

NROSO Disciplinary Code

1. Introduction

- 1.1. This disciplinary code is intended to set out how Complaints about alleged breaches of the NROSO Code of Conduct (“the Code”) should be made, how they will be investigated and determined and what sanctions may be applied if a Member is found to be in breach.
- 1.2. A number of key elements have been incorporated into this disciplinary code to ensure that:
 - (a) the procedures set out are fair and reasonable to all parties involved;
 - (b) investigations are carried out expeditiously and thoroughly;
 - (c) unsubstantiated and vexatious complaints are not pursued;
 - (d) appropriate sanctions are applied where a Member has been found to be in breach of the Code, taking into account all relevant circumstances;
 - (e) there is an appropriate balance between transparency, timeliness and maintaining confidentiality.
- 1.3. A list of definitions of capitalised terms used in this disciplinary code is set out at the end.

2. Complaint

- 2.1. Any Complaint should be made in the first instance to the Membership Manager.
- 2.2. The Complainant should set out clearly how they consider the Code has been breached, by whom and when. They must support their Complaint with Written and/or photographic evidence (which may include video footage where relevant).

3. Preliminary review

- 3.1. The Complaint will be acknowledged by the Membership Manager who will lead an initial review.
- 3.2. If it appears from the preliminary review that there has been a prima-facie breach of the Code, the Membership Manager will report the Complaint promptly to the Chair of Professional Standards Committee.
- 3.3. If it is decided that there is no case to answer, no further action will be taken other than informing the Complainant within ten (10) Working Days of the decision. The Complainant has the right to appeal in writing against the decision. Any appeal must be submitted to the Membership Manager within ten Working Days of the Complainant receiving notification of the decision.
- 3.4. If an appeal from the Complainant is duly received the Complaint will be further reviewed as set out in clause 4 below.

4. Further review and investigation

- 4.1. On receiving any report of a Complaint following a preliminary review by the Membership Manager, or any appeal by a Complainant against a decision that there is no case to answer, the Chair of the Professional Standards Committee shall review the Complaint.

- 4.2. If the Chair decides that there is no case to answer he/she shall dismiss the Complaint. The Complainant shall be notified within ten Working Days of the Chair's decision.
 - 4.3. In all other cases, the Professional Standards Committee shall appoint a Disciplinary Panel ('the Panel'), ensuring that members of the Panel are free from conflicts of interest and able to exercise independent judgement in relation to the Complaint. A secretary (who may be the Membership Manager) shall be appointed to provide administrative support but must take no part in the Panel's deliberations.
 - 4.4. The Panel shall, as soon as possible after receiving details of the Complaint, conduct a further review. This review may be conducted via email or by other means.
 - 4.5. If the Panel considers that there is no case to answer or that the breach complained of is trivial it may dismiss the Complaint without reference to the Member. No record of the Complaint will be attached to the Member's record.
 - 4.6. The Panel shall notify the Complainant within ten Working Days of its decision.
 - 4.7. In all other cases the Panel will advise the Member of the Complaint, together with supporting evidence, and will seek the Member's view, allowing 28 Working Days for the Member to respond (with further time extensions at the discretion of the Chair of the Panel).
 - 4.8. The Panel may at any time ask the Panel secretary to communicate confidentially with third parties (e.g. manufacturers of recommended products) to clarify issues or concerns. The Panel may also at its discretion, and with a view to determining the Complaint, request further information from the Complainant (such further information always to be made available to the Member under investigation).
 - 4.9. If, after considering the Member's view and any further information received from the Complainant or third parties, the Panel is of the opinion that there is no case to answer, no further action will be taken and the Member and the Complainant will be notified accordingly. No record of the Complaint will be kept on the Member's record.
 - 4.10. If the Panel considers that there has been a breach of the Code by a Member but that the breach is not sufficiently material or serious enough to justify a formal warning or the requirement for mandatory additional training, the Panel may contact the Member to resolve the matter informally and without further action under this disciplinary code. No record of the Complaint will be kept on the Member's record. The Complainant will be notified accordingly.
5. Disciplinary hearing
- 5.1. If the Complaint has not been dismissed or resolved informally following the Panel's review, the Panel shall proceed to hold a disciplinary hearing and shall notify the Member concerned in writing (by registered post or its equivalent). Such notification shall include:-
 - a) the date and time the panel will meet to consider the Complaint (such time to be agreed with the Member where possible) and whether the hearing will be held in person or remotely by video;

- b) the Member's right to attend the hearing and to nominate a representative to speak on their behalf;
 - c) their right to call witnesses;
 - d) their right to present further written information and photographic evidence before the hearing and the deadline for doing so;
 - e) their right to have copies of relevant correspondence made available, on request;
 - f) a copy of this document and the NRoSO Code of Conduct.
- 5.2. The Panel shall also notify the Complainant that a disciplinary hearing is to take place. At the discretion of the Chair of the Panel the Complainant may be invited to meet the Panel and make representations in relation to the Complaint. Any such meeting should be separate from the disciplinary hearing attended by the Member.
- 5.3. Should the Member fail to acknowledge the Panel's notification of the Panel hearing within 21 Working Days, then a second attempt will be made to contact the Member to ensure that the notification and its contents have been received.
- 5.4. Depending on the circumstances, the Chair of the Panel may consent to setting a new date for the disciplinary hearing to enable written evidence to be submitted and be considered by the Panel.
- 5.5. The Panel may then proceed with the case without further reference to the Member, whether they decide to attend in person or not, and may take any action it considers appropriate to determine the Complaint.
- 5.6. At the Panel hearing the Member may present their arguments or have them presented by their representative. The Member may call witnesses but may not cross-examine them. The Panel may ask questions of the Member, the Member's representative or the witnesses called by the Member.
6. Decision
- 6.1. After the disciplinary hearing the Panel shall consider the Complaint in the absence of any third parties. If the Panel is divided on the outcome, the Chair of the Panel shall have a casting vote.
- 6.2. In deciding whether the Code has been breached and, if so, what penalty is appropriate, the Panel must take into account only relevant considerations and the circumstances of the alleged breach. It may also take into account previous breaches of the Code which are noted on the Member's record, but not previous complaints which have been dismissed.
- 6.3. The Panel, in reaching its decision, shall have regard to the guidance on the application of sanctions at Appendix 1 of this disciplinary code. It shall decide one or more of the following outcomes:-
- a) No case to answer ('no breach of the Code');
 - b) No further action;
 - c) The Member should be issued with a warning as to their future conduct;

- d) The Member should be required to undertake retraining relevant to the Complaint within a given timeframe and submit proof of that such training has taken place;
 - e) A strong written reprimand should be issued to the Member;
 - f) The Member should be suspended from the NRoSO for a specified period; or
 - g) A recommendation to the Professional Standards Committee that the Member be removed from the NRoSO.
- 6.4. The decision, with the exception of (a) above, will be added to the Member's record on the NRoSO register and except in exceptional circumstances (at the discretion of the Panel) shall remain on the Member's record for a minimum of three years.
- 6.5. The Panel's conclusion, with written reasons, shall be confirmed promptly in writing to the Member, the BASIS Chief Executive and the Complainant.
7. Appeal
- 7.1. The Member may appeal against the Panel's decision, in writing, within ten Working Days of receiving notification of the Panel's decision.
- 7.2. In the event of an appeal, the matter shall be referred to an Arbitrator. The Member and the Panel shall endeavour to agree the Arbitrator's appointment in the first instance, but if no agreement is reached within two months of the date of the Member's appeal, the Member may make the appointment (subject to their having lodged the estimated costs of the appeal as set out below). It is acknowledged that the Arbitrator may need to appoint assessors if the appeal involves complex technical issues.
- 7.3. The secretary to the Panel shall make an estimate of the costs of the appeal and shall inform the Member. The Member will be required to lodge the estimated costs with BASIS before the referral to the Arbitrator. If the Member's appeal is successful, the costs will be returned to the Member and all other costs will be borne by BASIS.
- 7.4. The Arbitrator's decision shall be final.
8. Further notification
- 8.1. Once a final decision is reached, either by the Panel or after a subsequent appeal the following should also be notified: the BASIS board of directors and the NRoSO Advisory Board.

Definitions

Arbitrator	A member of the Chartered Institute of Arbitrators or a body of similar standing and remit
BASIS	BASIS Registration Limited
Chair	The person duly appointed to chair the proceedings of the BASIS board of directors, the NRoSO Advisory Board or the Disciplinary Panel as the case may be
Code of Conduct ('the Code')	The NRoSO Code of Conduct that was in force at the time of the Complaint
Complaint	<p>An expression of dissatisfaction by one or more members about the standard of service, action or lack of action, provided by BASIS.</p> <p>OR</p> <p>An allegation or claim that there has been one or more breaches of the NRoSO Code of Conduct by a Member</p>
Complainant	A person or organisation who is making the complaint.
Disciplinary Panel ('the Panel')	A group appointed by the Professional Standards Committee to review, investigate and determine a Complaint. The Panel will be made up of the Chair of the Professional Standards Committee (who will act as Chair of the Panel), two Members selected from BASIS committees or the Professional Register, one of whom is engaged in the same discipline as the Member under investigation, one other member of the BASIS board of directors, and the BASIS Chief Executive or their deputy (who shall act only as adviser to the Panel and shall take no part in the Panel's decision making)
Member	A member for the time being of the NRoSO Register
NRoSO Register	The National Register of Sprayer Operators (NRoSO) is a central register of sprayer operators using Continuing Professional Development (CPD) as a means of ensuring ongoing training. NRoSO is maintained by BASIS under contract from the Voluntary Initiative.

Membership Manager	The person within BASIS who has primary operational responsibility for management and maintenance of the NRoSO Register or their authorised deputy
Professional Standards Committee	An independent committee of BASIS charged with ensuring that professional standards of Members are upheld
Working Day	Any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in any part of the United Kingdom
Writing/Written	Any means representing or producing words in a visible form (including email, text messages and messages communicated via electronic applications)

APPENDIX 1**Guidance on the application of sanctions under the NRoSO Disciplinary Code**

Category	Relevant Factors	Other Comments
a) No case to answer ('no breach of the Code').		
b) No further action.	<p>There has been a technical breach of the Code.</p> <p>The breach is not such a significant/material breach as to merit a warning to the Member taking into account all the circumstances.</p> <p>The member has no previous incident on their record. No harm has occurred to farm production or the environment.</p>	
c) The Member should be issued with a warning as to their future conduct.	<p>There has been a material breach of the Code.</p> <p>The member has no previous incident on their record.</p> <p>No harm has occurred to farm production or the environment.</p>	
d) The Member should be required to undertake retraining relevant to the Complaint within a given timeframe and submit proof of that such training has taken place.	<p>There has been a material breach of the Code.</p> <p>The error/ breach is deemed by the Panel to demonstrate a very basic misunderstanding/ lack of awareness of a fundamental principle of the relevant register.</p> <p>The member may have previous incident(s) on their record.</p>	

<p>e) A strong written reprimand should be issued to the Member.</p>	<p>A. There has been more than one material breach of the Code for whatever reason.</p> <p>B. The Member's action(s) is/are deemed to pose a potentially serious threat to:</p> <ul style="list-style-type: none"> - Production - Environment - Other operators - General public - Industry reputation 	
<p>f) The Member should be suspended from the NRoSO Register for a specified period</p>	<p>A. The Member's action or recommendation has been found to pose a potentially serious threat to:</p> <ul style="list-style-type: none"> • Production - Environment – Other operators - General public <p>B. Industry reputation. Two or more established and recorded significant breaches of the Code.</p>	
<p>g) A recommendation to the Professional Standards Committee that the Member be removed from the NRoSO Register</p>	<p>There has been a gross breach of the Code.</p>	

OUTLINE OF NRoSO DISCIPLINARY CODE

To be read in conjunction with NRoSO Disciplinary Code

