

# association of professional **political consultants**

## **COMPLAINTS, DETERMINATION AND DISCIPLINARY RULES AND PROCEDURES (“the Rules”)**

The principal objective of APPC is to promote high standards among its member companies and the wider public affairs profession.

A key mechanism for this is the publication of a Code of Conduct for professional lobbying and ensuring members’ compliance with the Code. The Rules provide a mechanism for APPC to investigate complaints against members and to take appropriate disciplinary action in the event that the Code has been breached. Any complaint must refer to a specific breach of the APPC Code of Conduct by a member company within the five years previous to the date on which the complaint was lodged.

### **DEFINITIONS**

“The APPC Code of Conduct” means the code of conduct approved from time to time by the APPC Management Committee.

“The APPC Management Committee” means the committee elected from time to time pursuant to the APPC Articles of Association.

“The Complainant” means the person making a complaint to the APPC that a member of the APPC has breached a provision of the APPC Code of Conduct.

“Expert Adviser” means the person appointed from time to time by the APPC Management Committee to advise the Independent Adjudicator or the Panel, as the case may be. The Expert Adviser will not usually be a member of the Management Committee but shall, in any case, have an understanding of the industry. The Expert Adviser’s role shall be limited to giving advice on accepted norms of behaviour within the industry.

“Finding” means the APPC Management Committee’s response to the Independent Adjudicator’s report on a complaint where the complaint is obvious and admitted, and the Management Committee agrees Remedial Action with the member.

“Independent Adjudicator” means the person appointed from time to time by the APPC Management Committee for the purposes of fulfilling the functions described in Rules 10 to 12 inclusive.

“The Procedure” means the process of dealing with a complaint under the Rules.

“The Panel” means the panel set up by the APPC Management Committee pursuant to Rule 27.

“Regulations on Membership Obligations” means the regulations made from time to time by the APPC Management Committee regulating the benefits, obligations and rules relating to membership of the APPC.

“Remedial Action” means such action as may be agreed by the APPC Management Committee with the Respondent or determined by the Panel as more particularly set out in Rule 24.

“The Respondent” means the member of the APPC against whom a complaint is made.

“The Rules” means the Complaints, Determination and Disciplinary Rules and Procedures made from time to time by the APPC Management Committee.

“The Secretary” means the secretary of the APPC.

“A Working Day” or “Working Days” shall mean the days of the week excluding Saturday, Sunday, Bank and other public holidays.

## **COMPLAINTS PROCEDURE**

1. Any complaint must be made in accordance with the Rules.
2. Anyone may make a complaint that the APPC Code of Conduct has been breached and the APPC Management Committee reserves the right to do so if it becomes aware of behaviour which may be a breach of the Code.
3. Complaints may not be initiated while a remedy is being sought through civil or criminal legal action. Legal action initiated by either party after the complaints procedure has started will result in the complaint being suspended until the outcome of the legal action is known.
- 4.1 On receipt of a complaint, the Secretary shall, unless the Complainant is the APPC Management Committee itself, provide a copy of the Rules to the Complainant, seek his or her agreement to abide by the Procedure, and, if necessary, seek the information listed in paragraph 5 below if not clear. The Secretary shall advise the Complainant that the complaint, when complete and his or her agreement to abide by The Rules has been received, shall be passed to the Respondent and the Independent Adjudicator. The complaint shall be deemed not to have been received by the Secretary until the Complainant has fully met the requirements of this paragraph.
- 4.2 Once a determination has been made by the Independent Adjudicator or the Professional Practices Panel, or once a complaint has lapsed, the same (or substantially the same) complaint will not be accepted for a second time.
5. Before the complaint is deemed to have been received and will be passed to the Independent Adjudicator, the Complainant must:
  - a) Specify which clause(s) of the Code the Complainant considers to have been breached
  - b) Provide evidence in support of the complaint of the breach of the Code by a member company within the previous five years
  - c) Agree to the complaint being progressed in accordance with the Rules

- d) Agree to respect the confidentiality of the procedure (although the APPC Management Committee may, if asked, confirm that either a complaint has been received or that one is being considered by the Professional Practices Panel, but shall give no further information)
- e) Agree to abide by any order as to costs made by the Independent Adjudicator or the Professional Practices Panel. In the event of no such order being made, each party will bear their own costs.
- f) Agree to reimburse to APPC any costs incurred by APPC, unless the member is found to be in breach of the Code, in which case such costs will be borne by the member.
- g) Agree that he or she will not have any further right of complaint or appeal beyond the decision of the Independent Adjudicator or the Panel, nor will he or she have any other rights or remedies whatsoever against the Association.

In the case of a complaint by the APPC Management Committee itself, the above provisions will be complied with by recording in a minute of a meeting of the said Committee that it agrees to abide by the provisions of Rule 5 a) to g) and to meet any adverse costs order out of the central funds of the APPC.

- 6.1 Once the Complainant has met the requirements in Rules 4 and 5 above, and the complaint is deemed received, the Secretary shall immediately send details of the complaint to the Respondent and the Respondent may make a response for submission to the Independent Adjudicator.
- 6.2 The Respondent shall have five working days within which to make such a response. The Secretary may in his or her discretion extend such period for a further five days.
- 6.3 Both parties' submissions will be copied to the other party.
- 7. The Respondent is, by virtue of its membership of the Association, bound by the Rules in force at the time the complaint is made.
- 8. If, within six weeks after a complaint is made to the Association, a Complainant has without due cause not provided sufficient information (as determined by the Secretary) for the complaint to be deemed received, the complaint will be deemed to have lapsed.
- 9. If a Respondent wishes to resign his membership of the APPC after a complaint against him has been received by the Secretary, his membership will nevertheless continue until such complaint has been disposed of and will then be determined in accordance with any order of the Panel which may recommend termination of membership, failing which the resignation shall take effect upon the Respondent's compliance with the Panel's order. This will remain the case even if the member's membership has lapsed in accordance with the Regulations on Membership Obligations.

#### **INDEPENDENT ADJUDICATION**

- 10. Once a complaint has been deemed to have been received, the Secretary shall immediately place the complaint before the Independent Adjudicator to decide whether there is a prima facie breach of the Code and thus a case to

be heard. In forming his decision, the Independent Adjudicator shall pay no regard to the fact that the Complainant is the APPC Management Committee itself, if that be the case.

11. The Independent Adjudicator will consider the written submissions from both the Complainant and the Respondent but will not hold a hearing of the parties. The Independent Adjudicator will be advised by the Expert Adviser.
12. Within five working days, the Independent Adjudicator will report to the APPC Management Committee that
  - a) there is no case to be heard and the complaint be dismissed, or
  - b) the complaint is obvious and admitted, and that the Management Committee may agree Remedial Action with the member. If the Management Committee accepts the report and agrees Remedial Action with the member, it will issue a Finding based on the report of the Independent Adjudicator. The member will be given the opportunity to comment on the Finding within five working days. At the Management Committee's discretion, the Finding may be published on the APPC website for a time period to be determined by the Management Committee; or
  - c) the complaint is accepted and should be referred to the Panel appointed under Rule 27 below.

Except in the rare event that the Independent Adjudicator awards costs, each party will bear their own costs and will also bear any costs incurred by APPC. Where the complainant is the APPC Management Committee, then the member (if found to be in breach of the Code) will bear all the costs incurred by APPC.

#### **REFERENCE TO THE PROFESSIONAL PRACTICES PANEL**

13. In the event that the Independent Adjudicator refers the matter to the Panel, or in the case that the APPC Management Committee and the Respondent cannot agree on Remedial Action in the case of a complaint that is admitted and obvious, the Management Committee refers the matter to the Panel, the Panel shall as soon as practicable determine the complaint, adopting the procedure provided in Rule 17 below.
14. Any complaint must be placed before the Panel as soon as possible but no longer than eight weeks after the complaint has been deemed to have been received, other than in exceptional circumstances.
15. The proceedings of the Panel shall be held in private unless otherwise agreed by all parties.
16. The decisions of the Panel may be made by a majority vote. The Panel's decision shall be final and binding on all concerned.

#### **PROCEEDINGS OF THE PROFESSIONAL PRACTICES PANEL**

17. The Panel will fix a time and place for a hearing of both parties. The Panel will conduct the hearing in accordance with procedural directions which the Panel will seek to agree with the parties. If they cannot be agreed, the Panel's directions will prevail.

It shall consider all evidence placed before it by the Complainant (paying no regard to the fact that the Complainant may be the APPC Management Committee itself, if that be the case) and by the Respondent, and of any witness each party may consider necessary. Any written evidence which a party wishes to place before the Panel, shall be copied by that party to the other party who shall have the opportunity to comment in writing or at the hearing. The Panel may be advised by the Expert Adviser.

18. Both the Complainant and the Respondent may, if they so wish, be represented before the Panel by a solicitor, barrister or any other person whom he may nominate for the purpose of the hearing.
19. A party may, by notice in writing at any time not later than nine working days before the day fixed for the hearing, call upon any other party to admit any document and, if such other party desires to challenge the authenticity of the document, he shall within six working days after service of such notice give notice that he does not admit the document and requires that it be proved at the hearing.
20. The Panel shall as soon as possible and in any event within 15 working days after the hearing report to the Secretary of the APPC Management Committee in writing its findings, together with its orders if any relating to disciplinary action (under Rule 24) and the costs of the proceedings ("the Determination"). The Determination shall be final and binding on all parties
21. The Panel will not normally award costs except in the case of complaints which the Panel concludes are vexatious, flippant or otherwise an abuse of the process or in the case of unreasonable or other activity which is an abuse of the procedure by any of the parties that added to the costs of the procedure or that sought to frustrate its progress or ability to reach a conclusion. In the absence of any award of costs, each party shall bear his or her own. Any costs incurred by APPC will be borne by the member if found to be in breach of the Code or otherwise by the complainant.
22. A copy of the Determination shall within seven days after receipt by the Secretary be supplied to both parties, who shall regard the findings as confidential unless and until they have been published.
23. In the event of the Complainant withdrawing from the proceedings, the Panel shall dismiss the complaint on the basis that the Complainant bears the wasted costs caused by the withdrawal.

#### **DISCIPLINARY ACTION**

24. The Panel is empowered:
  - a) to warn; or
  - b) to reprimand a member; or
  - c) to require remedial action to minimise the risk of further breaches of the APPC Code of Conduct by the member; or
  - d) to suspend the member from membership of the APPC; or
  - e) to recommend that the APPC Management Committee expel the Respondent from membership of the APPC; and

- f) either in addition or in the alternative to any of a) to e) above to require the Respondent to issue an apology or retraction in such terms and to be published in such manner as the APPC Management Committee may direct.

### **PUBLICATION**

25. Upon the conclusion of any investigation, and at its discretion, the APPC Management Committee (or, where the APPC Management Committee is a party to a complaint, the Secretary) may cause wider publication of the Determination and its reasons, including particulars of the complaint with the findings and direction of the Panel.
26. Where suspension of membership or expulsion is the outcome then that decision will always be published. If not determined by the Panel, the terms of suspension will be determined by the APPC Management Committee. In any event, the Respondent remains bound by the APPC Code of Conduct and other membership obligations during the term of suspension.

### **APPOINTMENT AND CONSTITUTION OF PROFESSIONAL PRACTICES PANEL**

27. The purpose of the Panel is to investigate a complaint, make a Determination (as defined in Rule 20) and, if appropriate, order any disciplinary action and Remedial Action pursuant to Rule 24. The Panel is to be appointed by the APPC Management Committee. Unless otherwise determined, the Panel will consist of three persons each from outside the profession and appointed on the basis of their knowledge and reputation, and shall be assisted by the Secretary acting as Secretary to the Panel, and in that role responsible and accountable to the Panel. The Secretary will not attend any private meeting of the Panel when it deliberates towards making a Determination. No member of the APPC Management Committee may serve as a Panel member.

### **PUBLIC RELATIONS CONSULTANTS' ASSOCIATION (PRCA) CHARTERED INSTITUTE OF PUBLIC RELATIONS (CIPR)**

28. In the event of a complaint being substantiated against a member who is also a member of PRCA or the CIPR, the APPC Management Committee will inform the PRCA or the CIPR of the outcome of the complaint.