

NATIONAL QUALITY MARK SCHEME FOR LAND CONTAMINATION MANAGEMENT (NQMS)

Suitably Qualified Person (SQP)

Disciplinary Procedure

February 2021

1 OBJECTIVE

The objective of this procedure is to provide a transparent and fair process for addressing complaints of improper conduct by an SQP in the course of their professional work.

2 SCOPE

This Procedure covers the circumstances where a complaint has been received about an individual SQP and it has been determined that the complaint is founded in the Code of Conduct.

3 DEFINITIONS

In the usage of this Procedure:

- i. **“Complainant”** means any person or persons who have made a written allegation of improper conduct against an SQP.
- ii. **“Respondent”** means the SQP against whom a written allegation of improper conduct has been made to the SQP Provider.
- iii. The **“SiLC Chair”** is the Chair of the SiLC Professional and Technical Panel at the time of the complaint.
- iv. The **“NQMS Chair”** is the Chair of the National Quality Mark Scheme at the time of the complaint.
- v. The **“List of Assessors”** is the list of SiLCs/SQPs selected from time to time to act as a formal Assessor in the SiLC/SQP exam and interview process.
- vi. An **“Investigation Panel”** is a panel comprising the SiLC Chair and/or the NQMS Chair and one Assessor from the List of Assessors that is appointed to decide whether or not there are grounds for a detailed examination of a specific allegation made by the Complainant against an SQP.
- vii. A **“Disciplinary Panel”** is a panel comprising not less than two technical and two professional representative members of the PTP and/or the National Quality Mark Scheme Steering Group in addition to the Chair(s), convened for the purpose of a Disciplinary Hearing.
- viii. A **“Disciplinary Hearing”** is a hearing organised by the Disciplinary Panel, at which the Complainant and Respondent are invited to present their case.
- ix. The **“SQP Provider”** is the organisation which assesses applicants for the role of SQP and administers the application and exam process, currently SiLC Register.

4 PROCEDURE

- i. A complaint that an SQP has behaved in an improper manner so as to breach the SiLC Code of Conduct and bring the SQP Register into disrepute, must be submitted in writing to the SiLC Secretariat outlining the grounds for the complaint.
- ii. Complaints will be reviewed initially by an Investigation Panel which may either dismiss the complaint, seek to resolve the issue without more formal procedure, or decide to hold a Disciplinary Hearing. In coming to its decision, the Panel may call for submissions from either the Complainant or the SQP or both.
- iii. Following a decision by the Investigating Panel that there is sufficient cause for a detailed examination of an allegation of improper conduct by an SQP, the Respondent shall be informed in writing that an allegation against the Respondent has been made and is to be heard by a Disciplinary Panel. The Respondent shall be sent details of the allegations exactly as received and as may have been supplemented by further submission together with the name of the Complainant.
- iv. The Respondent and the Complainant shall be notified of the process by which the allegations are to be dealt with.
- v. The Respondent shall be given 28 days to respond in writing to the allegations (including submitting evidence), from despatch by the SiLC Secretariat of the details of the allegations made by the Complainant.
- vi. The SiLC PTP shall give 28 days notice of a Disciplinary Hearing. The notice shall be issued in writing to the Respondent and Complainant and shall include the names of the Complainant and a copy of the report of the Investigation Panel related to the allegations. Reasonable steps will be taken to agree a convenient date, time and location for the Hearing and meet any special needs of the attendees.
- vii. The Complainant and Respondent may elect to be represented at the Disciplinary Hearing. They must inform the SiLC Secretariat whether they intend to be represented at the Disciplinary Hearing.
- viii. Any party to the Disciplinary Hearing may be accompanied at the Disciplinary Hearing by no more than one advisor.
- ix. The Respondent and Complainant may submit supplementary evidence to the Disciplinary Hearing. Supplementary evidence must be received by the Disciplinary Panel not less than one week before the date set for the Disciplinary Hearing. Copies of any supplementary evidence shall be issued to the Respondent and Complainant in advance of the Disciplinary Hearing.
- x. The Disciplinary Panel will determine the procedure to be followed in the presentation of the documentation prior to the hearing and during the hearing, and in the conduct of the hearing. The decision of the Disciplinary Panel will be final in such matters in determining the conduct of the hearing which shall be in accord with natural justice.
- xi. The Disciplinary Panel shall consider the case, may deliberate in camera, may call for independent technical advice, and shall determine whether the complaint against the Respondent has been

made out or not. The Panel may reach a decision in absentia if a Respondent refuses to engage with it.

xii. If the finding is that the complaint has been made out, the Panel may:

- Reprimand the Respondent and give advice as to future conduct including recommending training or mentoring; or
- Suspend the Respondent from membership of the Register for a specified period and give advice as to future conduct including recommending training or mentoring, or
- Remove the Respondent permanently from membership of the Register.

5. APPEALS

A Respondent against whom a complaint is found to have been made out may appeal, but only on one or more of the following grounds:

- That the decision of the Disciplinary Panel was unreasonable given the evidence placed before it;
- That additional evidence (which was not available at the time of the hearing) has subsequently become available and that this evidence could have materially affected the decision of the Disciplinary Panel;
- That the provisions of this procedure were not followed in a material respect resulting in prejudice to the Respondent's ability to defend himself/herself;
- That the proposed sanction is disproportionate.

Any appeal shall be made in writing to the SiLC Secretariat, setting out the grounds, to be received within one calendar month of the date of posting of the letter containing the decision of the Disciplinary Panel. An appeal shall include any new evidence if this ground is relied upon.

Upon receipt of an appeal, the SiLC PTP Chair and the NQMS Chair shall jointly appoint an Appeal Panel to consist of three appropriately qualified persons who may not include any person who was a member of the Investigation Panel or Disciplinary Panel sitting for the case in question.

The Appeal Panel shall consider the appeal and shall determine whether the decisions of the Disciplinary Panel should stand in whole or part or not.

The decision of the Appeal Panel, which may be taken by simple majority, shall be binding and shall be communicated to the SiLC Secretariat. Such a decision may be to uphold or overturn or vary the decision and/or sanction of the Disciplinary Panel and shall be final.

The SiLC Secretariat shall inform the Appellant (Respondent) and the Complainant in writing of the decision of the Appeal Panel.

6. CONFIDENTIALITY AND MAKING THE DECISION KNOWN

The proceedings of the Investigation Panel, Disciplinary Panel and Appeals Panel shall remain confidential to the SiLC Secretariat and members of the panels and shall not be disclosed to third parties, other than to the Respondent and Complainant, their representatives and to the extent necessary, the NQMS Administrator (CL:AIRE), the SiLC PTP, the SiLC Board of Directors, the National Brownfield Forum and the NQMS Steering Group. Where the final decision results

in the complaint being upheld, the outcome and any resulting sanction will be made public on the SiLC Website and the CL:AIRE Website. Where a complaint is found not to be upheld, the proceedings and outcome will not be made public unless the Respondent specifically requests this.

If the Respondent tenders their resignation as an SQP on the SQP Register during the main or appeals procedure, the process will be continued to a conclusion, and if the complaint is upheld, the result will be made public on the SiLC website and the CL:AIRE Website.

The procedure shall be terminated at any stage if the Complainant withdraws their complaint. In this situation the proceedings will remain confidential unless the Respondent requests otherwise.