

12.0 REPRESENTATION

The Member or the Institute is entitled to be accompanied by a legal representative. In respect of the Member, the role of such a representative would be to advise and assist and to make representations but the Member must answer questions put to him/her directly. If the Institute chooses to have a lawyer present, the role of that lawyer would be to advise on matters of law and procedure. Questions of fact, and the determination of the disciplinary process is entirely a matter for the Panel and the legal representative must not give indications of opinion on matters outside this ambit.

13.0 COSTS

In most cases, costs will be met by the parties themselves. The Panel will have a discretion to consider applications for contributions to a member's legal costs where the Institute itself (not the complainant) has acted unreasonably in the handling of any complaint against a Member.

14.0 ANNOUNCEMENT OF OUTCOME OF HEARINGS AND APPEALS

To maintain standards within the Institute, it is important for members to understand the disciplinary process and observe how it may be applied. For this reason, the outcome of Hearings and Appeals will be published in the Institute Journal, stating:

- (a) The name of the member concerned
- (b) His/her number
- (c) The date of the hearing
- (d) A short summary of the allegation and the finding.

15.0 REVIEW OF THESE PROCEDURES

The Institute may review these rules from time to time in the interests of fairness and to reflect changes to the law.

16.0 MEDIATION AND APPLICABLE LAW

Any disputes taken to mediation outside the Institute will be dealt with according to the law of England and Wales.