



# RIAS

## Corporate Complaints Procedure

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### 1. Introduction

This document sets out the procedures to be followed on the receipt of a complaint with regard to an action or omission by the RIAS as a corporate body. This includes the RIAS's reciprocal responsibility the Incorporation has to its members, Members of staff and specifically to those who take on the many voluntary roles of serving on committees and as a Trustee on RIAS Council.

This document sits alongside procedures for dealing with complaints against a Member as a result of a breach of the Code of Profession Conduct, grievances against a Member of RIAS staff and the RIAS Whistle Blowing policy. Any particular issue may fall under one or more of these headings and those wishing to pursue a complaint against the RIAS should make themselves aware of each of these procedural routes. A summary is provided in the RIAS 'How to complain' document available on the Incorporations website. If on initial investigation it is considered that a complaint should be dealt with in part or wholly as a breach, grievance and / or whistle blowing, the complainant will be informed and the complaint dealt with under those procedures.

### 2. Ombudsperson

From time to time the RIAS will appoint a Complaints Ombudsperson who will acknowledge receipt of the complaint, and oversee the procedures described in Sections 4, 5 and 6 below. The Ombudsperson is required to act with neutrality at all times, declare any conflict of interest and step aside, in favour of another if required.

On conclusion of their enquiry the Ombudsperson will make recommendations to RIAS Council in how they should respond to the complaint. The Ombudsperson may call on additional internal and external resources from staff and consultants, with regard to, the investigation of a complaint.

If in the opinion of the Ombudsperson the complaint is of such a nature that any aspect of charities or wider law may have been breached, then they are responsible for bring these to the attention of the relevant authorities.

### 3. Complaints

For the purposes of this document a complaint can be received from:

- A member of the public and any other person or organisation with which the RIAS has had contact
- A member of the RIAS
- A member of RIAS staff

- An RIAS Working Group, Committee or RIAS Council
- A public or regulatory body

The first thing to establish is the nature and validity of any complaint in principle. For a complaint to be considered it must relate to an action or omission of an action by the RIAS, which the complainant has a reasonable belief:

1. has prevent the RIAS from fulfilling its duties as a charity
2. has prevented the RIAS from meeting its charitable objectives
3. has led to a deleterious impact on one or more of its members
4. that the RIAS has failed to meet its obligations with regard to employment and general law
5. has unfairly impugned the character of any member of the public or other corporate body

A complaint must:

- Be made in writing
- Be from a person or body who has a relationship with the RIAS and must confirm the full nature of that relationship
- Detail the nature of the complaint

It is sufficient for a relationship to be formed where the RIAS has circulated information or made public statements, which in the view of the complainant fall within one of the five categories stated above. A complaint cannot however be brought on the basis of 'hearsay'.

Complaints must not be made vexatiously and should be made according to the appropriate procedures and channels and held in confidence by the complainant, until such time as the Ombudsperson has investigated the matter.

Following investigation, any response by the RIAS will be determined by Council. Generally, such a response will be determined at the soonest schedule meeting following completion of the Ombudsperson report. Provision lies in the RIAS Bye-laws, however, for a special meeting of Council to be called should the matters concerned be considered urgent.

Where the complaint relates to governance, it may be that the Ombudsperson and/or RIAS Council will be required to refer the matter to the Office of the Scottish Charities Regulator.

The complainant will be kept fully informed of the process and outcome of any investigation.

If, following assessment and in the view of RIAS Council a complaint has been made vexatiously by a member against the RIAS, they may decide to refer the actions of the complainant back to the Ombudsperson. Equally where the complainant is not a member of the RIAS, but in the view of the RIAS has acted vexatiously, the RIAS Council may feel further public action by the Incorporation is necessary to protect the Incorporation.

Sections 4 and 5 of this Complaints and Disciplinary Procedures requires that evidence be sought from all appropriate sources. Any member or Member of staff may be called upon to give evidence and will be expected to cooperate fully with the Ombudspersons investigation.

On receipt of the Ombudspersons report Council will debate the issues raised and form a judgement or interim judgement. Options for Council to consider, but are not restricted to, include:

- seeking further legal advice before finalising their judgement
- instructing that additional evidence be presented to the Ombudsperson
- concluding that the complaint has no grounds and the response which should be made to the complainant on that basis

- conclude that there are grounds to complaint and the response which should be made to the complainant and what, if any, are additional actions that are required to prevent a reoccurrence and atone for any harm caused

#### **4. Immediate Action on Receipt of a Complaint**

It is possible for a complaint regarding the RIAS to arrive at the Incorporation's door at any time and from any direction. Even from within the RIAS itself.

The complainant, or potential complainant, must in the first instance be referred to the RIAS's 'How to Complain' document available on the Incorporation's website. This lays down the requirement to provide a complaint in writing with sufficient detail and where applicable, evidence, to allow initial consideration by the Ombudsperson.

On receipt of the complaint the Ombudsperson must firstly reassure themselves that they do not have a conflict of interest in the matter. For example, they may be a close friend or have a business relationship with the complainant, which would debar them from assessing the matter at hand.

With a neutral Ombudsperson in place he or she must then decide:

1. Does the matter relate to an action or omission by the Incorporation
2. Has the complainant explained why they consider the actions or otherwise of the RIAS falls into one or more of the categories listed in Section 3

The Ombudsperson may wish to seek specific advice, with regard to, these aspects and may wish to speak to the complainant and/or those who have acted on behalf of the Incorporation and/or others named by either party before reporting to Council. In doing so the Ombudsperson will compile a record of such conversations.

Copies of such advice as may be given, and records of any conversations will be kept confidential. The Ombudsperson will however share their record of their conversations with their interlocuter giving them the opportunity to fact check them.

Prior to the Ombudsperson reporting to RIAS Council they may determine that there is an issue at hand but that may better be addressed through some other means such as mediation. If such other means is rejected by one or other of the parties concerned the Ombudsperson will prepare a report for RIAS Council detailing:

- The initial complaint
- The information provided
- Any advice and recommendations that have been sought
- Any additional information obtained from initial conversations
- Any further evidence or information which has been provided by either party or from the Ombudspersons own research
- Any recommendation the Ombudsperson may feel it is appropriate to make

Where possible this is to be provided in a way which ensures the anonymity of the complainant and anyone who may have acted on behalf of the Incorporation. RIAS Council will consider the report and whether there is a prima facie case for a formal investigation and the result of their deliberation will be provided in confidence to both parties.

The Ombudsperson must also consider whether the subject of the complaint is of sufficient concern that they should report the matter to one or other competent legal authorities.

## **5. Investigation Committee**

If RIAS Council consider that there are sufficient grounds for a formal investigation, then the Ombudsperson must convene under their chair an Investigation Committee of no less than three and no more than five persons, including themselves. The additional Members of the Investigation Committee may be drawn from members and/or non-members of the RIAS and should include those with specialist knowledge and experience of dealing with the matter of the complaint.

Each Member of the Investigation Committee must reassure themselves that they do not have a conflict of interest in the matter. This may only become apparent on disclosure of names and other personal details and the Ombudsperson must be ready to dismiss and reappoint Members of the Investigation Committee if this becomes the case.

The Investigation Committee may choose to go about its business in the manner they think appropriate to the circumstances, however records of meeting, conversations etc must be kept, collated and retained. Such actions as the Investigation Committee undertakes must be proportionate to the subject of the complaint.

The Investigation Committee must be mindful that any actions they take may be open for scrutiny and that they have a duty to protect the Complainant, the members, the Members of Staff and the Incorporation through the proper application of the 'Corporate Complaints Procedures'.

It is likely that the Investigation Committee will wish to gather further evidence and personal testimony. In so doing all parties are entitled to have their legal representatives in attendance. All parties should be reminded that they have a duty to answer those questions reasonably put to them by the Investigation Committee.

The investigation process is not a legal process where individuals or other legal entities can be forced to provide testimony and the Investigation Committee must be mindful of the potential life-changing consequences for all involved.

## **6. Reporting**

On completion of the investigation the Ombudsperson will prepare a report outlining the complaint, the investigation process, the evidence and testimony received and recommendations for consideration.

Both the complainant and those who have acted on behalf of the RIAS will be afforded sight of a draft copy of the report once approved by the Investigation Committee. Short of any recommendations that the Investigation may consider it appropriate to make to RIAS Council. Each party will be allowed to offer factual corrections and offer a final statement.

A finalised report, complete with any factual changes, the Investigation Committee agree are necessary and the final statements from both Complainant and RIAS will be provided to RIAS Council. If possible the identities of those involved should be kept anonymous.

## **7. RIAS Council Decision**

RIAS Council must then consider the report and any recommendations made by the Investigation Committee. In doing so any Members of RIAS Council who consider that they have a potential conflict of interest should remove themselves from discussing and deciding upon the matter.

Once Council has made its decision, which may necessitate further actions and/or investigations. The Ombudsperson is charged in communicating this to the complainant, together with RIAS Council's reasoning for their decision. If necessary RIAS may consider that the matters in hand should also be referred to other competent authorities if it has not already been so done.

## **8. Right of Appeal**

A complainant may only appeal against the decision of Council on the grounds that the RIAS have not followed due process, or that new substantive evidence comes to light or that the RIAS persist in actions or omissions which compound the original issue.

## **9. Time Scales**

The RIAS undertake to deal with complaints in a timely manner, albeit ensuring that sufficient time is allowed to properly investigate the issues raised and report to RIAS Council and the complainant.

On receipt of a written complaint the RIAS will acknowledge the receipt of that complaint within 5 working days, outlining to the complainant the steps that will be undertaken. The RIAS will pass the complaint to the Ombudsperson to initially examine the nature of the complaint as soon as possible but in no more than 4 working weeks. This backstop timeframe allows for unavailability of the Ombudsperson for whatever reason or the potential need to appoint another Ombudsperson to deal with the matter.

If in the view of the Ombudsperson the complaint has some prima facie basis which requires investigation the Ombudsperson will determine the nature of that investigation and the time frame within which they expect to be able to report to RIAS Council.

Such time frames as the Ombudsperson may initially determine will remain flexible to allow for the expansion of the investigation, for example if evidence emerges that more than one Member is suspected of being complicit in the matters under investigation or that the matters are such that input from or separate investigations are deemed appropriate by external stakeholders.

On completion of their investigation the Ombudsperson will present their report to the next available Council. Depending on the nature of the complaint and the matters being investigated it may be that the Ombudsperson deems it appropriate to provide one or more progress reports to Council for their consideration and decision as appropriate.

## **10. Media**

On conclusion of the Corporate Complaints Procedure, RIAS Council must consider, in the light of what advice seems advisable, the scope of any public statements which it may be appropriate to make.

For example, in the case of a relatively private any comments may well be confined to the Council report in the Quarterly (which may be anonymised) those facts which it is felt hold a lesson for other members.

In the case of a high-profile issue, that is already in the public domain, it may be that RIAS Council considers it appropriate to provide a press release in order to demonstrate that it is undertaking due professional oversight and in order to protect or redress any harm which may have come from the matters about which the complaint has been made.