

Introduction

The objective of this Procedure is to handle complaints and disciplinary matters in a fair, transparent and proportionate manner. It acknowledges registered member companies have voluntarily committed to the LCA Code of Conduct for Service Providers and LCA Standards for Service Delivery, and that the LCA is a standards and not a policing or regulatory organisation.

Nevertheless the aim of the LCA is to raise standards for the control of legionella in water systems. Where there are complaints by service users, or serious failures on the part of a registered member company to meet the requirements of LCA registration which come to the attention of the LCA, or which are discovered as a result of company audits, or formal enforcement action or prosecution involving a member company for a legionella-related matter, this Procedure lays out the actions and sanctions that will be implemented by the LCA.

The Complaints and Disciplinary Committee

The Complaints and Disciplinary Committee will comprise the Complaints and Disciplinary Committee Chairman, being elected to the office by the Management Committee of the LCA, along with the Chairman and Vice-Chairman of the LCA Management Committee.

The Complaints and Disciplinary Committee has the responsibility to investigate complaints or initiate enquiries into any conduct on the part of a registered member company which comes to the LCA's attention and which impacts on the standards for the control of legionella in water systems as sought to be maintained by the LCA, and thereafter decide on the appropriate corrective action or disciplinary sanction.

The Complaints and Disciplinary Committee shall keep the Management Committee informed of all complaints and disciplinary matters.

A. COMPLAINTS PROCEDURE

a) Complaint by one member company against another

Unless there are exceptional circumstances, because of potential commercial conflicts between member companies, the LCA will not consider complaints made by one member company against another. The LCA will only consider complaints made by service users or a regulatory authority against a registered company. A regulatory authority can be both the HSE (Health and Safety Executive) or a local authority environmental health department and the complaint must be directly related to a legionella control issue.

Where a complaint is made by a member company but is claimed to originate from a service user, the LCA may suggest the complainant invites that service user to contact the LCA directly with the complaint regarding the member company.

Exceptional circumstances where the LCA might nevertheless investigate a complaint referred to it by one member company against another include a situation where credible documentary evidence is provided suggesting an immediate risk to public health, or the matter raises major concerns that impact upon the standing and reputation of the LCA, in which case the Complaints and Disciplinary Committee Chairman will decide what action to take in accordance with this Procedure.

Another exceptional circumstance under which the LCA would consider a complaint by one member company against another is where the complainant has sub-contracted the provision of legionella control services to the other member company and then, in their capacity as the customer, has serious concerns about the performance and competency of the sub-contractor and evidence of non-compliance with the Code of Conduct.

b) Complaint by a Service User or a Regulatory Authority against a member company

Stage 1 – Receiving the complaint

- i) The LCA will only consider written complaints sent in on the LCA Complaints Form (LCA/CF). If the LCA is contacted by telephone, the complainant and member company's details will be recorded. The complainant will be informed that the LCA can only consider complaints received in writing, and will be invited to submit the complaint in writing to the Chairman of the Complaints and Disciplinary Committee.

Once all the necessary information is available from the complainant it will be forwarded to:

- the Complaints and Disciplinary Committee Chairman
- the Chairman and Vice-Chairman of the Management Committee
- the Assessor Co-ordinator(s)

The Complaints and Disciplinary Committee Chairman will decide on a case-by case basis whether it is appropriate to involve any other Management Committee members in reviewing the complaint.

Stage 2 – Investigation of the Complaint by the Complaints and Disciplinary Committee

The Complaints and Disciplinary Committee Chairman is responsible for coordinating the review and investigation of the complaint and formulating an appropriate response and action plan in a timely manner.

Where there is concern as to the confidentiality of the source of a complaint, the Complaints and Disciplinary Committee Chairman need only provide the essence of the complaint and need not disclose the complaint itself, but will include such amount of detail as will enable the member company to investigate its actions and procedures, and respond.

Stage 3 – Decisions by the Complaints and Disciplinary Committee

The Complaints and Disciplinary Committee shall meet or otherwise confer to consider the complaint and the written response received from the member company.

The Complaints and Disciplinary Committee will normally decide on one of the following outcomes:

- Complaint falls outside the scope of the LCA Complaints & Disciplinary Procedure
- No corrective action required by the member company
- Minor corrective action required on the part of the member company within a stipulated time-frame
- Substantial corrective action is required on the part of the member company or that the complaint involves misconduct, such as to warrant sanctions in accordance with A) or B) of the LCA Disciplinary Procedure detailed below (in which case, it shall decide upon the appropriate sanctions). In the event that the decision is to recommend that the member be suspended or expelled from membership in accordance with C) or D) of the LCA Disciplinary Procedure, it shall adjourn the matter to the next meeting of the Management Committee of the LCA. If necessary, such as in the case of gross misconduct, the full Management Committee can be consulted by email between meetings to arrive at a collective decision.

Stage 4 – Formal response to the complainant and to the member company

Following Stage 3, the Complaints and Disciplinary Committee Chairman will send a formal response to the complainant informing of the outcome. The Complaints and Disciplinary Committee Chairman will also inform the member company of any decision and/or corrective action required on the company's part and the reasons therefore.

Where the complaint or conduct has been adjourned for consideration by the Management Committee of the LCA, the Complaints and Disciplinary Committee Chairman shall inform the member company in the above terms following the decision of the Management Committee.

The Secretariat will maintain a record of the complaint, and include all correspondence in the member's file.

Stage 5 – Reporting to / Consultation with the Management Committee

Following final conclusion of the process (or the final outcome of the Disciplinary Procedure, where that has been implemented) the Complaints and Disciplinary Committee Chairman will report on the outcome of the complaint at the next regular meeting of the Management Committee of the LCA.

c) Serious failure by a member company to meet commitments under the Code of Conduct or to comply with the LCA Standards for Service Delivery or to meet the requirements of the LCA registration and audit processes

The aim of the LCA is to work with registered companies to help them to meet their commitments under the LCA Code of Conduct and to satisfy the requirements of the annual re-registration and company audits. The Secretariat and LCA Assessors are charged with implementing this policy and keeping the Assessor Co-ordinators and Management Committee informed of problems or non-compliance by member companies.

In the event of serious or persistent instances of non-compliance coming to the attention of the LCA, failure to take corrective action or respond to the requirements of registration and/or company audits, or misconduct by a member, the matter must be referred to the Chairman of the Complaints and Disciplinary Committee who will consider implementing the LCA Disciplinary Procedure as detailed below.

d) Procedure for dealing with a member company which is subject to formal enforcement action or prosecution

a) Formal enforcement action

On occasions when the LCA is notified or becomes aware that a member company is subject to formal enforcement action by the regulatory authorities up to and including prosecution the LCA will take action in accordance with this procedure when it is adjudged that the alleged breach represents a significant threat to public health or is a serious non-compliance with the Code of Conduct. In general this will mean that, if the formal enforcement action is a written warning or improvement notice, the LCA is unlikely to take action; however prohibition notices relating to legionella control will normally be investigated by the LCA.

In the event of a member company receiving a summons for an alleged offence relating to a legionella control matter the LCA will recognise a legal process is underway and regard the matter as sub judice. No investigation will be pursued and, if there was already an investigation in process prior to the summons, this will immediately be suspended. Thereafter, if and when the member company is prosecuted the LCA will act in accordance with the procedure detailed in b) Prosecution below.

Upon notification or becoming aware of formal enforcement action (excluding prosecution) against a member company the LCA will proceed as follows:

- i) The Chairman of the Complaints and Disciplinary Committee will ask the member company for details of the enforcement action and the background to it.
- ii) If, in the opinion of the Complaints and Disciplinary Committee, the background to and nature of the enforcement action does not warrant LCA involvement the Chairman of the Complaints and Disciplinary Committee will inform the member company promptly that the LCA will take no further action.
- iii) If the enforcement action relates to a significant threat to public health or a serious breach of the Code of Conduct the Chairman of the Complaints and Disciplinary Committee will inform the member company that the LCA wishes to investigate the matter further and receive assurances that corrective action has been or is being taken.
- iv) The member company will be asked for a report of what went wrong, what enforcement action was taken and what corrective and preventive actions have been put in place to prevent a recurrence.
- v) Depending on the response from the member company the Chairman of the Complaints and Disciplinary Committee may initiate a meeting with the management of the member company or a special company audit with the aim of determining that appropriate corrective actions have been taken and that the management systems are satisfactory.
- vi) The Complaints and Disciplinary Committee will consider the response and actions of the member company and decide if any further action is required in accordance with Stage 3 of the Complaints procedure
- vii) If the investigation concludes that the actions have been inadequate and management systems are not satisfactory, then the Disciplinary Procedure will be invoked

b) Prosecution

It is recognised that a member company may be subject to a HSE prosecution for a legionella control related breach of law. The LCA shall await the outcome of the prosecution before taking any action against the member company in question.

When the LCA becomes aware of a completed prosecution process of a member company for a legionella related matter, whether successful or otherwise, then the circumstances of the prosecution and the company's registration status will be promptly investigated by the Complaints and Disciplinary Committee. The procedure set out in Stage 3 will apply, with the further modifications set out below:

- i) The Chairman of the Complaints and Disciplinary Committee will investigate the details of the prosecution and the background to it.
- ii) The member company will be asked for a detailed report of what went wrong, why it was prosecuted and what corrective and preventive actions have been put in place to prevent a recurrence.
- iii) When deemed necessary the Chairman of the Management Committee or his delegate will request an early meeting with senior management of the member company to discuss the circumstances of the prosecution and/or the member company's report.
- iv) The Chairman of the Complaints and Disciplinary Committee may initiate a special company audit, at a cost to the LCA member, that specifically targets the areas of failings that led to the prosecution. The most recent company audit and annual re-registration submission of the member company will also be reviewed. The aim is to verify that claimed corrective actions have been implemented and management systems are sufficient. The member company is required to pay for the cost of the special audit.
- v) If the review of the circumstances and/or the audit concludes that corrective actions have addressed the issues, and management systems are satisfactory, then registration can continue. A summary of the Complaints and Disciplinary Committee's findings and the lessons learned is to be prepared. This may be distributed, at the discretion of the Chairman of the Management Committee, upon the request of other LCA registered companies or other interested parties.
- vi) If any special audit concludes that the actions have been inadequate and management systems are not satisfactory, then the Disciplinary Procedure will be invoked. Normally membership should be suspended and the member removed from the website until such time as corrective actions have been taken and management systems adjudged satisfactory as per iv) above.

B. DISCIPLINARY PROCEDURE

Examples of circumstances under which the Disciplinary Procedure will be invoked include:

- Any complaint against a member company suggesting substantial failures in systems or procedures to control the risk of legionella
- Persistent or serious failure to address company audit / registration renewal corrective actions
- Matters of public concern relating to legionella control as a result of a member company's conduct
- Actions by the member company which may be considered to bring the LCA into disrepute
- When a member company fails to respond satisfactorily to formal enforcement action or prosecution for legionella related matter

A non-exhaustive list of disciplinary sanctions and escalation steps is tabulated below.

The Complaints and Disciplinary Committee has the authority to implement the disciplinary action in steps A) & B), but can only implement steps C) with the agreement of a majority of the voting members of the Management Committee of the LCA. Should any other sanctions against a member company be proposed these will be agreed in advance with the Directors of the LCA.

A summary of the disciplinary investigation and outcome will be prepared and kept on file.

DISCIPLINARY STEP	SANCTION THAT IS TO BE APPLIED
A. Written warning	A private letter to the member company requiring it to carry out certain actions within an reasonable time and to provide evidence it has done so. Failure to do so will result in an escalation of the Disciplinary Procedure.
B. Suspension of membership	The member company's entry will be removed from the LCA website completely. The company will not be allowed to represent itself as being an LCA member during the period of suspension. When the necessary corrective action has been taken and the suspension has been lifted then it can return as a full member. Failure to address the issues within the required time frame will result in expulsion from the LCA.
C. Expulsion from LCA	The member company is removed from the website and must return its registration certificate to the LCA. The period of expulsion will be determined by the Management Committee, after which time the company may reapply for LCA membership.

APPEALS PROCESS

A member company has the right to appeal against any suspension or expulsion of membership. It must do so in writing within 14 days of being notified of a decision against it to that effect.

The appeal will be by way of reconsideration of the merits of the decision and the reasons for it, and will be considered by the Directors of the LCA whose decision will be final.