

# SELF REGULATORY BODY FOR SIGN LANGUAGE INTERPRETERS AND TRANSLATORS

## COMPLAINTS PROCEDURE

### A PROCEDURE TO DEAL WITH REPORTED ALLEGED BREACHES OF THE RBSLI CODE OF ETHICS

#### DEFINITIONS

##### ***Allegation***

An allegation of professional misconduct in relation to the Code (see also complaint, below).

##### ***Appellant***

A Respondent who decides to appeal a decision of the Disciplinary Hearing Panel, (DHP).

##### ***Board***

Unless otherwise indicated, the Board means the Board of Directors of the RBSLI Ltd.

##### ***Code of Ethics ("the Code")***

The Code of Ethics of RBSLI that is currently in force.

##### ***Complaint***

An allegation of professional misconduct in relation to the Code against a Registrant.

##### ***Complainant***

A person or other legal entity making a complaint. A Complainant may be an individual, a company or other corporate body or institution or an individual representing a company or other corporate body or institution.

##### ***DAP***

Disciplinary Appeal Panel

##### ***DHP***

Disciplinary Hearing Panel

##### ***Friend***

A person nominated by the individual or entity making a complaint or by the Registrant who is subject to a complaint to assist them at a hearing. For the Registrant who is subject to a

complaint they shall be either a fellow Registrant, a lawyer or a trade union representative.

### ***Register of British Sign Language Interpreters***

The Register of British Sign Language Interpreters and Translators maintained and operated by the RBSLI.

### ***RBSLI***

The Self Regulatory Body for Sign Language Interpreters and Translators, which is a not for profit company limited by guarantee registered as RBSLI.

### ***PCC***

The Professional Conduct Committee. A standing committee consisting of Registrants and Lay persons from whom members of the DHP and DAP shall be drawn.

### ***Registrar***

The person occupying the role of Registrar of the RBSLI.

### ***Registrant***

A British Sign Language Interpreter or Translator who has met the criteria for admission and is currently on the Register of British Sign Language Interpreters and Translators as administered by the RBSLI

### ***Respondent***

A Registrant who is the subject of a complaint.

### ***Working day***

Any day from Monday to Friday excluding public holidays in England, Scotland, Wales and Northern Ireland, and days when RBSLI is closed.

### ***Writing/written communication***

Where these terms are used they mean correspondence via written English or recorded British Sign Language onto video, DVD or any other such media.

## **SECTION A**

### **1) INTRODUCTION**

- 1.1 This procedure applies to all those currently on the RBSLI Register (“Registrants”) and any breaches of the Code of Ethics (“the Code”) of the Self Regulatory Body for Sign Language Interpreters and Translators (“RBSLI”), whether such breaches are reported to RBSLI by written communication via the RBSLI Website complaints proforma, BSL recorded communication, or are suspected by RBSLI on the basis of information it receives to suggest that a Registrant’s conduct may not be compliant with the Code. The subsequent formal notification must be submitted by the person making the notification (“the Complainant”) in accordance with clause 2.2 below.
- 1.2 This procedure comes into effect on 20<sup>th</sup> April 2015, as approved by the RBSLI Board. The Procedure will remain in force until amended or revoked by the Board. Notification of any breach relating to incidents prior to 1st April 2015 cannot be dealt with retrospectively.
- 1.3 Action may only be taken against a Registrant in accordance with this procedure where there are grounds to believe that a breach of the Code has occurred.
- 1.4 Breaches of the Code are overseen by the Professional Conduct Committee, (“PCC”).
- 1.5 Disciplinary investigations are conducted by a Disciplinary Hearing Panel, (“DHP”), as appointed by the Chair of the PCC on a complaint by complaint basis, from current members of the PCC.
- 1.6 Notifications of breaches committed by non-Registrants are outside the scope of this procedure.
- 1.7 Commercial disputes are not covered by this procedure.

## **SECTION B**

### **2) NOTIFICATION OF BREACH**

- 2.1 Notification of a breach, (complaint), may be submitted by:
  - a Registrant
  - a non-Registrant (such as, a member of the public, or a client of a Registrant)
  - the RBSLI itself, such notifications being lodged on behalf of the RBSLI by the Registrar

Each complaint must relate to a specific Registrant and in the event that the complaint involves multiple Registrants, separate complaints must be made for each.

- 2.2 The complaint should be submitted to the Chair of the PCC. For written communication, via the appropriate form on the RBSLI website [www.rbsli.org](http://www.rbsli.org). For BSL recorded communication by email attachment to [pccchair@rbsli.org](mailto:pccchair@rbsli.org) or by post for the attention of the Chair of the PCC, RBSLI, c/o DAS, The Tangent Business HUB, Weighbridge Road, Shirebrook. NG20 8RX.

- 2.3 The Chair of the PCC and Chair of the Board, (or a member of the Board appointed by the Chair for this purpose, who will act in place of the Chair), will together carry out a preliminary review of the complaint to determine how it is to be handled. The complaint shall be anonymised at this stage. The options available to the Chairs of the PCC and Board are:
- (a) To dismiss the complaint on the basis that it is vexatious or trivial or contains factually unreliable information or is unrelated to the Code;
  - (b) Place the complaint on hold on the basis that it is subject to pending civil or criminal action in the courts (in which case the complaint will be reconsidered on conclusion of such action);
  - (c) To refer the complaint for mediation and investigation;
  - (d) To refer the complaint for independent arbitration if the Chairs of the PCC and Board determine that the RBSLI PCC process is, for whatsoever reason, incapable of ensuring a fair investigation and hearing.
- 2.4 The Chair of the PCC will inform the Complainant and the Registrant alleged to have breached the Code of the selected option.
- 2.5 Complaints that relate to events that took place 12 months or more prior to the complaint being made will not normally be considered except in exceptional circumstances, because it will be difficult for the parties to recall accurately events that occurred before this period.
- 2.6 Complainants have the option to withdraw their complaint, or in the case of a multi part complaint one or more points of complaint, at any time without explanation. Complainants should submit their notification of withdrawal to the Chair of the PCC.

## **SECTION C**

### **3) MEDIATION**

- 3.1 In the event of a decision by the Chairs of the PCC and Board to refer the complaint for mediation and investigation, they will appoint an independent Mediator. The independent Mediator shall strive in the first instance to reach an outcome that is acceptable to both the Complainant and the Respondent. The independent Mediator shall report any mediated resolution to the Chair of the PCC.
- 3.2 In the event of successful mediation, the costs of mediation will be shared equally between RBSLI, the Complainant and the Respondent.
- 3.3 If the Chairs of the PCC and Board believe that the mediated resolution does not serve the interests of RBSLI, or the independent Mediator is unable, for whatsoever reason, to achieve an outcome that is acceptable to both the complainant and the Respondent, the complaint shall be submitted for further detailed independent investigation.

## **SECTION D**

### **4) PROCEDURAL PRINCIPLES FOR THE PCC**

- 4.1 The procedures set out here shall be followed as far as is practicable. The Chair of the PCC or Disciplinary Hearing Panel, (“DHP”), may vary these procedures when he or she deems this to be necessary. Such variation shall be recorded in the written record of the proceedings.
- 4.2 DHPs shall consist, as far as is practicable, of 5 members as detailed in 6.1. Decisions shall be by a majority of votes; the Chair shall have a second, casting vote in the case of equality of votes.
- 4.3 A DHP shall act with the authority of the PCC in regard to the complaint for which it was convened.
- 4.4 No person may serve on more than one panel in regard to a particular complaint.
- 4.5 No person may be appointed to the DHP when that person has a connection with the Respondent or Complainant or a person who is party to the complaint such as would be likely to prejudice fair consideration of the complaint, or when there is any conflict of interest, bias or other factor such as would be likely to prejudice or to appear to prejudice fair treatment of the complaint to be considered.
- 4.6 Discretion will rest with the Chair of the PCC when appointing a DHP to decide whether conflict of interest or other relevant factors exist in regard to intended panel members. In the case of dispute the Chair of the Board shall decide the issue and his or her decision shall be final.
- 4.7 Where a lay person is appointed to the PCC, he or she shall be selected by open advertisement or by reference to an appropriate independent organisation. A lay person for these purposes is a person who is not a Registrant or an employee, Board member or officer of RBSLI, and has no significant connection with any of these. Lay persons are not to be BSL/English interpreters, translators, student interpreters or translators.
- 4.8 The appointment of lay members is subject to the same conditions of appointment as other committee members.
- 4.9 In the event that the Chair of the PCC or Chair of a DHP is unable to serve on a particular occasion, that Chair shall delegate the responsibility to another member of the PCC or DHP. In case of objection to such delegation by any Registrant or member of the PCC or DHP, an alternate Chair shall be appointed by the Chair of the Board.
- 4.10 Disciplinary hearings are conducted in private and are confidential.
  - 4.11 The outcome of proceedings in respect of allegations will be made public by RBSLI, on its website or otherwise. The outcome shall be anonymised.
- 4.12 The record of an allegation that is upheld will be held on the Registrant’s file subject to the provisions of the Data Protection Act.
- 4.13 The conclusions of a DHP shall be written by the DHP Chair or another member of the

panel delegated by the Chair. No administrative officer of RBSLI shall be present during the deliberations of a panel or during the writing of its report.

- 4.14 The Registrar will be responsible for the administration of disciplinary procedures, including the compilation and distribution of statements and other documentation, arrangements for hearings and meetings, the booking of BSL/English Interpreters, note taking, record keeping and correspondence on behalf of panels and committees. The Registrar may delegate some or all of these duties to other staff members as appropriate.
- 4.15 members of the DHP will be reimbursed travel and subsistence expenses at the rate agreed by the Board.
- 4.16 Remuneration may be made to members of the PCC, DHP and DAP who take part in the complaint process. Such remuneration shall be subject to the approval of the Board or the Chair of the Board acting on its behalf.
- 4.17 The Respondent may appoint a person as Friend to accompany him or her at hearings of the DHP or the Disciplinary Appeals Panel, ("DAP"). This 'friend' may either be a fellow Registrant, a lawyer or a Trade Union representative and may make submissions and/or question the Complainant and witnesses on behalf of the Respondent.
- 4.18 The Complainant may appoint a person as Friend to accompany him or her at hearings of the DHP. There is no restriction on the type of 'friend' and they may make submissions and/or question the Respondent and witnesses on behalf of the Complainant. Complainants are not permitted to attend DAP meetings.
- 4.19 RBSLI may appoint a lay person to represent it at hearings of the DHP and/or the DAP in relation to a particular allegation. This person shall stand in the same relation to RBSLI as the Friend does to the Respondent. The costs involved will be a matter for RBSLI.
- 4.20 RBSLI will not reimburse either the Complainant or the Respondent in respect of any legal or other costs incurred in preparing or presenting the complaint or defence; nor will RBSLI reimburse any costs relating to travel or subsistence in connection with a hearing.
- 4.21 The DHP may consult external advisers or specialists, and invite external advisers or specialists to attend as witnesses, when this is considered necessary. Such persons shall not take part in the discussion of the DHP's findings. The travel and subsistence expenses of external advisers and specialists shall be paid. Reasonable professional fees may be paid, as necessary.
- 4.22 A complaint involving a practitioner based overseas may be considered entirely upon the basis of written submissions, at the discretion of the relevant panel.
- 4.23 A complaint may be considered entirely upon the basis of written submissions if this is requested by the Respondent and the Complainant agrees.
- 4.24 members of the PCC are expected, whenever practicable, to undertake such training and briefing on relevant matters as may be organised by RBSLI from time to time.

## **SECTION E**

### **5) INVESTIGATION**

- 5.1 Where the Chairs of the PCC and Board determine that the complaint is to be investigated they shall appoint an independent member of the PCC to act as an Investigator. They shall undertake a full assessment of the complaint. Supporting and substantiated evidence shall be sought in writing or BSL, as appropriate, from the Complainant, the Respondent and any other such individuals or entities who may have information regarding the complaint.
- 5.2 All investigations will be undertaken in the strictest confidence and all written communications, whether sent by post or by email, should be marked 'private and confidential – for addressee only'.
- 5.3 Following completion of an investigation, an Investigation Report, ("report") shall be compiled for a DHP on the basis of the evidence collected and in a format agreed by the Chair of the PCC, presenting the evidence in a clear, ordered manner for consideration by a DHP. The report is passed to the Chair of the PCC once the independent Investigator is satisfied that it meets the PCC's requirements, but shall be submitted no more than 14 days following the independent Investigator's appointment. The report will not make any recommendation to the DHP. A copy of the Investigation Report is only provided to the parties concerned and the DHP. Anonymised records of the investigation shall be kept by the RBSLI office.
- 5.4 Within 10 days of receipt of the Report by the DHP, the Chair of the PCC shall write to the Respondent to confirm that the complaint will be the subject of a disciplinary hearing.
- 5.5 When a complaint is the subject of a disciplinary hearing, the Chair of the PCC shall:
  - (a) within at least 28 days' notice, inform the Respondent and the Complainant of the date, time and place of the hearing, their rights under this Procedure for Dealing with Reported Alleged Breaches of the RBSLI Code of Ethics and the procedure to be followed at the hearing;
  - (b) send the Respondent and the Complainant a copy of the investigation Report;
  - (c) inform the Respondent and the Complainant that they may request a postponement of the hearing, to be submitted in writing within the next 14 days, with full reasons for the request;
  - (d) advise the Respondent and the Complainant that, (unless a postponement is requested and granted), the hearing will proceed, whether or not they choose to attend, but that they may submit written representations no less than 14 days before the hearing, to be considered in their absence if they so wish;
  - (e) require the Respondent to submit to the Chair of the PCC and the Complainant, not less than 14 days before the hearing, a list of the documents on which the Respondent intends to rely when presenting the case, together with copies of the documents and copies of any witness

statements;

- (f) require the Complainant to submit to the Chair of the PCC and the Respondent, not less than 14 days before the hearing, a list of the documents upon which the Complainant intends to rely when presenting the case, together with copies of the documents and copies of any witness statements;
- (g) after 14 days, if no response has been received from the Respondent and/or the Complainant indicating their intention to appear at the hearing, request confirmation from each party as to whether they intend to appear or not.

## **SECTION F**

### **6) DISCIPLINARY HEARING PANEL**

- 6.1 The Disciplinary Hearing Panel, (“DHP”), will be appointed by the Chair of the PCC and will comprise the Chair of the PCC, two Registrant members of the PCC, one of whom will act as Chair of the DHP, and two lay members of the PCC with experience of hearing disciplinary cases and/or complaints procedures. In determining the composition of the DHP, the Chair of the PCC shall take the following factors into account:
- (a) The severity of the breach
  - (b) The skills required to hear the breach
  - (c) The impartiality of the Panel members and any potential conflicts of interest. No person shall be appointed to a panel when there is any conflict of interest, bias or other factor, such that it would be likely to prejudice fair consideration of the breach. Discretion lies with the Chair of the PCC when appointing a DHP to decide if a conflict of interest or other relevant factor exists in respect of the intended panel members. In the case of a dispute the Chair of the Board shall decide the issue, where the Chair of the Board is subject to the investigation, the Vice-Chair of the Board shall decide. This decision shall be final.
- 6.2 The Respondent and the Complainant have the right to attend the meeting in person and be accompanied by one other person. [If either the Complainant or the Registrant so chooses, they may attend the hearing by telephone/video conference or nominate a representative to attend on their behalf].
- 6.3 Copies of the Investigation Report, together with copies of any documents and copies of any witness statements will be provided to the DHP at least 14 days before the hearing.
- 6.4 At the hearing, the Respondent and the Complainant will be given the opportunity to make live submissions and will be required to answer questions put to them by the DHP.
- 6.5 On conclusion of the hearing, the Respondent and the Complainant will be dismissed from the hearing and the DHP will then deliberate in private. The Respondent and the Complainant may be asked to wait for a decision to be issued on the same day or the



DHP may inform the Respondent and the Complainant that a decision will be issued in writing and/or recorded BSL within the next 7 days.

- 6.6 If the decision of the DHP is that no breach of the Code has occurred, the Chair of the PCC will write to the Respondent and the Complainant to inform them of this decision.
- 6.7 If the decision of the DHP is that there has been a breach of the Code they will then consider the appropriate sanction to be imposed, selected from the possible sanctions set out at section G below.

## **SECTION G**

### **7) SANCTIONS**

- 7.1 Any of the following sanctions may be imposed where the decision of the DHP is that there has been a breach of the Code of Ethics:
  - (a) An undertaking from the Registrant as to future conduct
  - (b) An undertaking from the Registrant to participate in, (and pay the costs of), appropriate training and complete such training to the satisfaction of the RBSLI
  - (c) A written warning
  - (d) Suspension for a period of 6 or 12 months
  - (e) Removal of the Registrant from the Register
  - (f) An award of costs; costs to be awarded at the discretion of the DHP and shall take into consideration the costs of any failed mediation, the investigation and hearing
- 7.2 In considering the appropriate sanction the DHP may take into account:
  - (a) The nature of the breach
  - (b) A deterrent to other Registrants from committing similar breaches
  - (c) Any other breach of the Code, which has resulted in a sanction being imposed on the Registrant, in the last 12 month rolling period.
- 7.3 The Chair of the PCC will then write to the Respondent and the Complainant to inform them of:
  - (a) The decision
  - (b) The sanction imposed
  - (c) The reason for the decision and the sanction imposed
- 7.4 The Chair of the PCC will also include in the letters to the Respondent and the Complainant that the Respondent has a right to appeal either the decision or the sanction or both, by writing to the Chair of the PCC within 21 days of the date of the letter.

## **SECTION H**

## **8) APPEAL**

- 8.1 Upon receipt of an appeal, the Chair of the PCC will appoint a Disciplinary Appeal Panel, (“DAP”), comprising 3 members of the PCC, 2 Registrants and 1 Lay person, who have not had any previous involvement with the complaint, one such member to be appointed as DAP Chair. No member with any prior knowledge of the matter or who formed part of the DHP can form part of the DAP.
- 8.2 The Appellant will be informed of the establishment of the DAP, the names of its members and the date of the appeal meeting, giving at least 21 days’ notice of the meeting.
- 8.3 The DAP may review the documentation provided to the DHP and may make further investigations as appropriate but shall only take into account facts and conditions known to the DHP at the time of its decision.
- 8.4 The Appellant has the right to attend the appeal meeting in person and be accompanied by a Friend. If they are unable to attend the meeting they may:
  - (a) request a postponement (this must be submitted in writing with full reasons for request)
  - (b) nominate a representative to attend on their behalf, except for a legally qualified representative
  - (c) make written submissions
- 8.5 At the appeal meeting the Appellant who has submitted the appeal will be given the opportunity to make oral submissions.
- 8.6 On conclusion of the appeal meeting, the Appellant will be dismissed from the appeal meeting and the DAP will deliberate their decision in private. The Appellant may be asked to wait for a decision to be issued on the same day or the DAP may inform them that a decision will be issued in writing and/or recorded BSL within the next 7 days.
- 8.7 The DAP may decide:
  - (a) to affirm the original decision
  - (b) to affirm the original sanction
  - (c) to overturn the original decision that was in favour of the Complainant and dismiss the complaint
  - (d) to overturn the original decision that was in favour of the Respondent and impose an appropriate sanction
  - (e) to overturn the original sanction and impose a lesser or greater sanction
- 8.8 The Chair of the DAP will write to the Appellant and the Complainant to inform them of their decision, together with reasons for the decision.
- 8.9 The DAP’s decision is final; there is no further right of appeal.

## **SECTION I**

### **9) RESIGNATION**

- 9.1 If the Respondent voluntarily resigns their registration at any time before a sanction is issued, the complaint will be dismissed without further action.
- 9.2 In such a case, the Respondent will not be permitted to reapply for registration for a period of 3 years.
- 9.3 The Chair of the PCC will write to the Complainant to inform them of the fact that the Respondent has resigned, the date of the resignation and that the complaint has been dismissed.

## **SECTION J**

### **10) ARBITRATION**

- 10.1 We realise that from time to time disputes will occur and we strongly advise that to prevent spiralling costs, which can include financial, time and personal ill-feeling, Complainants and Registrants might consider the use of this Arbitration process. In addition, the Chairs of the PCC and Board may feel, due to the status of either or both the Complainant and/or the Respondent, it is not possible to guarantee a fair investigation and/or hearing using the RBSLI Complaints Procedure. Therefore, at any stage of the procedure, a request can be made by any party to the proceedings for the matter to be dealt with by way of external arbitration, subject to approval by the Board, whose decision is final.
- 10.2 Any cost of arbitration will be met equally by all the parties i.e. RBSLI, the Complainant and the Respondent.
- 10.3 Any appointed arbitrator must be a qualified member of the Chartered Institute of Arbitrators.
- 10.4 Where Arbitration finds any significant failure on the part of a Registrant to meet the standards laid down in this Code, its finding may be passed to the PCC for disciplinary proceedings as set out above in this Procedure for Dealing with Reported Alleged Breaches of the RBSLI Code of Ethics.