



“Promoting excellence in Occupational Safety and Health Practice”

CODE OF CONDUCT/ETHICS AND DISCIPLINARY PROCEDURES

1.0 INTRODUCTION

The Zimbabwe Institute of Occupational Safety and Health (ZIOSH) was established with the aim of becoming the lead body of occupational safety and health (OSH) professionals promoting high standards of OSH practice in Zimbabwe. The Institute also aim to ensure high levels of technical competence and professional conduct amongst its members.

This document outlines guidance on:-

- 1.1 Ethical issues
- 1.2 Professional conduct
- 1.3 Upholding reputation of the profession
- 1.4 Disciplinary procedure and sanctions for members

2.0 CONDUCT/ETHICAL ISSUES

2.1 Members of the Institute wherever employed should perform their duty in accordance with the highest standards and ethical principles, fostering and maintaining respect for human dignity and ensuring that the workforce is protected from harm arising from workplace activities. In discharging their duties, members shall execute their functions professionally without any undue influence from any quarter.

2.2 Members must abide by the national legal requirements relating to their practice or operation.

Members must also be aware of and knowledgeable about the applicable legal requirements for the area or field they practise or operate in. As a competent person, you are required to practice your profession according to established principles for fulfilling legal, technical, social and moral responsibilities to your employer, employees, surrounding communities and society as a whole.

2.3 Members called on to give an opinion in their professional capacity shall be honest and, to the best of their ability, objective and reliable.

An objective and reliable opinion is one based on the best currently available knowledge and data or, if there are no such data, reference to appropriate safety and health principles.

- 2.4 Members shall take all reasonable steps to obtain, maintain and develop their professional competence by attention to new developments in occupational safety and health and shall encourage others working under their supervision to do so.

Competence is a combination of knowledge, skills, experience and a recognition of the limits of your capabilities. Knowledge can be gained or developed by studying for qualifications, but a qualification by itself is not evidence of competence. You should maintain and improve your competence by doing Continuing Professional Development (CPD) activities throughout your professional career.

- 2.5 Members shall not undertake responsibilities in relation to safety and health which they do not believe themselves competent to discharge. Members shall acknowledge any limitations in their own competence, and shall not undertake any activities for which they are not appropriately prepared or, where applicable, qualified.
- 2.6 Members shall accept professional responsibility for all their work and shall take all reasonable steps to ensure that persons working under their authority or supervision are competent to carry out the tasks assigned to them; are treated with fairness and equal opportunity; and accept responsibility for work done under the authority delegated by them.
- 2.7 Members having good reason to believe that their professional advice is not followed shall take reasonable steps to ensure that persons overruling or neglecting their advice are formally made aware in writing and or other means of potential adverse consequences which may result.
- 2.8 Members shall have regard to the reputation and good standing of the Institute, other members, and professional practice and standards, and shall not either directly or indirectly bring them into disrepute. A member may be required to provide the Institute with such information as is reasonably required by it in order to regulate the professional conduct and discipline of its members.
- 2.9 Members shall not recklessly or maliciously injure, or attempt to injure, whether directly or indirectly the professional reputation, prospects or business of another.
- 2.10 Members shall not behave in a way which may be considered inappropriate to other members or staff of the Institute.

Inappropriate behaviour includes the use of foul language or acting in an intimidating or threatening way.

- 2.11 Members shall not improperly use their membership or position within the organization of the Institute for commercial or personal gain or use or attempt to use qualifications, titles and/or designations to which they are not entitled.
- 2.12 Members shall seek to avoid their professional judgement being influenced by any conflict of interest and shall inform their employer, client, or the Institute of any conflict between the member's personal interest and service to the relevant party.
- 2.13 Members shall not improperly disclose any information which may reasonably be considered to be prejudicial to the business of any or past employer, client or the Institute.
- 2.14 Members shall ensure that information they hold necessary to safeguard the safety and health of those persons for whom they have a legal and moral responsibility, is made available as required.
- 2.15 Members must act within the law and are required to notify the Institute if they are convicted of any criminal offence. A relevant conviction may lead to disciplinary proceedings against that member.

Relevant convictions include those;

- (a) for which a penalty may be imposed***
- (b) which constitute an offence of dishonesty or***
- (c) which call into question your integrity in some other way (e.g. child abuse, sexual or criminal assault, supply of illegal drugs etc).***

- 2.16 Members shall not unfairly discriminate in the course of their professional business on the grounds of race, colour, religion or belief, disability, sex, marital status, age, nationality and ethnic or national origins.
- 2.17 Members working in education or training must deliver only courses which they are competent to teach.

When designing and delivering courses, you should make sure that;

- (a) The teaching team has suitable qualifications and experience to cover the technical content of the syllabus.
- (b) There is adequate scope for programme planning and review.
- (c) You deliver courses in a physical environment that is suitable for learning with whatever equipment is needed.
- (d) You provide sources of information as required by level of the course.
- (e) Where an issue may be contentious, you maintain a balanced approach where personal prejudices should not be allowed to interfere.

3.0 **DISCIPLINARY PROCEDURE**

Definitions

- 3.1 **Code of Conduct/Ethics** means rules governing the conduct of members made by the Executive Committee.
- 3.2 **“Executive Committee”** means the Executive Committee of the Institute and the highest decision making entity of the Institute.
- 3.3 **“Subject of the Allegation”** means a member of the Institute who is the subject of an allegation of misconduct.
- 3.4 **“Professional Committee or Relevant Committee”** means a committee set up by the Institute and composed of members of Institute or other persons of good standing in society to preside over and determine the alleged misconduct case.
- 3.5 **“Disciplinary Committee”** means the committee set up by the President and made up of one of the Executive Committee members of the Institute and two independent members of good standing in society.
- 3.6 **“President’s Nominee”** means the person nominated by the President of the Institute to represent the case against the Subject of the Allegation in accordance with paragraph 9.3.2 (a).
- 3.7 **“President”** means the President of the Institute.
- 3.8 According to this Code and its rules, **Act of Misconduct** includes the following, but not limited to;
- (i) contravention of the Code of Conduct/Ethics; and or amounts to unacceptable professional conduct within the standards expected in the safety and health profession; and/or
 - (ii) bringing the Institute or the safety and health profession into disrepute, and/or
 - (iii) prejudicial to the interests of the Institute, and/or
 - (iv) is in breach of a decision made, or penalty imposed under these procedures.

4.0 **GENERAL PRINCIPLES**

The following principles shall apply to a hearing held at any stage of the procedure set out in these rules:

4.1 Right of representation

The Subject of the Allegation may be represented at the hearing by a friend, legal or other representative. The President’s Nominee may be represented by a legal adviser.

4.2 Advisers

- 4.2.1 The Relevant Committee may obtain such legal, technical or other advice as it thinks fit.
- 4.2.2 Any advice received by the Relevant Committee in accordance with paragraph 4.2.1 shall be disclosed, before the Relevant Committee makes its decision to the subject of the Allegation and to the President's Nominee.

4.3 Proceedings in the absence of the member

The Relevant Committee may proceed in the absence of the Subject of the Allegation if:

- 4.3.1 the Subject of the Allegation has been properly notified of the date and time of the hearing; and
- 4.3.2 he or she has failed to provide reason for non-attendance acceptable to the Relevant Committee.

4.4 Attendance of complainant or other persons

Unless determined otherwise by the Relevant Committee (in the interests of fairness or the public interest), the hearing shall be open to members and to the general public, including any person who brought the allegation of misconduct to the attention of the Institute. The Relevant Committee may exclude or expel any person from all or part of the hearing if that person is, or is likely to, disrupt the hearing, or if fairness otherwise requires.

4.5 Adjournment

The hearing may be adjourned at the discretion of the Relevant Committee, on such terms as it thinks fit.

4.6 Mitigation

Before imposing any disciplinary penalty the Relevant Committee shall:

- 4.6.1 Invite the Subject of the Allegation to make representations by way of mitigation at the hearing; or
- 4.6.2 If the Relevant Committee adjourns to consider its decision, invite the Subject of the Allegation to provide, within seven days, written representations by way of mitigation.

5.0 STANDARD OF PROOF

The Subject of the Allegation shall be found guilty of misconduct under these rules if the Relevant Committee is satisfied that the allegations required to be proven are more likely to be true.

6.0 TIME LIMITS AND ROLE OF THE PRESIDENT

6.1 The President may, at his or her discretion, vary any time limit set out in this Code of Conduct.

6.2 The President may appoint a senior employee or member of the Institute to carry out his or her role under these rules. If the President appoints a senior employee or member under this paragraph, references to the President within these rules shall be read as references to that senior employee or member.

7.0 LEGAL PROCEEDINGS

7.1 If the Subject of the Allegation is, or becomes, the subject of a criminal investigation or any other legal proceedings, the President may at his or her discretion suspend or continue disciplinary proceedings under these rules.

7.2 In determining an allegation of misconduct, the Relevant Committee shall be entitled to rely on a certificate of criminal conviction and/or transcript of the criminal court's judgement as evidence of the offence committed, or the decision of a civil court or tribunal as evidence of the issues determined by that court or tribunal. The disciplinary penalty to be imposed shall be at the discretion of the Relevant Committee.

8.0 PROCEDURE FOR DEALING WITH ALLEGED MISCONDUCT

An allegation of misconduct which comes to the attention of the Institute shall be dealt with in accordance with the following procedure:

8.1 Initial investigation

8.1.1 An allegation of misconduct shall be delivered in writing to the President by hand, post or facsimile transmission, and must be accompanied by copies of any documents or other written evidence relevant to the allegation. The written allegation must set out which clauses within the Code of Conduct or which of paragraphs 3 (i) to 3 (iv) the complainant considers may have been breached.

8.1.2 The Institute shall not be obliged to investigate an allegation of misconduct if (i) the allegation is made anonymously; or (ii) the alleged incident(s) occurred more than one year prior to receipt of the allegation.

- 8.1.3 Within 15 working days of receiving of an allegation of misconduct delivered in accordance with paragraph 8.1.1, the President shall acknowledge receipt of the allegation, and unless the President considers it necessary to obtain further information about the allegations from the complainant or elsewhere, shall inform the Subject of the Allegation in writing of the substance of the allegations, and provide him or her with copies of any documents or other written evidence submitted by the complainant.
- 8.1.4 If the President considers it necessary to obtain further information from the complainant or elsewhere, then the President shall, as soon as is reasonably practicable after receipt of such further information, inform the Subject of the Allegation in writing of the substance of the allegation, and provide him or her with copies of any documents or other written evidence submitted by the complainant or obtained from any other source.
- 8.1.5 Within 20 working days of receiving a notice from the President in accordance with paragraphs 8.1.3 or 8.1.4, the Subject of the Allegation shall confirm in writing if he or she admits or refutes the allegations, and must provide copies of any supporting documents or other written evidence.
- 8.1.6 The President shall refer the allegation of misconduct, the Subject of the Allegation's response (if received) and any supporting documents or other written evidence submitted by either party to the Relevant Committee, or such other committee as Executive Committee may from time to time authorize to consider such referrals.
- 8.1.7 The Relevant Committee shall consider the written evidence and may, as it thinks fit:
- (a) dismiss the allegation on the grounds that it is frivolous or vexatious, or that there is no case to answer;
 - (b) if the Subject of the Allegation admits the allegation, either (i) invite the Subject of the Allegation to make written representations by way of mitigation and, after considering any representations received, provide guidance on his or her conduct, or issue a reprimand; or (ii) if the Relevant Committee considered that a higher penalty ought to be imposed, refer the matter to the Disciplinary Committee under paragraph 8.1.7 (c); or
 - (c) refer the matter to be considered by the Disciplinary Committee.
- 8.1.8 The Relevant Committee shall notify the President of its decision in writing within 10 working days of the decision being made. The notice must set out the reasons for the Relevant Committee's decision.
- 8.1.9 Within 10 working days of receipt of the Relevant Committee's decision, the President must notify the Subject of the Allegation and the complainant of the decision and inform the complainant of his or her right to request a review under paragraph 8.1.10.

8.1.10 If the Relevant Committee dismisses the allegation in accordance with paragraph 8.1.7(a), the complainant may request a review of the Relevant Committee's decision by the Disciplinary Committee, by submitting the reasons for the request in writing to the President within 10 working days of receiving the Relevant Committee's decision. The complainant may not request a review of a penalty imposed by the Relevant Committee under paragraph 8.1.7 (b), or a decision to refer the matter to the Disciplinary Committee under paragraph 8.1.7(c).

8.2 Precautionary Suspension

8.2.1 The Subject of the Allegation may be suspended with immediate effect by the President (or in the President's absence by Vice President of the Institute) if the Subject of the Allegation is charged with or convicted of an offence under the safety and health laws of the country, or any other serious criminal offence. If the suspension is effected by the Vice President, it must be reported to the President as soon as reasonably possible.

8.2.2 Unless determined otherwise by the President, a member who is suspended shall not, throughout the period of suspension, be permitted to use any designation or initials appropriate to membership, and may not attend or vote at any general meetings of the members.

8.2.3 Unless determined otherwise by the President, the period of suspension shall continue until the conclusion of any disciplinary proceedings.

8.2.4 A member who is suspended may make written representations to the President within 10 working days of the suspension being imposed.

8.2.5 A member who is suspended may apply in writing to the President for the suspension to be reviewed every four weeks.

9. DISCIPLINARY COMMITTEE

The Disciplinary Committee shall consider:

- (a) Matters referred to it by the Relevant Committee in accordance with paragraph 8.1.7(c); and
- (b) A request by the complainant for a review of the decision of the Relevant Committee to dismiss an allegation of misconduct, in accordance with paragraph 8.1.10.

9.1 Composition

9.1.1 The Disciplinary Committee shall be appointed by the Executive Committee and shall consist of one member of Executive Committee of the Institute and two independent members.

9.1.2 An individual will not be eligible to be appointed as a member of the Disciplinary Committee if he or she has had any previous involvement in the matter.

9.1.3 The Disciplinary Committee shall appoint one of the independent members as Chair.

9.2 Secretary

A senior employee of the Institute or Executive member of the Institute who has not previously been involved in the matter shall act as Secretary to the Disciplinary Committee.

9.3 Procedure

9.3.1 Subject to the following and to the provisions of these rules, the Disciplinary Committee shall determine its own procedure.

9.3.2 *Referrals from the Relevant Committee under paragraph 8.1.7(c)*
In the case of a referral from the Relevant Committee under paragraph 8.1.7(c):

- (a) the Disciplinary Committee shall hold a hearing to consider the matter afresh. The case against the Subject of the Allegation shall be presented by senior employee of the Institute or member of Executive Committee nominated by the President. The Subject of the Allegation and the President's Nominee may call witnesses in support of his or her case.
- (b) The Subject of the Allegation shall be informed in writing of the substance of the allegations against him or her at least 30 working days before the hearing. Notice of the allegations must include the date and time of the hearing and be accompanied by copies of any documents or other written evidence (including witness statements) to be considered at the hearing, together with details of any witnesses to be called by the President's Nominee.
- (c) At least 15 working days before the hearing, the Subject of the Allegation shall confirm in writing if he or she admits or refutes the allegations, and provide copies of any documents or other written evidence (including witness statements) on which he or she intends to rely, together with details of any witnesses to be called.
- (d) At least 10 working days before the hearing, the Secretary to the Disciplinary Committee shall circulate to Committee members and to the parties a bundle consisting of the documents referred to at paragraphs 9.3.2 (b) and (c), together with a copy of these rules.
- (e) The Subject of the Allegation and the President's Nominee may question, at the hearing, witnesses called by the other party. The Disciplinary Committee may ask questions of any person present at the hearing. Unless determined otherwise by the Disciplinary Committee, only those witnesses whose details and statements have been provided to the other party in advance (in accordance

with paragraphs 9.3.2(b) and (c)) shall be entitled to speak at the hearing.

- (f) Unless determined otherwise by the Disciplinary Committee, evidence shall be taken in the following order:
 - the President's Nominee will present the case against the Subject of the Allegation;
 - the Subject of the Allegation will present his or her case;
 - the President's Nominee will be invited to give a closing statement;
 - the Subject of the Allegation will be invited to give a closing statement.
- (g) The Disciplinary Committee may adjourn to consider its decision.

9.3.3 *Requests for a review of the Relevant Committee's decision (Paragraph 8.1.10)*

In the case of a request by the complainant under paragraph 8.1.10 for a review of the Relevant Committee's decision to dismiss the allegation:

- (a) the Disciplinary Committee shall review the decision of the Relevant Committee in light of the written evidence before the Relevant Committee; and
- (b) shall either (i) confirm the decision of the Relevant Committee to dismiss the allegation; or (ii) if the Disciplinary Committee considers that the Relevant Committee's decision was flawed or incorrect, or if the Disciplinary Committee considers it is otherwise appropriate to do so, the Disciplinary Committee shall determine that the matter should be considered afresh at a hearing, and the matter shall be regarded as referral for the purposes of paragraph 9.3.2.

9.3.4 *Notification of decisions*

The Disciplinary Committee shall inform the complainant, the President and the Subject of the Allegation of its decision in writing within 10 working days of the decision being made. The notice must set out the reasons for the Disciplinary Committee's decision, and, if appropriate, must inform the Subject of the Allegation of his or her right of appeal under paragraph 10.1.

9.4 Powers

The Disciplinary Committee may:

- 9.4.1 Dismiss the allegation; or
- 9.4.2 Uphold the allegation, and impose one or more of the following sanctions on the Subject of the Allegation, on such terms as it thinks fit:
 - (a) provide guidance on his or her conduct;
 - (b) issue a reprimand;

- (c) suspend his or her membership of the Institute, and suspend him or her from any position held with the Institute, Executive Committee or any committee;
- (d) expel him or her from the Institute and terminate any position held by him or her with the Institute, Executive Committee or any committee.

9.4.3 If in the opinion of the Disciplinary Committee it is appropriate in the interests of fairness, the Disciplinary Committee may, in addition to any other determination it makes, order the Institute or the Subject of the Allegation to contribute to the costs incurred by the other party in the conduct of the disciplinary proceedings.

10. APPEALS

10.1 *Grounds of appeal*

- 10.1.1 An appeal may not be made against a decision of the Disciplinary Committee made in accordance with paragraph 9.3.3.
- 10.1.2 The Subject of the Allegation may appeal against the decision of the Disciplinary Committee to the Appeal Committee, by submitting full grounds of appeal in writing to the President within 10 working days of receiving the Disciplinary Committee's decision.
- 10.1.3 Examples of grounds of appeal include:
 - (a) serious errors in the procedures followed by the Disciplinary Committee;
 - (b) the imposition of an unreasonably excessive sanction by the Disciplinary Committee; or
 - (c) the emergence of new material evidence, which could not reasonably have been submitted to the Disciplinary Committee.

10.2 *President's Nominee's Response*

If the President's Nominee wishes to submit a response to the grounds of appeal, he or she shall do so within 10 working days of receiving the grounds of appeal.

10.3 *Information to be circulated to Appeal Committee*

At least 10 working days before the hearing, the Secretary of the Appeal Committee shall circulate to members of the Appeal Committee, the Subject of the Allegation and the President's Nominee copies of the Disciplinary Committee's decision, the grounds of appeal submitted in accordance with paragraph 10.1.2, the response of the President's Nominee, if any, and a copy of these rules.

10.4 Form of appeal

The Appeal Committee shall hold a hearing to review the Disciplinary Committee's decision, unless, exceptionally, the Appeal Committee determines that a full re-hearing is appropriate.

10.5 Composition of Appeal Committee

10.5.1 The Appeal Committee shall be appointed by the Executive Committee and shall consist of two independent members, and one member of the Executive Committee.

10.5.2 An individual will not be eligible to be appointed as a member of the Appeal Committee if he or she has had any previous involvement in the matter.

10.5.3 The Appeal Committee shall appoint one of the independent members as Chair.

10.6 Secretary

A senior employee of the Institute or any other person of a good standing appointed by the Executive Committee who has not previously been involved in the matter shall act as Secretary to the Appeal Committee.

10.7 Procedure

10.7.1 Subject to the following and to the provisions of these rules, the Appeal Committee shall determine its own procedure.

10.7.2 If the Appeal Committee determines, in accordance with paragraph 10.4, that the appeal will be a full re-hearing, the re-hearing shall be conducted in accordance with the provisions of paragraphs 9.3.2 (e) and (f), and references to the Disciplinary Committee shall be read as references to the Appeal Committee.

10.7.3 The Appeal Committee may adjourn to consider its decision.

10.7.4 The Appeal Committee shall inform the complainant, the President and the Subject of the Allegation of its decision in writing within 10 working days of the decision being made. The notice must set out the reasons for the Appeal Committee's decision.

10.7.5 The decision of the Appeal Committee shall be final.

10.8 Powers

The Appeal Committee may:

10.8.1 Confirm, overturn, or vary the decision of the Disciplinary Committee; and

10.8.2 In addition to any other determination it makes, the Appeal Committee may, as it thinks appropriate in the interests of fairness, order the Institute or the Subject of the Allegation to contribute to the costs incurred by the other party in the conduct of the disciplinary proceedings.

11. PUBLICATION OF DISCIPLINARY DECISIONS

Unless the Executive Committee determines otherwise, disciplinary decisions shall be published in the Institute's magazine and/or its website. Unless requested in writing by the complainant or by the witness concerned, the published decision shall not identify the complainant or any witnesses involved in the proceedings.

12. FORMER MEMBERS

12.1 This paragraph applies where:

- (a) The President receives an allegation of misconduct in accordance with paragraph 8.1.1; and
- (b) The Subject of the Allegation has ceased to be a member of the Institute by the time the allegation of misconduct is received; and
- (c) The allegation of misconduct related to matters which occurred during the time the Subject of the Allegation was a member of the institute; and
- (d) The allegation of misconduct does not fall within paragraph 8.1.2.

12.2 The President shall decide at his or her absolute discretion whether or not to investigate an allegation of misconduct falling within paragraph 12.1. If the President decides to investigate the allegation of misconduct, then these rules shall apply to the Subject of the Allegation as if he or she had not ceased to be a member of the Institute.

13. FAILURE BY MEMBER TO PAY ANNUAL SUBSCRIPTIONS

A Member of the Institute who fail to pay subscriptions to the Institute for a period of 1 year shall have his/her membership suspended and his/her membership recalled and withdrawn. Membership shall only be restored and membership certificate returned upon full payment of subscriptions to the Institute.

Code Largely adapted from IOSH UK Code of Conduct

REFERENCE

1. Institution of Occupational Safety and Health (IOSH), UK (2003). Code of Conduct and Royal Charter and Byelaws, available online at, www.iosh.co.uk.