

NAFEMS VOLUNTEER DISCIPLINARY PROCEDURE

1. Introduction

This document describes the disciplinary procedure to be used by NAFEMS whenever NAFEMS becomes aware, through a complaint or other means, that an individual subject to the NAFEMS Code of Conduct for Volunteers may have breached that Code.

The stages of the disciplinary procedure described below are:

- Review of Complaint or Information Received
- A Preliminary Investigation
- Consideration and Judgement by a Disciplinary Panel
- Review by an Appeals Panel
- Record and Publish Outcome

2. Review of Complaint

- 2.1. When a complaint or information is received by NAFEMS indicating a potential breach of the Code of Conduct, the NAFEMS CEO will appoint an investigator who must be a member or employee of NAFEMS.
- 2.2. The investigator reviews the complaint or information to determine firstly, whether the alleged misconduct would, if admitted or proved, lie within the ambit, or jurisdiction, of the Disciplinary Panel; and secondly, whether there is, or could be, enough evidence to justify an inquiry. If the investigator determines that there is a 'case to answer', a preliminary investigation is started.
- 2.3. If the investigator determines that the complaint is unfounded, the complainant is informed of this decision. The complainant is also informed of the reasons for the decision and the right to appeal against this decision within 30 days.
 - 2.3.1. If the complainant appeals against the decision of the investigator, the NAFEMS CEO will appoint a reviewer to review the decision.
 - 2.3.2. The reviewer will review the decision of the investigator and determine if the case should undergo a preliminary investigation or if the decision of the investigator is upheld. The complainant is informed of this determination. If the decision of the investigator is upheld, the complainant is also informed that there is no further right of appeal.
 - 2.3.3. If there is no appeal within the time limit or if an appeal is not upheld, records of the complaint should no longer be maintained.

3. Preliminary Investigation

- 3.1. The subject of the complaint should be notified and kept informed of developments. The investigator assembles the evidence to assess the validity of the complaint. Evidence submitted by the complainant shall be disclosed to the subject and vice versa. The 'case to answer' should be framed in detailed and particular terms, clearly related to the Code of Conduct, such that the subject can understand the allegation.
- 3.2. If the investigator determines there is a 'case to answer', the investigator will invite the subject and the complainant to resolve the issue in such a way that the complaint is withdrawn.
 - 3.2.1. If the complaint is withdrawn, records of the complaint should no longer be maintained.

- 3.2.2. If the complaint is not withdrawn, the case must be heard by a Disciplinary Panel. The NAFEMS CEO is informed and informs the subject that they are suspended from participating in all NAFEMS volunteer activities. The NAFEMS CEO also informs the chair of any committees in which the subject participates.
- 3.3. If the investigator determines that there is no 'case to answer', the subject and the complainant are informed of this decision. The subject and the complainant are also informed of the reasons for the decision and the complainant of the right to appeal against this decision with 30 days.
 - 3.3.1. Should the complainant appeal against the decision of the investigator, the subject is informed. The NAFEMS CEO will appoint a reviewer to review the decision.
 - 3.3.2. The reviewer will review the decision of the investigator and determine if the case should proceed to a Disciplinary Panel or if the decision of the investigator is upheld. The subject and the complainant are informed of this determination. If the decision of the investigator is upheld, the complainant is also informed that there is no further right of appeal.
 - 3.3.3. If there is no appeal within the time limit or if an appeal is not upheld, records of the complaint should no longer be maintained.

4. Disciplinary Panel

- 4.1. The NAFEMS CEO will appoint a Disciplinary Panel of not fewer than three senior, experienced, and trained members of NAFEMS. Panel members must never include employees of NAFEMS. A person who has participated in a Preliminary Investigation must not act as a member of the Panel for the same case. The Disciplinary Panel should have a Chairman who reports directly to the NAFEMS CEO. The Panel acts as impartial assessors of the complaint.
- 4.2. The Investigator continues the collection, examination, and clarification of evidence. The complainant and the subject shall have timely access to evidence and responses.
- 4.3. The Disciplinary Panel will meet (physically or electronically) to consider all evidence. The burden of proof is the civil standard of proof, that is, the "balance of probabilities".
- 4.4. If the Panel determines there has been no breach of the Code of Conduct, the NAFEMS CEO, the subject and the complainant are informed of this decision. The NAFEMS CEO then informs the chair of any committees in which the subject participated. Records of the disciplinary process are produced and maintained.
- 4.5. If the complaint is admitted or upheld, the Panel determines which section of the Code of Conduct has been breached. The NAFEMS CEO, the subject and the complainant are informed of this decision. The subject is informed that mitigating evidence can be provided to the Panel within 14 days.
 - 4.5.1. Having received mitigating evidence from the subject or not received mitigating evidence within 14 days, the Panel will decide on the sanction. Sanctions may be; continued suspension from participating in all NAFEMS volunteer activities for a period of time; reprimand; or retraining.
 - 4.5.2. The NAFEMS CEO, the subject and the complainant are informed of the sanction. For sanctions other than suspension, the subject is informed of any actions that must be taken and timescales for those actions in order to continue as a NAFEMS volunteer. In all cases the subject is informed of the right to appeal against the decision or the sanction within 30 days.
 - 4.5.3. The chair of any committees in which the subject participated are informed of the decision and records of the disciplinary process are produced and maintained.

5. Appeals Panel

- 5.1. The NAFEMS CEO is informed of a request for appeal against a Disciplinary Panel decision. The NAFEMS CEO appoints an Appeal Review Panel of three members, who have not been involved with the case, to consider whether there are grounds for appeal.
- 5.2. The grounds for appeal are:
 - 5.2.1. Jurisdiction (whether the alleged misconduct is within the scope of the provisions of the Code of Conduct).
 - 5.2.2. Procedure (was not followed).
 - 5.2.3. Perversity (the decision was perverse in the light of the evidence).
 - 5.2.4. New evidence (which could not reasonably have been produced for the Disciplinary Panel).
- 5.3. For an appeal against a sanction, additionally:
 - 5.3.1. Proportionality (the sanction was disproportionate to the gravity of the breach).
- 5.4. The argument under each ground must stand on its own. Leave to appeal may be granted on two or even more grounds but shall not be granted in response to an accumulation of individually insufficient arguments under two or more grounds.
- 5.5. If the Appeal Review Panel decides there are no grounds for appeal, the NAFEMS CEO and the subject are informed of the decision and the subject is informed there is no further right of appeal. Records of the disciplinary process are produced and maintained.
- 5.6. If there are grounds for appeal the NAFEMS CEO is informed and will convene an Appeal Panel comprising at least three senior persons (not employees of NAFEMS and no person who has participated in any stage of this procedure).
 - 5.6.1. The Appeal Panel will consider all the evidence available to the Disciplinary Panel and any new evidence.
 - 5.6.2. The Appeal Panel shall follow the same principles as the Disciplinary Panel, modified to suit the accepted grounds for appeal.
 - 5.6.3. If the Appeal Panel decides the appeal is not upheld, the NAFEMS CEO and the subject are informed of the decision. The subject is also informed there is no further right of appeal. Records of the disciplinary process are produced and maintained.
 - 5.6.4. If the appeal is upheld, the Appeal Panel may reverse the decision of the Disciplinary Panel or uphold its decision but reduce the sanction.
 - 5.6.4.1. The NAFEMS CEO, the subject and the complainant are informed of the decision of the Appeal Panel. For sanctions other than suspension, the subject is informed of any actions that must be taken and timescales for those actions in order to continue as a NAFEMS volunteer. In all cases the subject is informed there is no further right of appeal. The chair of any committees in which the subject participated are informed of the decision of the Appeal Panel and records of the disciplinary process are produced and maintained.

6. Record and Publish Disciplinary Outcome

- 6.1. Records that are to be maintained following the disciplinary process will be archived and retained for a minimum of 10 years. Records to be retained comprise:
 - 6.1.1. A copy of all written evidence submitted.
 - 6.1.2. A summary of the Disciplinary Panel's reasons for its decision.
Summaries should contain sufficient detail for a reviewer to understand the issues and to be able to judge whether the proceedings had been fairly and properly conducted. Summaries of hearings should not be written by a person who has played any other part in any stage of the proceedings and should be approved by the Panel chairman.
- 6.2. Where the Disciplinary Panel finds the subject in breach of the Code of Conduct, that fact together with any sanction imposed will be published in such a manner as the NAFEMS Council may deem necessary or desirable with a view to furtherance of the objectives of NAFEMS. This may extend to publishing, at the request of the subject, notification that a complaint has not been upheld.
- 6.3. The findings of the Appeal Panel will, as a minimum, be published in the same manner as the findings of the Disciplinary Panel.