



CYMDEITHAS DDYSGEDIG CYMRU **THE LEARNED SOCIETY OF WALES**

Policy and Procedure for Handling Complaints against or Allegations of Misconduct by Fellows

1. Policy Statement

The Learned Society of Wales (LSW) is a membership organisation; its Fellows are its members. Election to the Fellowship is a public recognition of excellence, and of an outstanding contribution to the world of learning.

Although complaints and allegations of misconduct against Fellows are rare, it is important to have procedures in place to deal with such complaints or allegations which, if substantiated, could reasonably be regarded as “injurious to the Society’s character, interests or reputation” under Regulation 14.

Examples of such conduct would include:

- academic misconduct, such as research fraud or plagiarism (meaning the deliberate or fraudulent presentation of the work of another as being one’s own);
- conduct judged to be professional misconduct by another professional body;
- conduct resulting in a conviction for a serious or professionally relevant criminal offence or resulting in a period of imprisonment;
- failure to meet the standards expected of Fellows in conducting LSW business, for example by failing to observe the Nolan Principles (selflessness, integrity, objectivity, accountability, openness, honesty and leadership);
- harassing, victimising or bullying others, or unfairly discriminating against them.

Regulation 14 states that:

14.1 The Council will maintain a policy for dealing with serious complaints or allegations against Fellows.

14.2 The policy will include:

- a procedure for investigating all such complaints or allegations, and
- the sanctions that may be applied if an investigation should confirm that a Fellow’s behaviour was such as to be injurious to the Society’s character, interests or reputation.

In the most serious cases, the sanction may be the removal of a Fellow. If removed, that person will no longer be entitled to use the designatory letters FLSW (or HonFLSW, if an Honorary Fellow); their name will be removed from the register of Fellows; and they will forfeit any other position or entitlement provided to them by the Society.

In accordance with Regulation 14, the Society is therefore providing this policy statement and the procedures set out below for dealing with such complaints and allegations in a fair and proportionate manner. In doing so, it is the Society's intention 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). This will also serve to maintain the high reputation of LSW and its Fellows.

The process of dealing with complaints may involve several separate stages and various panels or committees as follows: initial review by the General Secretary in consultation with the Chief Executive; fact finding by an independent Investigation Panel; reporting to a Council Sub-Committee to determine what, if any, action needs to be taken; and response to any appeal by an Appeal Panel.

It is intended that the full process, from initial complaint to final decision even in a difficult case, should not take longer than 6 months, while recognizing that circumstances beyond the Society's control could increase the length of time required in some cases.

2. Procedure for Dealing with Complaints or Allegations of Serious Misconduct

2.1 Stage 1 - Making a Complaint

Complaints may be made by Fellows or by other persons.

Complaints must be made in writing, that is by letter or email, and addressed to LSW's Chief Executive.

Complainants must provide their name and contact details.

The Chief Executive must acknowledge receipt of a complaint within five working days, and:

- provide the complainant with a copy of these procedures of access to them;
- inform the complainant that, having made a formal complaint, they are conclusively presumed to have agreed to it being dealt with in accordance with these procedures.

2.1.1 Dealing with the Complaint

Complaints must be handled in the strictest confidence.

No-one who is not directly involved in the process of dealing with the complaint may have access to the details of the complaint.

The Society must not disclose the details of a complaint unless it is under a legal duty to do so, for instance if there are legal obligations of disclosure in the case of safeguarding issues or allegations of criminal behaviour.

The identity of the complainant must not be made known to the respondent without the complainant's written consent.

If at any stage of the process that follows, those responsible for dealing with the complaint determine that knowledge of the complainant's identity is a relevant consideration in order to understand or investigate the complaint, the Chief Executive must obtain the written consent of the complainant to revealing their identity before doing so.

Where such consent is sought, the complainant must be informed that without that consent a proper investigation of the complaint may not be possible, or that it may not be possible for the Society to proceed with the investigation of the complaint.

2.1.2 Council-initiated Investigations

In the absence of a formal written complaint, or if an anonymous complaint is made, the Council may initiate an investigation.

2.2 Stage 2 - Preliminary Assessment

When a complaint has been received, the Chief Executive must immediately:

- inform the President that a complaint has been received;
- inform the respondent in writing that a complaint has been made, noting the details of that complaint but not the complainant's identity unless the complainant has given their consent under the process described above; and
- forward the complaint to the Society's General Secretary.

The respondent need not respond to the complaint at this stage, but may do so if they wish, and if they wish to do so must do so in writing.

Details of the complaint must not be given to the President.

The above provisions also apply in the case of an investigation initiated by Council, other than that the President need not be informed if already aware of the allegation.

The General Secretary, in consultation with the Chief Executive, must decide, on the basis of the information presented by the complainant,

- whether the allegations are of such seriousness that they must be dealt with under these procedures, and if so
- whether there is a case for further investigation.

Within ten working days of receipt of the complaint, the Chief Executive must inform the complainant and the respondent:

- either of the General Secretary's decision, or, if this is not practicable,
- of what progress has been made and of the timetable envisaged for dealing with the matter.

If it is decided:

- either that the allegation is not of sufficient seriousness,
- or, that notwithstanding that the allegation is of sufficient seriousness, no action should be taken,

Reasons for the finding must be communicated to the complainant, the respondent and the President.

The complainant or the respondent may nevertheless request that the case be considered by the Investigation Panel.

Such a request must be sent in writing to the Chief Executive within ten working days of the decision being communicated, using registered post.

The request must be considered by the Chair of the Council Sub-Committee, and their decision as to whether to proceed with an investigation shall be final.

If the General Secretary or the Chair of the Council Sub-Committee decides that there is a case for investigation, the President must be informed and the details of the complaint must be placed before the Investigation Panel.

If the respondent chooses to admit the allegations, the matter may be put to the Council Sub-Committee without requiring an investigation.

If at any stage of dealing with the complaint it is brought to the Chief Executive's or the General Secretary's attention that the allegation is also being considered by the Fellow's university or other employer or professional body, or by the police, the General Secretary and the Chief Executive may decide not to proceed with the Society's investigation until some or all of the other processes have been completed, and the complainant and the respondent must be so informed.

2.3 Stage 3 - Investigation Panel

2.3.1 Purpose

The function of the Investigation Panel is to make the findings necessary and appropriate to enable Council to determine what steps to take in respect of the complaint.

The Panel may not consider or recommend what steps should be taken in the light of its findings.

2.3.2 Membership

The Panel must have five members, including a Chair.

The Council must appoint a Chair of the Investigation Panel.

In appointing the Chair, Council must have due regard to the need to appoint a person who is familiar with the requirements of due process and fairness in judicial or quasi-judicial proceedings.

The person appointed must not be a current member of Council.

The Chair will hold the post for a period of three years from the date of appointment.

The Chair will appoint the other members of the Panel on a case-by-case basis, having regard to any specialist knowledge and skills that may be required to investigate a particular case.

At least two members of the Panel must be Fellows of the Learned Society of Wales.

No member of Council may be appointed a member of the Panel.

In appointing the other Panel members, the Chair must have due regard to the need for them to be persons of similar standing to Fellows of the Learned Society. Such persons may, for instance, be Fellows of other appropriate national academies or representatives of appropriate professional standards bodies.

At least one member must be independent of LSW, that is, they must not be a Fellow, associate, adviser or professional partner of the Society.

At least one member must have knowledge and experience of the respondent's field of activity, if relevant to the complaint.

The Chair may call on the Chief Executive and General Secretary to assist in identifying suitable Panel members.

Panel members must not be:

- employed by or based at the respondent's or complainant's place of work;
- a professional partner or associate of the respondent or complainant;
- related by family to the respondent or complainant.

2.3.3 Procedure

The Panel must conduct the investigation in a manner which ensures due process and fairness.

Subject to that overriding duty, the Panel

- may adopt procedures which it deems appropriate to the nature of the case; and,
- must endeavour to complete its investigations and report as soon as possible.

The Panel must ensure that the complainant and 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. Subject to that overriding duty, neither the complainant nor the respondent are entitled as of right to participate otherwise in the proceedings.

The Panel may gather evidence in addition to the information provided by the complainant and respondent. This may include evidence provided by witnesses identified by the complainant or respondent, if they agree to take part.

The Panel may seek the assistance of advisers to advise on any technical matter relating to the investigation.

The Panel may ask the complainant or the respondent to provide it with supplementary information, explanations or evidence relating to the investigation.

If the complainant or respondent refuses to provide such supplementary information, explanation or evidence, or fails to do so, the Panel may take this into account in making its findings.

The complainant and respondent may be assisted by a lawyer or other adviser or friend, but, subject to the overriding requirements of due process and fairness, the Panel alone must decide how that person may participate in the proceedings.

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

If the complainant or the respondent alleges that the Panel has failed in its duty of ensuring due process and fairness in its conduct of the investigation, the allegation must be made in

writing addressed to the Chair, and the Panel must include the full text of the allegation and the Panel's response to it in its report.

The Chief Executive must provide for secretariat support for the Panel.

The secretariat may assist the Chair in drafting the written report of the findings of the investigation.

The Chief Executive must forward a draft copy of the Panel's report to the complainant and respondent, and inform them that they may propose amendments or corrections of fact.

The complainant and the respondent must forward proposed amendments or corrections of fact in writing to the Chief Executive within 28 days of receiving the draft copy of the report.

If the Panel decides not to accept proposed amendments or corrections, it must nevertheless detail them in its report and give its reasons for not accepting them.

Once the investigation is complete, the Panel must present the report of its findings to the Council Sub-Committee.

2.4 Stage 4 - Report to Council Sub-Committee

Council must establish a Sub-Committee to deal with complaints and allegations.

The Sub-Committee will consist of:

- the Society's two Vice-Presidents, one of whom will chair the Sub-Committee;
- the Treasurer;
- two other Council members appointed by Council to serve on the Sub-Committee for a three-year term.

Having received the report of the Investigating Panel, the Sub-Committee must decide what action, if any, should be taken, including whether any sanctions should be applied.

2.4.1 Sanctions and Penalties for Unacceptable Conduct

Regulation 14 provides for the removal of Fellows if their conduct is found to be sufficiently injurious to the Society's character, interests or reputation.

Regulation 14 also allows for less serious sanctions. These may include one or more of the following:

- suspension for a specified period from the benefits of Fellowship;

- disqualification from participating in one or more of certain activities of LSW, such as holding office, participating in the Fellowship election process, involvement in committees or attending meetings;
- a formal reprimand or letter from the President to the Fellow concerned, stating that their conduct has fallen short of the standards expected of a Fellow and should not be repeated.

Within ten working days of the decision being taken, the Chief Executive must forward to the complainant and respondent:

- a copy of the report of the Investigation Panel, and
- the decision of the Sub-Committee,

and both the complainant and respondent must be informed of the procedure 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 must be reported to Council for action accordingly.

2.5 Stage 5 - Appeal

The complainant or the respondent may appeal against the decision of the Council Sub-Committee.

Complainants may appeal only if they can demonstrate that the subject matter or outcome of the case affects them directly, either personally or professionally. If the Appeal Panel decides that this is not the case, it must reject the appeal.

An appeal

- must be lodged in writing with the Chief Executive within 28 days of notification being given of the decision of the Sub-Committee; and,
- must set out the grounds for appeal and any supporting evidence.

Appeals may be considered on the following grounds only:

- that new information has become available, in which case the Appeal Panel may refer the matter back to the Investigation Panel;
- that the Panel failed in its duty of ensuring due process and fairness in its conduct of the investigation;
- that the respondent considers the sanction to be disproportionate.

2.5.1 The Appeal Panel

Appeals must be considered by members of Council who were not members of the Council Sub-Committee.

The Appeal Panel will be chaired by the President or, in their absence, another Council member nominated by the President.

The Appeal Panel requires 5 members to be quorate.

2.5.2 Procedure

The Appeal Panel must consider the Investigation Panel's report, together with any additional information provided by the complainant or respondent.

The complainant and the respondent may request the opportunity to be heard.

The members of the Council Sub-Committee may be present at the meeting of the Appeal Panel when the appeal is heard but they must not be present for, and must not play any part in the making of, the final decision.

The Chair of the Sub-Committee may be questioned by the Appeal Panel, but must not be present for, and must not play any part in the making of, the final decision.

The final decision must be communicated to the complainant and the respondent in writing within 10 working days of the Appeal Panel's decision being taken.

The decision of the Appeal Panel is the final decision of LSW.

2.6 Conflicts of Interest and other circumstances requiring substitutions

At any stage of the process, anyone involved in dealing with the complaint or allegation who has a conflict of interest with regard to either the complainant or the respondent must declare this to the others involved at that stage.

They must play no part or no further part in the investigatory or decision-making process.

Where the Chief Executive has a conflict of interest or is otherwise unable for any reason to fulfil the functions assigned to them, their functions must be performed by the Senior Executive Officer.

Where the Chair of the Investigation Panel has a conflict of interest or is otherwise unable for any reason to fulfil the functions assigned to them, Council shall appoint another temporary Chair with the required experience.

Where an Investigation Panel member has a conflict of interest or is otherwise unable for any reason to fulfil the functions assigned to them, the Chair shall appoint another Panel member.

Where a Council Sub-Committee member has a conflict of interest or is otherwise unable for any reason to fulfil the functions assigned to them, Council shall appoint another Sub-Committee member.

Where the complaint is made or directed against any Officer or member of Council, that person must take no part in the proceedings (other than as complainant or respondent) and the functions assigned to that person in relation to the proceedings must be assigned by the President to another Officer or member of Council.

That Officer or Council member will also stand down from all LSW decision-making duties until the investigation is complete, unless the President considers it unnecessary for them to do so, in which case they will give reasons to Council for this decision.

In the event of the President being unable to perform these functions, or being disqualified from doing so, the functions must be performed by a Vice-President.

3. Communications

3.1 Dealing with Enquiries

When a complaint is made, the matter will be treated as *sub judice*, maintaining the principle that complaints “will be handled in the strictest confidence” (paragraph 2.1 above). LSW 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 before any substantive (even reactive) communication will be issued.

We have prepared the following statement in response to all enquiries by the media, Fellows or others:

“The Learned Society of Wales has a policy for handling complaints against Fellows and allegations of serious misconduct. The policy can be viewed on our website. As part of that process, we do not in any way confirm or deny that a complaint has been brought. If a complaint is brought, the process takes place in strictest confidence to protect all concerned and we will only make appropriate comment once the process has run its full course. As is always the case, if a Fellow has concerns or information which he or she feels should be brought to the attention of LSW, this should be communicated to the Chief Executive in writing.”

3.2 Conclusion of Process

In general, it will not be LSW’s intention to publicise proactively the outcome of any complaint, although factual answers will be provided in response to any enquiry made to us. However, we reserve 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 LSW.

Appendix: Resolution of Complaints and Allegations of Misconduct not falling within Regulation 14

Complaints and allegations of misconduct which do not fall within the terms of Regulation 14 may be resolved informally by the Chief Executive in consultation with the General Secretary.

Such complaints may be made by Fellows or other persons.

Such complaints need not be made in writing, but complainants must provide their name and contact details.

If the Chief Executive and the General Secretary are of the opinion that the complaint or allegation is of a nature which could reasonably be regarded as injurious to the Society's character, interests or reputation under Regulation 14, they must request the complainant to submit a formal, written complaint.

If the complainant does not submit a formal, written complaint, or if the Chief Executive and the General Secretary are of the opinion that the number or frequency of such complaints or allegations concerning a particular Fellow could cumulatively be reasonably regarded as injurious to the Society, the Council must be asked to consider initiating an investigation.

Where the Chief Executive and the General Secretary are satisfied that the complaint may suitably be resolved informally, they must take such steps as they consider to be reasonable and practical to achieve its resolution.

The following provisions also apply where informal resolution of a complaint has been offered and accepted after a decision that a formal complaint or allegation is not of sufficient seriousness to be dealt with under the Procedure for dealing with complaints and allegations of serious misconduct.

In seeking to resolve a complaint informally, the Chief Executive and the General Secretary must:

- ensure that the respondent is informed of the complaint and given reasonable and appropriate opportunity to respond to it;
- observe the same level of confidentiality as is required by the Procedure for dealing with complaints and allegations of serious misconduct under Regulation 14;
- observe the same rules regarding conflicts of interest and other circumstances requiring substitutions under that Procedure;
- deal with enquiries and communications regarding the complaint in the same manner as is required by that Procedure.

When the process has been completed, the General Secretary must inform the President in writing of:

- the complaint; and,
- the outcome of the process