



*The Royal Society  
of Edinburgh*

KNOWLEDGE MADE USEFUL

Procedure

Revised July 2022

# Complaints against Fellows and Allegations of Serious Misconduct

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## A. Introduction and Overview

### 1. Purpose

The Royal Society of Edinburgh is a membership organisation and Fellows are elected because of their excellence, demonstrated by outstanding achievement in one's field; professional standing and; contribution to society / public good. Complaints and allegations of serious misconduct against Fellows are exceedingly rare. However when a complaint or allegation of misconduct is made, the RSE takes this very seriously. In order to ensure that all complaints are dealt with in a fair and transparent manner, the Council of the RSE has created this procedure.

The Procedure is intended to deal with cases of a serious nature where the alleged conduct of a Fellow, if substantiated, could reasonably be regarded as unacceptable. Less serious complaints would, at least initially, normally be dealt with informally through discussion with the Chief Executive and/or Fellowship Secretary.

The Procedure is intended to provide guidance to, and ensure fair treatment of, both the complainant (the person or persons making the complaint or allegation) and the respondent (the person or persons against whom the complaint or allegations are made). In particular, the Procedure is designed to ensure that, at each stage, those responsible for taking any decision at that stage will not have been involved in taking a decision at an earlier stage.

RSE expects that the full process, from initial complaint to final decision in a difficult case, would not take longer than 6 months, although circumstances beyond the control of RSE could extend the time required in particular cases. The RSE recognises that participating in a process such as this can be stressful, and encourages those involved to seek appropriate support and advice as necessary.

## **2. Examples of Unacceptable Conduct**

Examples of conduct that could be considered unacceptable include:

- Being found guilty of academic offences such as research fraud or plagiarism
- Being found guilty of serious professional misconduct by another professional body
- Conviction of a serious or professionally relevant criminal offence resulting in a period of imprisonment
- In conducting RSE business, conduct that falls below the standards expected of Fellows, which are in-line with the Nolan Principles (selflessness, integrity, objectivity, accountability, openness, honesty and leadership)
- Harassing, victimising, discriminating or bullying others (in line with RSE's Equal Opportunities Policy), especially, but not exclusively, in relation to protected characteristics

## **3. Sanctions and Penalties for Unacceptable Conduct**

Under Law 43 of RSE's Laws, *"If, in the opinion of Council, the conduct of any Fellow is injurious to the character or interests of the Society, the Council, may, by registered letter, require him or her to resign."*

This is the most serious sanction and it may not be appropriate in all cases to require the resignation of a Fellow, so provisions have been made through Standing Orders, as provided by RSE Law 8, for lesser sanctions. It is not possible to specify all possible actions, however these fall broadly in to four categories:

1. A letter from the President to the Fellow concerned, stating that his or her conduct has fallen short of the standards expected of a Fellow of the RSE and should not be repeated.
2. In certain circumstances, informing relevant organisations and/or individuals (for example the Fellow's employer, associated grant-awarding bodies, editors of relevant journals the respondent has published in, and other relevant professional bodies) that such a letter has been issued by the President.
3. Disqualification for a specified period from the benefits of Fellowship and from participating in certain activities of the RSE, such as holding office, participating in the election process, involvement in committees, attending meetings and receiving publications.
4. Full suspension from the Fellowship for a specified period (any subscriptions due during this time would still be payable).

## **B. Procedure for Dealing with Complaints or Allegations of Serious Misconduct**

### **1. Stage 1 – Making a complaint**

Any complaint should be made in writing and addressed to the RSE Chief Executive<sup>1</sup>. Complaints may be made by Fellows or non-Fellows. The Chief Executive will acknowledge receipt of the complaint within five working days. In order that the Chief Executive can do so, the complainant must provide a name and contact details.

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<sup>1</sup> This will ensure that appropriate processes are followed, records kept, and that staff resource can be allocated. Where a complaint is submitted to an Office-Bearer or another member of RSE staff, this should be passed to the Chief Executive at the earliest opportunity and the procedure followed as normal.

The complaint will be handled in the strictest confidence, and only those directly involved in the complaint process will have access to the details of the case. An exception may be made where the complaint could be criminal, in which case it may be reported to the relevant authorities. Normally this would only take place following communication with the complainant, but could happen without this discussion where there is a statutory duty to do so.

The identity of the complainant will be treated in confidence and will not be made known to the respondent except where knowledge of the identity of the complainant is essential to an understanding of the nature and substance of the complaint. Where this is the case, permission will be sought from the complainant.

Where, in the absence of a formal complaint, or if an anonymous complaint is made, there is sufficient concern, Council may at its discretion wish to initiate an investigation. In that case, the procedure below will be followed making necessary alterations.

## **2. Stage 2 – Preliminary Assessment**

The Chief Executive will bring the complaint to the Fellowship Secretary. The Fellowship Secretary will decide, in consultation with the Chief Executive and on the basis of the information presented by the complainant, whether the allegations are of such seriousness that they should be dealt with under these procedures and, if so, whether there is a case for further investigation.

When a complaint is received, the respondent will be informed by the Fellowship Secretary or Chief Executive that a complaint has been made, but will not necessarily be asked to respond at this stage unless he or she wishes to do so.

Normally the respondent should be given the details of the complaint, but there may be occasions where this is not advisable (for example where the details would disclose who had made the complaint).

The President and General Secretary will be informed that a complaint has been received, but will not be provided with any details in order that her/his final decision (and that of Council) is based solely on the findings presented by the Investigation Panel (as outlined below). The name of the respondent will not be provided unless the complaint is against a serving Office-Bearer.

The complainant and respondent will be informed of the outcome of the initial assessment within ten working days of receipt of the complaint. Where this is not practicable, the complainant and respondent will, within ten working days, be informed of progress and the timetable envisaged for dealing with the matter.

Where it is felt that the allegation can be satisfactorily resolved without further investigation, every effort should be made to do so.

If the Fellowship Secretary decides that there is a case for further consideration, Council will be asked to appoint a suitable Chair for the Investigation Panel, who will then work with the Fellowship Office to identify additional panel members (see Stage 3 for more details). The details of the complaint will then be passed to the independent Investigation Panel.

If it is decided that the allegation is of sufficient seriousness, but that it should not proceed to the next stage, the complainant or respondent will nevertheless be entitled to request that the case be considered

by the Investigation Panel. This request must be received within ten working days of the initial outcome being communicated. The request will then be considered by the Panel Chair and one additional Fellow, not on Council and not previously involved in the process. The decision of the Panel Chair and Fellow will be final.

If the allegation is also being considered by the Fellow's University or other employer or professional body, the Fellowship Secretary, in consultation with the Chief Executive, may consider that it would not be appropriate to take action, or to wait until these investigations have been completed before deciding whether or not to take action. In that event, the complainant and respondent will be so informed.

### **3. Stage 3 – Investigation Panel**

The role of the independent Investigation Panel will be to conduct investigations as the Panel considers necessary and appropriate to assess the complaint and report to the RSE Council. This report should contain the necessary information to enable Council to decide what steps, if any, to take in respect of the complaint. The Panel will not be asked to consider or to recommend what steps should be taken in the light of its findings.

The Panel will comprise a Chair and five other members at least one of whom should be independent of the RSE. The Chair will be appointed by Council, but will not be a current member of Council, and will be, as far as possible, someone familiar with the requirements of due process and fairness in complaints proceedings. An appropriate Chair will be identified for each complaint, who will normally hold the post for the duration of that complaint.

The other members of the Panel will be chosen on a case by case basis and shall not be members of Council. The Fellowship Office will assist the Panel Chair in identifying suitable Panel Members.

Panel members need not all be Fellows of the RSE, but should be of suitably high standing, such as Fellows of other appropriate National Academies or representatives of appropriate professional standards bodies. The members of the Panel should not be colleagues or otherwise connected with the respondent or complainant, but if the field of activity of the respondent is relevant to the complaint the Panel should contain at least one person with knowledge and experience of this field of activity. The Panel will be asked to familiarise themselves with the RSE Unconscious Bias guidance and other relevant equality, diversity and inclusion guidance.

The Chief Executive will arrange the necessary secretariat support for the Panel. This includes assisting the Chair of the Panel in taking notes of interviews (for instance, with the complainant and respondent) and drafting the written report of the findings of the proceedings.

The conduct of the investigation will at all times be subject to the overriding obligation to ensure fairness and due process. Subject to that, the Panel may adopt such procedure as seems appropriate to the nature of the case and will endeavour to complete its investigations and report as quickly as possible.

The Panel will determine whether the nature and substance of the complaint are such that the complainant should be entitled to take an active part in the proceedings (taking into account whether the subject matter or outcome of the case affects him or her personally or professionally and directly). Unless the Panel so decides, the complainant will not be entitled to take an active part in the proceedings, but may be asked by the Panel to give evidence or provide additional information. In what follows, references to "the complainant" apply only to a complainant who is entitled to take an active part in the proceedings.

The Panel will ensure that the complainant and the respondent each has a proper opportunity to be heard and has an opportunity to rebut or comment upon any information or evidence gathered by the Panel that is adverse to him or her, or from which adverse inferences may be drawn.

The Panel may gather evidence and hear witnesses in addition to the information provided by the complainant and respondent or to any witnesses identified by them. The Panel may also seek the assistance of advisers where it is necessary to elucidate any technical matter that the Panel feels is beyond the competence of the members to judge.

Where the complainant or respondent is asked to provide supplementary information, explanation or evidence and refuses or fails to do so, the Panel will be entitled to take this into account in making its findings.

The complainant and the respondent will be entitled to be assisted by a lawyer or other adviser or friend, but the Panel will have entire discretion, subject to the overriding requirements of due process and fairness, to decide what part that person may take in the proceedings.

All parties will meet their own legal and any other associated costs, irrespective of the outcome.

Where the complainant or the respondent claims that the Panel has departed from the requirements of due process and fairness, this claim must be formulated in writing and the Panel will include that text and its response to it in its Report.

The Panel's report will be shown in draft to the complainant and respondent, who will be given the opportunity to offer corrections of fact. Where the Panel decides not to accept such amendments or corrections, it will mention them in its Report and explain why they have not been accepted.

#### **4. Stage 4 – Report to Council sub-Committee**

Once the investigation is complete, the Panel will present a report of its findings to a sub-Committee of Council. This sub-Committee will be made up of the General Secretary, the Fellowship Secretary and three other trustees. The Panel Chair may be invited to attend to present the report and provide any clarifications.

The Council sub-Committee will decide what action, if any, should be taken, including any sanctions that should be applied in response to the Panel's findings. Where the recommended sanction is to seek a Fellows' resignation, this would require to be approved by the whole Council in line with the RSE Laws. Within ten working days of the decision being taken, the complainant and the respondent will be sent a copy of the Report of the Investigation Panel and the decision of the Sub-Committee, and will be informed of the procedure for appeal and the time limit for lodging an appeal. If the time limit expires without an appeal being lodged, the decision of the Sub-Committee will be final and will be reported to Council for action accordingly.

## 5. Stage 5 – Appeal

Following a decision by the Council sub-Committee, the complainant or the respondent may lodge an appeal against the decision. The complainant may appeal only where the subject matter or outcome of the case affects him or her personally or professionally and directly. [During this appeals process, the parties will be referred to as the appellant and the respondent in the appeal.]

The appeal must be lodged in writing to the Chief Executive within 28 days of notification of the decision of the sub-Committee, and must set out the grounds for appeal and any supporting evidence.

The Appeals Panel (see below) will decide if the appeal is valid. Appeals will be considered only on the grounds (i) that new information has become available, (ii) that there has been a failure of the obligations of due process and fairness, or (iii) that the sanction is disproportionate.

Appeals will be considered by members of Council who were not members of the Council sub-Committee, and will be chaired by the President or, in his or her absence, a Vice-President not already involved in the investigation. This Appeal Panel will require 5 members to be quorate.

At this stage the Appeal Panel will consider all the information that was made available to the independent Investigation Panel, together with any additional information provided by the complainant and/or respondent. The appellant and the respondent in the appeal may request the opportunity to be heard.

The members of the Council sub-Committee may be present initially at the meeting of the Appeal Panel when the appeal is heard, and the Chair of the sub-Committee and Inquiry Panel may be questioned, but they will not be present for, and will play no part in, the final decision. The final decision will be communicated to the appellant and the respondent in the appeal, in writing, within 10 working days of the decision being taken. The decision of the Appeal Panel is the final decision of the RSE.

### Conflict of Interest

Any member of Council who has a conflict of interest with regard to either the complainant or the respondent should declare this to Council, and should play no part in the investigatory or decision-making process. Similarly, any person invited to participate in the Investigation Panel who has a conflict of interest must declare this and decline the invitation.

Where the Fellowship Secretary has a conflict of interest, he/she shall take no part in the procedure and the functions assigned to the Fellowship Secretary will be assigned by the Chief Executive, in discussion with the President, to another Council member, or a previous Fellowship Secretary.

Where the Chief Executive has a conflict of interest, he/she shall take no part in the procedure and the functions assigned to the Chief Executive shall be performed by a Director.

Where the complaint is directed against any Office-Bearer or member of Council of the RSE, that person shall take no part in the proceedings (other than as respondent) and the functions assigned to that person in relation to the proceedings shall be assigned by the President, or in the case of a conflict of interest a Vice-President, to another Office-Bearer or member of Council. Where it is felt necessary, the President, or in the case of a conflict of interest a Vice-President, may also request that the Office-Bearer stands down from all RSE decision-making duties until the investigation is complete. The President (or a VP)

should be provided with only enough detail of the complaint to be able to take this decision. Care should be taken that guilt is not suggested by either the actions taken or the wording used.

## **C. Communications**

### **1. Dealing with Enquiries:**

When a complaint is made, the matter will be treated as "sub judice", maintaining the principle that complaints will normally "be handled in the strictest confidence" (section B.1 above). The RSE will therefore refuse to confirm whether a complaint has been made against a named individual, regardless of circumstance. The process must be allowed to run its full course to a final conclusion before any substantive (even reactive) communication will be issued.

### **2. Process Conclusion:**

In general, it would not be the RSE's intention to publicise proactively the outcome of any complaint, although factual answers will be provided in response to any enquiry made to the organisation. However, the RSE reserves the right to announce the outcomes of any inquiry in circumstances where it is felt it is required to preserve the integrity and good name of the RSE.

**Complaints Process Flowchart**

