

Model Disciplinary Code



1. Policy Statement

- 1.1 The maintenance of discipline is essential to ensure the effective conduct of WaterSafe Schemes and to secure the well being and economic interests of those affected by the activities of WaterSafe approved contractors. This applies to businesses and their operatives governed by the requirements of the WaterSafe scheme.
- 1.2 To maintain discipline, WaterSafe Schemes expect WaterSafe approved contractors to conduct themselves within the law, any code of practice associated with the industry; any rules specifically relating to workplace activities and within generally accepted standards of social and moral behaviour.
- 1.3 WaterSafe Schemes will assist WaterSafe approved contractors so far as practicable in achieving acceptable standards by bringing to their attention any legislation or guidance which will affect them.
- 1.4 WaterSafe Schemes will, however, not hesitate to take appropriate disciplinary action if, following a complaints investigation, a WaterSafe approved contractor has been adjudged to have failed to meet required standards of competency, conduct or behaviour generally referred to in 1.2 above. In order to ensure the fair and equitable treatment of WaterSafe approved contractors subject to disciplinary action, WaterSafe has prepared and issued this disciplinary procedure. The procedure will be used by WaterSafe Schemes as necessary and will apply to all WaterSafe approved contractors within the scope of the Scheme.
- 1.5 WaterSafe approved contractors are responsible for the management and discipline of their employees. They should ensure that all employees are made aware of the standards of conduct, safety and job performance required of them, and of any disciplinary rules applying to them.
- 1.6 WaterSafe scheme providers must ensure that all approved contractors comply with the Water Fittings Regulations and Byelaws and will hear any complaint made against approved contractors in respect of their obligations under the WaterSafe scheme. These responsibilities have to be taken seriously because if an approved contractor is dissatisfied about the handling of a complaint, the approved contractor can take the scheme provider to Court and the Court will look at the process to consider whether procedures are fair and judicial and if they have been followed to the letter.
- 1.7 The Disciplinary process may vary between scheme providers however all schemes will contain the following as a minimum:
 - a) formal complaints investigation process to ascertain whether a complaint is bona fide and supported by enough evidence or enough evidence to justify a hearing by the Disciplinary Committee.

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- b) separate disciplinary panel or committee, preferably including consumer representation, to adjudge whether a complaint is to be upheld and if so to agree the relevant disciplinary sanctions subject to appeal.
- c) independent appeal process

2. Scope of Procedure

The Disciplinary procedure will apply to all WaterSafe approved contractors.

3. General principles

3.1 The operation of the procedure will depend upon the adoption of certain general principles, which are in accordance with recognised good practice;

- a) a thorough investigation of all the circumstances of a case will be made before a course of disciplinary action is commenced;
- b) at all stages, WaterSafe approved contractors will be given a fair hearing, to include representation if desired, and ample opportunity to explain the reasons for their alleged failure to meet the required standards. A warning will not be given without an interview/hearing being held, even if the factual evidence appears indisputable. Failure to attend an interview/hearing and failure to co-operate in the disciplinary process may be deemed to constitute serious breach of the Disciplinary Code or gross misconduct subject to the provisions of para 3.3 below.
- c) an accurate record of any disciplinary hearing and action taken will be maintained;

3.2 The procedure allows for a series of stages, ranging from the issuing of a reprimand (warning) through to removal from the Scheme. Frequently, the issue of a reprimand will resolve the problem. In other circumstances it might be necessary to pursue several or all of the stages of the procedure in order to resolve the matter. On other occasions, an instance of serious or gross misconduct will require the immediate operation of an advanced stage of the procedure, including at times removal from the WaterSafe Scheme.

3.3 As an indication, the following types of misconduct could, after due inquiry as detailed elsewhere in this procedure, lead to expulsion without notice:-

- Failure to co-operate in the Scheme's complaints procedure

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- Failure to carry out work directed in a Disciplinary Panel decision (where relevant)
- Actions bringing WaterSafe Scheme Membership into disrepute
- Failure to attend a disciplinary interview/hearing without good reason
- Failure to comply with all relevant laws, regulations, standards and codes
- Failure to carry out their own work or supervise the work of others with due regard to technical quality, appropriate insurance cover and the interests of employers, employees and clients; communicating and performing to an acceptable standard; and with a duty of care to employers, employees and clients.
- Expulsion from another WaterSafe Approved Contractors' Scheme

This list is prepared for the purposes of illustration, and is not intended to be exhaustive, in any way.

3.4 The procedure takes account of the rules of natural justice and in particular, it provides for rights of representation at each formal stage of the procedure and for rights of appeal against warnings and serious action.

3.5 If the Disciplinary Panel is satisfied that a breach of the Code has been proved, the Disciplinary Panel shall be empowered to agree one or more of the following sanctions and convey its findings in writing to the member:

- (a) warn/reprimand the member as to their future conduct with whatever conditions the Disciplinary Panel wish to impose
- (b) suspend the contractor from membership of the WaterSafe scheme for such a period and under such conditions as the Disciplinary Panel shall determine;
- (c) terminate the contractor's membership of the WaterSafe scheme forth with or from such date as the Disciplinary Panel shall specify.

4. The Procedure

4.1 Formal Stages

The formal stages of the procedure, short of serious action, consist of a series of warnings described below; the authority to issue such warnings will be delegated by the Scheme to a Disciplinary Panel. Rights of representation and of appeal are set out under section 6.

The Disciplinary Panel will consist of at [to be inserted].

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In each case, the WaterSafe approved contractor should be made fully aware of the reasons for the warning and of the consequences of repetition. Normally a review date well within the life of the warning should be fixed to consider the WaterSafe approved contractor's monitored progress.

a) **First Written Warning**

This will be used where the contractor's work or conduct is unsatisfactory where either the contractor has already been subject to the informal stage or the offence is of a more serious nature. A record will be kept of the warning, and a note, confirming the conditions attaching to the warning, will be sent to the contractor within 14 calendar days.

b) **Second Written Warning**

This will be used for a further offence within the time limit of a first written warning, or for a first yet serious breach. The warning will be confirmed in writing within 14 calendar days.

c) **Final Warning**

A final written warning will be appropriate where a formal written warning has failed, or for a more serious offence. Again the warning will be confirmed in writing within 14 calendar days. The written confirmation should leave the contractor in no doubt as to the consequence of a further breach. The written confirmation of a warning (b) & (c), when posted to a contractor, will be sent by recorded delivery.

4.2 The Life of Warnings

Records should be kept, detailing the nature of any breach of disciplinary rules, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records should be carefully safeguarded and kept confidential.

Except in agreed special circumstances, these records should be expunged after a specified period of satisfactory conduct. This period will be clearly explained to the WaterSafe approved contractor and will be used as a period during which any further breach could lead to action under the next stage of the procedure.

A record will be expunged after the following periods:-

- First Written Warning - 12 months
- Second Written Warning - 18 months
- Final Written Warning - 24 months

In exceptional circumstances, where a final warning is issued either

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instead of serious action, or in addition to serious action short of expulsion, a longer period may be specified depending upon the case.

5. Serious Action, Including Expulsion

- 5.1 Serious action means either action which results in sanctions and/or termination of membership of the Scheme. It will be appropriate where formal action under section 4 has failed to resolve the problem or in the case of misconduct where action a step beyond formal action is required. Please refer to paragraph 3.3
- 5.2 The type of serious action taken, including removal from the Scheme, will depend upon the circumstances of the case. Serious action may only be taken by the **[to be inserted]**, following a full enquiry and interview.
- 5.3 Serious action includes:-
 - a) expulsion,with or without notice;
 - b) suspension for a specified period;
- 5.4 Serious action, short of expulsion, may also be linked with a final warning under 4.1 above. Serious action must be confirmed in writing within 14 calendar days with the letter specifying the action taken, the reasons for it and the contractor's response.
- 5.5 In certain cases, where serious action is contemplated, it may be necessary to suspend the contractor pending the completion of investigations into the facts surrounding the complaint. Such a suspension will communicate the severity with which the complaint is viewed; permit enquiries to proceed unhindered by the continued membership of the contractor; and allow the contractor time to arrange to be represented at a hearing if he so wishes.
- 5.6 Notification of removal from the WaterSafe scheme, following a complaints investigation, will be disseminated to other WaterSafe scheme providers. See paragraph 6.19.

6. Rights of Appeal

- 6.1 Rights of appeal exist against reprimands and serious action.
- 6.2 An appeal against a written warning (excluding a final warning) should be made to the Scheme.
- 6.3 An appeal against a final warning should be made to **[to be inserted]**.
- 6.4 An appeal against serious action should be made to the **[to be inserted]**

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which shall hear the appeal in the manner specified in the scheme.

- 6.5 A contractor shall have the right to be represented at any appeals hearing.
- 6.6 Should any disciplinary action be effectively withdrawn as a result of reconsideration, any written reference thereto shall be expunged from the contractor's record and the contractor notified accordingly.

Lodging Appeals

- 6.7 There is no automatic right for a contractor to appeal against a decision of the Disciplinary Panel. An Appellant can only make an appeal if they can satisfy the appeal's criteria. Leave to appeal therefore will only be granted on the following grounds: -
 - Submission of new evidence
 - Apparent injustice by the Disciplinary Panel investigation
 - Excessive sanction

Appellants must make a formal statement setting out in detail the grounds on which they are appealing. The appeal letter must be clear and specific regarding the reason(s) on which the appeal is based.

- 6.8 An appeal against disciplinary action should be made by the contractor or, where appropriate, through their representative in the manner specified in the letter confirming the disciplinary action taken.
- 6.9 An appeal should be lodged in writing within 28 calendar days of receipt of notification of the action.
- 6.10 An appeal hearing shall normally be arranged within 28 calendar days of receipt of the notice of appeal, unless otherwise mutually agreed.

Appeal Hearing

- 6.11 The Appeals Committee will meet as required.
- 6.12 It will determine whether the grounds of appeal are justified.
- 6.13 It has the right to refer back to the Disciplinary Panel for rehearing or reconsideration of sanctions.
- 6.14 Representation is anticipated to include no more than three representatives.
- 6.15 While the same clerk can support the Disciplinary Panel members of committees should be separate to avoid any inadmissible matters being considered. Similarly any appeal hearing must again consist of entirely separate members.
- 6.16 The WaterSafe scheme provider would act as secretariat.

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- 6.17 It is important that committee members do not engage in communication with complainants or defendants outside of the meeting.
- 6.18 Following a complaints investigation and appeals process the WaterSafe scheme provider will cause to be published the decision of the Disciplinary Panel and or Appeals Committee.
- 6.19 Notwithstanding paragraph 5.6 which is subject to a right of appeal all such decisions resulting in expulsion from the scheme, for businesses and/or individuals, shall be disseminated to other WaterSafe scheme providers. This may lead to expulsion from another WaterSafe Approved Contractor Scheme as detailed in section 3.3.