



DISCIPLINARY PROCEDURE

1. Introduction

Unless the context otherwise requires, words and expressions used in this procedure shall have following meanings given to them. Where a member brings Saioosh into disrepute, or the case is of such a nature and urgency, that it is deemed to be in the best interests of Saioosh, this case shall be held at national level and presided over by Council.

The "*President's Nominee*" is the person nominated by the President to present the case against the Subject of the Allegation. The nominee can be the Chief Executive Officer (CEO) or an external Arbitrator who will be designated by the President to hear the case against the accused and render sanction.

2. Definition of misconduct

Examples of conduct which the Institution regards as misconduct is listed in the Code of Conduct. This is not an exhaustive list. Under these Regulations misconduct includes conduct which includes the following:

- 2.1. contravenes the Constitution or the Code of Conduct; and/or
- 2.2. amounts to unacceptable professional conduct within the standards expected in the health and safety profession; and/or
- 2.3. may bring the Institution or the health and safety profession into disrepute; and/or
- 2.4. is prejudicial to the interests of the Institution; and/or
- 2.5. is in breach of a decision made, or penalty imposed, by the President's Nominee

3. General Principles

The following principles shall apply to a hearing held at any stage of the procedure.

Right of representation

The Subject of the Allegation may be represented at the hearing by a fellow member.

The President's Nominee may in cases of fraud, or matters that resulted in injury to another person be represented by a legal adviser.

Advisers

The Relevant Committee may obtain such legal, technical or other advice as it thinks fit.

Any advice received by the advisor shall be disclosed, before the President's Nominee makes his /her decision, to the Subject of the Allegation.

The Subject of the Allegation

Proceedings in the absence of the member. The President's Nominee may proceed in the absence of the Subject of the Allegation if:

The Subject of the Allegation has been properly notified of the date and time of the hearing; and he or she has failed to provide a reason for nonattendance acceptable to the Disciplinary Committee.

Attendance of complainant or other persons

Unless determined otherwise by the President's Nominee, any person may be excluded or expelled from all or part of the hearing if that person is, or is likely to, disrupt the hearing, or if fairness otherwise requires.

Adjournment

The hearing may be adjourned at the discretion of the President's Nominee, on such terms as he /she thinks fit.

Mitigation

Before imposing any disciplinary penalty, the President's Nominee shall: invite the Subject of the Allegation to make representations by way of mitigation at the hearing;

or

if the President's Nominee adjourns to consider its decision, invite the Subject of the Allegation to provide, within seven days, written representations by way of mitigation.

4. Standard of proof

The Subject of the Allegation shall be found guilty of misconduct under this procedure if the President's Nominee is satisfied that the allegations required to be proven are more likely than not to be true.

5. General: Disciplinary proceedings

If the Subject of the Allegation is of such a nature that legal proceedings

or the permanent removal as a member of SaioSh may ensue, or judgement has been made in a South Africa court of law, the President's Nominee may consider it necessary to obtain further information about the allegations from the complainant or elsewhere, and shall inform the Subject of the Allegation in writing of the substance of the allegations, and provide him or her with copies of any documents or other written evidence submitted by the complainant.

In determining an allegation of misconduct, the President's Nominee shall be entitled to rely on a certificate of criminal conviction and/or transcript of the criminal court's judgment as evidence of the offence committed, or the decision of a civil court as evidence of the issues determined by that court. The disciplinary penalty to be imposed shall be at the discretion of the President's Nominee.

6. Procedure for dealing with alleged misconduct

An allegation of misconduct which comes to the attention of the Institute shall be dealt with in accordance with the following procedure:

Initial investigation

An allegation of misconduct shall be delivered in writing to the President by hand, post, electronic means or facsimile transmission, and must be accompanied by copies of any documents or other written evidence relevant to the allegation. The written allegation must set out which clauses within the Code of Conduct or which the complainant considers may have been breached. The Institution shall not be obliged to investigate an allegation of misconduct if

- the allegation is made anonymously; or
- the alleged incident(s) occurred more than one year prior to receipt of the allegation; or
- the allegation is against a non-member

Within 15 working days of receiving of an allegation of misconduct delivered in accordance with Annexure 2 to this document, the President shall acknowledge receipt of the allegation, and, unless the President considers it necessary to obtain further information from the complainant or elsewhere, then the President shall, as soon as is reasonably practicable after receipt of such further information, inform the Subject of the Allegation in writing of the substance of the allegations, and provide him or her with copies of any documents or other written evidence submitted by the complainant.

Within 20 working days of receiving a notice from the President in accordance with Annexure 2, the Subject of the Allegation shall confirm in writing if he or she admits or refutes the allegations, and must provide copies of any supporting documents or other written evidence. The President shall refer the allegation of misconduct, the Subject of the Allegation's response (if received) and any supporting documents or other written evidence submitted by either party to the President's Nominee he /she has so appointed.

The President's Nominee shall consider the written evidence and may, as it thinks fit:

- dismiss the allegation on the grounds that it is frivolous or vexatious, or that there is no case to answer;
- if the Subject of the Allegation admits the allegation, either invite the Subject of the Allegation to make written representations by way of mitigation and, after considering any representations received, provide guidance on his or her conduct, or issue a reprimand; or if the President's Nominee considers that a higher penalty ought to be imposed, impose such penalty, or call for a formal disciplinary enquiry

The President's Nominee shall notify the President of its decision in writing within 10 working days of the decision being made. The notice must set out the reasons for the decision. In the event of a disciplinary enquiry the President's Nominee will call for a disciplinary enquiry to be held within 10 working days of the President's acceptance of the decision, and shall advise the Subject of the allocation his/her rights in terms of this disciplinary procedure and the time and place that the enquiry will convene.

Precautionary suspension

Unless determined otherwise by the President, a member who is suspended shall not, throughout the period of suspension, be permitted to use any designation or initials appropriate to membership, and may not attend or vote at any meetings of the members.

Unless determined otherwise by the President, the period of suspension shall continue until the conclusion of any disciplinary proceedings. A member who is suspended may make written representations to the President within 10 working days of the suspension being imposed. A member who is suspended may apply in writing to the President for the suspension to be reviewed.

7. Proceedings at the Disciplinary Enquiry

The President's Nominee will be aided by an advisor if so appointed. The Subject of the Allegation may represent him/herself or have a fellow member represent him/her.

The President's Nominee shall read out the charges against the Subject of the Allegations and ask him /her to plead. The "President's Nominee" must present the case against the Subject of the Allegation and provide proof of such allegations. Evidence to disprove such allegations may be presented in the form of documents, witnesses, and clients testimony by the Subject of the Allegation or his Representative.

The Subject of the Allegation or his/her representative will have the right to face and cross question the person who initiated such charges. Once all evidence is lead, the Chairperson will have the right to consult with the appointed advisor and render a decision forthwith or within a maximum period of 7 days to the Subject of the Allegation in writing. The Subject of the Allegation has the right of appeal. This appeal must be lodge within 7 days on Annexure 3.

ANNEXURE 2

ALLEGATION OF MISCONDUCT
To be emailed to info@saioosh.co.za

Name of person making allegation of misconduct:	
The member's current membership status, and Membership Number:	<input type="checkbox"/> Paid Up <input type="checkbox"/> Not Paid Up
Nature of The Allegation	
Constitutional <input type="checkbox"/> Code of Conduct <input type="checkbox"/>	
Description of Alleged Misconduct	
Supporting Evidence	
E-mails <input type="checkbox"/> Reports <input type="checkbox"/> Written Complaints <input type="checkbox"/> Other <input type="checkbox"/>	
Signature: _____ Date: _____	

ANNEXURE 3

GROUNDS FOR APPEAL AGAINST DISCIPLINARY JUDGEMENT

Name of person making appeal:	
Grounds for appeal.	<input type="checkbox"/> Procedural <input type="checkbox"/> New Evidence
Nature of the appeal in terms of	
Constitutional <input type="checkbox"/> Code Of Conduct <input type="checkbox"/>	
Description of Appeal	
Supporting evidence	
E-mails <input type="checkbox"/> Reports <input type="checkbox"/> Written Complaints <input type="checkbox"/> Other <input type="checkbox"/>	
Signature:	Date: