

## **Annex 2 - THE PRCA COMPLAINTS PROCEDURE**

### **Aims and objectives**

- This Complaints Procedure (the “Procedure”) provides a transparent route by which complaints against all PRCA Members are made, managed, and considered.
- It facilitates the making of decisions that are fair, transparent, consistent, and explained clearly.
- Through the Procedure the PRCA aims to uphold standards of and confidence in the profession of public relations and communications and public affairs as set out in the Code of Conduct for Members or the Public Affairs Code as relevant (“the Codes” or where appropriate “the relevant Code”).

### **Making a Complaint**

#### **1 THE SCOPE OF THE PROCEDURE**

- 1.1 A complaint can be made against a Member who:
- 1.1.1 is a current PRCA Member; and/or
  - 1.1.2 was a PRCA Member at the time of the alleged conduct that gave rise to the complaint.
- 1.2 PRCA may consider a complaint against a PRCA Company, Professional, or Associate Member that alleges a breach of the relevant Code.
- 1.3 A complaint will be determined in accordance with the Procedure in force at the time of the complaint. However, the Member’s conduct will be judged against the relevant Code which was in force at the time the alleged conduct occurred.

#### **2 ROLES**

- 2.1 The Standards Committee has responsibility for the Codes and the procedures for the handling of complaints of breaches of the Codes. The Committee also determines whether any complaints are to be considered, and if so, whether upheld and any sanctions to be imposed.
- 2.2 The Membership Committee will determine any appeal against a decision of the Standards Committee.
- 2.3 A member of staff of the PRCA, acting as the Complaints Manager, will manage the handling of complaints under this Procedure up to the final determination by a Panel of the Standards Committee or Membership Committee.

#### **3 CONFIDENTIALITY**

- 3.1 Other than further to any publication in accordance with section 15, the PRCA, Complainants and Members shall, throughout this Procedure, otherwise than as required by law, keep all materials and documents relating to the Procedure and/or complaints confidential.

#### **4 WHEN A COMPLAINT CAN BE MADE**

- 4.1 Complaints should, other than in exceptional circumstances, be made within one year of the conduct giving rise to the complaint.
- 4.2 A Member’s resignation from, or failure/refusal to renew membership whilst a complaint is being processed by the PRCA will not normally invalidate the processing or determination of a complaint by the PRCA or terminate the Procedure. The Member will be considered in continuous membership for the purposes of dealing with a complaint, until such time as the matter has been resolved or the Procedure terminated.

- 4.3 Before submitting a complaint, the Complainant (if any) is usually expected to attempt to resolve the issue with the Member. Details of any attempt at resolution should be included within the complaint. If resolution with the Member is not possible/feasible or is considered inappropriate by the Complainant, the Complainant should provide a written explanation within their complaint as to why this is the case.

## **5 WHO CAN MAKE A COMPLAINT**

- 5.1 A complaint can be made by any individual or organisation (“the Complainant”) or may be made by the PRCA itself. Where a Complainant withdraws its complaint at any stage of the procedure, the PRCA may, where appropriate, continue to process the complaint.

## **6 HOW TO MAKE A COMPLAINT**

- 6.1 Complaints must be made in writing, signed by the Complainant (if any) identifying the Member, and should be sent to the Complaints Manager at [complaints@prca.org.uk](mailto:complaints@prca.org.uk).

- 6.2 Anonymous complaints will not normally be considered unless there is a compelling reason to do so. If a complaint is accepted on this basis, PRCA will take reasonable steps to maintain anonymity, but anonymity cannot be guaranteed.

- 6.3 To be an eligible complaint, it must:

6.3.1 have been made within the time period provided for in section 4.1 or where outside this time limit, a Panel of the Standards Committee appointed for this purpose by the Complaints Manager, has determined that there are exceptional circumstances and therefore agreed to extend the time limit.

6.3.2 include the following:

- (a) The name of the Member complained about.
- (b) A summary account of the relevant facts leading to the complaint plus dates of event(s), and any supporting evidence.
- (c) A statement of the provision(s) in the relevant Code which it is alleged has been breached where known.
- (d) The Claimant’s written confirmation that they agree for the complaint to be dealt with in accordance with the Procedure, and that they will keep all materials and documents relating to the complaint confidential.

- 6.4 Where a complaint is not eligible under section 6.3.2, the Complaints Manager will notify the Complainant, if any, to this effect. Any Complainant will have 14 days from receipt of this notification to resubmit an eligible complaint otherwise no further action in relation to the Complaint will be taken. However, the Panel may decide to proceed with a complaint, itself, where the Complainant does not agree to keep matters confidential in accordance with 6.3.2(d) above.

- 6.5 Where a complaint is eligible, the Complaints Manager will appoint a Panel of the Standards Committee to consider the complaint.

## **7 THE COMMITTEES**

- 7.1 A Panel of the Standards Committee will comprise of three people from amongst the members of the Standards Committee.

- 7.2 Panel Members of the Standards Committee or where there is an appeal, Members of the Membership Committee, must declare any possible conflict of interest to the Complaints Manager. The Complaints Manager may seek external advice for this purpose. Their decision will be final as to whether there is a conflict of interest.

- 7.3 A member of a Panel of the Standards Committee or member of the Membership Committee, as appropriate, must recuse themselves if there is a conflict of interest which has not been waived by the parties.
- 7.4 Any decision of a Panel or the Membership Committee taken under this Procedure will be made on a majority or unanimous basis.
- 7.5 Formal rules of evidence do not apply to any determination made under the Procedure and the Panel of the Standards Committee or Membership Committee may issue directions for the fair conduct of the Procedure. The validity of any decision taken by a Panel or the Membership Committee will not be vitiated by any irregularity in the Procedure.
- 7.6 Where the Panel or the Membership Committee considers it appropriate, it may request that it be supported by a legal adviser who will play no part in the decision making under the Procedure.

## **Complaint Assessment**

### **8 COMPLAINT SCREENING**

- 8.1 A Panel of the Standards Committee will screen the eligible complaint passed to it by the Complaints Manager to determine if it should be investigated.
- 8.2 The Panel will refer the complaint for investigation:
- 8.2.1 where the complaint alleges conduct which is capable, if proven, of amounting to a breach of the relevant Code;
- 8.2.2 unless it considers the complaint or its subject matter to:
- (a) be frivolous or vexatious or otherwise an abuse of process.
  - (b) concern activity with insufficient nexus to professional practice or the profession.
  - (c) consist of allegations of very minor breaches of the relevant Code including those which consist solely of professional negligence.
  - (d) be subject to criminal or civil legal proceedings, in which case they will usually be put on hold pending the outcome of those proceedings.
  - (e) be subject to current investigations by the police, a Regulator, other Professional Body or subject to proceedings before a Regulator or other Professional Body in which case they will usually be put on hold pending the outcome of those investigations or proceedings.
  - (f) to be based on the same facts as those where a Regulator, other Professional Body, Police, court, or tribunal charges/investigation against a Member have been discontinued/dismissed, or a not guilty verdict/decision absolving the Member reached after investigation into or prosecution of allegations.
  - (g) to be a repetition of a complaint(s) previously considered by PRCA, unless there is substantial new evidence which was not available previously.
- 8.3 Where appropriate the Panel may request that the Complaints Manager undertake further enquiries to help it determine whether to exercise its decision making under 8.2.2 above or if the complaint can be resolved informally under 8.4.
- 8.4 Where the complaint passes screening, the Panel may decide to seek an informal resolution of the complaint, either through its own efforts or by suggesting the use of alternative dispute resolution (“ADR”). The Panel may decide to suspend the processing of the complaint whilst such steps are

taken. Where a satisfactory outcome is, in the opinion of the Panel, reached through these or other steps, the complaint will be treated as withdrawn.

- 8.5 If the complaint does not pass screening, no further action will be taken. The Complainant (if any) will be duly notified of this decision in writing. This will include summary reasons for this decision.
- 8.6 Any screening decision taken by a Panel is final and the PRCA will not enter any further correspondence on the subject other than in exceptional circumstances.

## **9 COMPLAINT INVESTIGATION**

- 9.1 Where a complaint has been referred to investigation under section 8.2 the Complaints Manager will appoint a person independent of the PRCA to investigate (“the Independent Investigator”).
- 9.2 The Complaints Manager will notify the Member and Complainant (if any) of the investigation. The notification for the Member will include the complaint and any documents provided by the Complainant and the name of the Independent Investigator
- 9.3 The Independent Investigator will offer the Member the opportunity to respond to the complaint within no less than 28 days.
- 9.4 The Independent Investigator will then produce a draft investigation report that contains:
  - 9.4.1 particularised allegations;
  - 9.4.2 all evidence gathered for each allegation including where this undermines any allegations; and
  - 9.4.3 recommendations as to findings.
- 9.5 This draft investigation report will be sent to the Member and Complainant (if any) with the opportunity to make further comment and provide any further evidence within no less than 14 days of receipt of the report.

A final investigation report which is to include and be amended in the light of any responses by the Member and Complainant (if any) will be prepared (“the final investigation report”).

- 9.7 The Complaints Manager will provide the Panel with the final investigation report which will also be copied to the Member and Complainant (if any) for information only.

## **DETERMINATION OF THE COMPLAINT**

### **10 DETERMINATION**

- 10.1 The determination of complaints will be on the papers without the attendance of the parties
- 10.2 The Panel will take into account the final investigation report.

### **11 FINDINGS**

- 11.1 Findings of fact in all Complaints are based on a balance of probabilities, which means that the Panel must be satisfied that it is more likely than not that the material facts alleged are true.
- 11.2 Where the adverse decision of another body is being considered, the facts found by the Regulator, other Professional Body, court, employer, or other relevant tribunal will be accepted as proven, save in exceptional circumstances.

- 11.3 Based on the facts found, the Panel will decide whether the complaint should be upheld, in whole or in part, or be dismissed.
- 11.4 The Member will be notified in writing of the findings and any sanction within 14 days of the hearing.
- 11.5 The Complainant (if any), unless exceptional circumstances apply, will also be notified of the findings and any sanction imposed after the expiry of the 14 days but only if an appeal has not been lodged.
- 11.6 Where a complaint relating to the Public Affairs Code is upheld in whole or in part, and the Member is also a member of the Chartered Institute of Public Relations ("CIPR") that body will be notified of the findings and any sanction imposed, after the expiry of the 14 day period but only if an appeal has not been lodged.

## **12 IMPOSITION OF SANCTIONS**

- 12.1 Where the Panel has upheld the complaint in whole or in part, it may impose one or more of the following:
  - 12.1.1 censure,
  - 12.1.2 a requirement for corrective training,
  - 12.1.3 where in relation to a Company Member or Associate Member which is an organisation, changes to company procedure,
  - 12.1.4 suspension of Membership for a term of up to three years,
  - 12.1.5 where in relation to a Fellow or Companion, removal of this status,
  - 12.1.6 removal of Membership and/or removal from the Roll.
  - 12.1.7 Where the Panel's decision is to remove a Company from membership, before the removal takes effect, the Company Member must be given notice and afforded the opportunity to attend and speak before the Standards Committee (including through an authorised representative). The removal must then be approved by no less than two thirds of the votes cast by the Standards Committee.
- 12.2 The Panel may in the case of removal of Membership recommend that a Member not be re-admitted to Membership for a specified period of time up to 3 years.
- 12.3 A failure or refusal to comply with a sanction will be reviewed by the Panel. The Panel will meet to consider whether Membership should be terminated and/or any other sanction applied.

## **13 PUBLICATION OF FINDINGS**

- 13.1 Where a complaint is upheld, the PRCA will normally publish on its website a summary of the nature and fact of any breach of the relevant Code and any sanctions imposed.
- 13.2 Subject to 14.3 below, the Panel may decide that where there are exceptional reasons outweighing the need for transparency, there should be no publication or anonymised publication.
- 13.3 Suspension or removal of Membership will always be published.
- 13.4 Any published details will remain on the website for a period of one year or until any time-limited sanction expires or is complied with, whichever is longest.
- 13.5 Where membership has been removed under these Procedures, a statement to this effect will remain on the PRCA website until such time as the Member has successfully re-applied for membership or for a period of normally five years.

## **APPEALS**

### **14 TIME LIMIT AND GROUNDS OF APPEAL**

- 14.1 The Member may appeal against a decision as to breach or sanction made by the Panel within 28 days of notification of the decision being provided to them.
- 14.2 An appeal can be made on the following limited grounds:
- 14.2.1 The decision was made in error of law.
  - 14.2.2 There is compelling and relevant new evidence that was not available at the time of the decision.
  - 14.2.3 There was a procedural impropriety which had a material impact on the fairness of the findings and decision of the Panel.
- 14.3 To be eligible an appeal must be in writing, specify the ground(s) on which it is made and be accompanied by any supporting documentation including any new evidence on which the Member seeks to rely.
- 14.4 The Complaints Manager shall appoint an independent person to be an Appeal Examiner to consider and make recommendations to the Membership Committee on the eligibility and outcome, where appropriate, of an appeal. Where new evidence has been provided by the Member, the Appeal Examiner may carry out further investigations.
- 14.5 Where the Appeal Examiner considers that an appeal is eligible, they shall:
- 14.5.1 inform the Panel of the Standards Committee as such, and the Panel may then suspend any sanction imposed and direct that there be no publication of any findings until the appeal has been determined;
  - 14.5.2 prepare a draft appeals report for the Membership Committee to include the papers provided by the Member under 14.3, the final investigation report prepared by the Independent Investigator, any new evidence and any recommendations the Appeal Examiner has as to the outcome of the appeal;
  - 14.5.3 share the draft appeals report with the Member and provide an opportunity to comment within 14 days of receipt;
  - 14.5.4 prepare a final appeals report for the Membership Committee to include any response under 14.5.3 (“the final appeals report”).
- 14.6 Where the Appeal Examiner considers an appeal is not eligible, they shall prepare a report with a recommendation for the Membership Committee that it dismiss the appeal on the grounds of being ineligible. The Membership Committee will meet in private on receipt of such a report and may dismiss the appeal or decide the appeal is eligible and to remit to the Appeal Examiner to prepare an appeals report.

### **15 APPEAL DECISION**

- 15.1 The Membership Committee will meet in private to consider the appeal within 28 days of the Appeal Examiner sending it a final appeals report. It may obtain legal advice to assist in its determination.
- 15.2 The Membership Committee will take into account the final appeals report and consider whether to uphold in whole or in part or dismiss the appeal and may modify or impose any sanction that was available to the Panel of the Standard Committee as considered appropriate.

- 15.3 The Member, Complainant (if any), and CIPR if appropriate, will be notified of the Committee's decision in writing within 14 days of the decision.
- 15.4 Unless the Membership Committee has upheld the appeal, any decision as to publication made by the Panel of the Standards Committee under section 14 shall stand. Where the appeal is upheld, the Membership Committee will decide a fresh decision as to publication in accordance with section 14.