



# THE ROYAL BRITISH LEGION

(Incorporated by Royal Charter)

199 Borough High Street  
London SE1 1AA



# COMPLAINTS PROCEDURES

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## FOREWORD

The Royal Charter of Incorporation and Schedules requires the Membership Council (MC), or person(s) approved by them, to investigate complaints whether made against an individual person or a Legion body or formation. The procedures to be followed shall be as prescribed by the MC.

This document, '**RBL Complaints Procedures**', sets out the framework of procedures prescribed by the Board of Trustees upon which all Legion investigations are to be based. The procedures are designed to meet the provisions of the current Royal Charter. This document and relevant guidance does not provide procedural or administrative advice outside the conduct of an investigation; guidance on other administrative or procedural matters should be sought from appropriate field staff or Head Office.

The '**RBL Complaints Procedures**' will operate through Legion Investigation Panels (IPs). The IPs will investigate complaints originating from the Board of Trustees, MC, County/District and Branch Committees and individuals. The IP has the authority, conferred by the Royal Charter, to investigate matters and to decide upon and make penalty award(s).

An attempt at resolution is to be made in respect of complaints, whether made against, or by, an individual or body, before formal proceedings are undertaken. Counties/Districts and Branches should attempt to settle informally complaints which are personal disputes that are not serious enough to warrant a formal Legion Investigation. Formal Legion Investigations are reserved for serious matters that are detrimental to the interests of the RBL as a whole. They are time-consuming and expensive affairs that are not entered into lightly. There is no automatic right to have a complaint investigated.

An individual Subject's rights, balanced with the best interests of the Legion, are the foundation to conduct a fair, impartial investigation to resolve complaints within the established procedures, the Rules of Natural Justice and Rules of Evidence.

Any queries or questions of interpretation with regard to the contents of this document are to be referred to the Membership Management Adviser (MMA) at Head Office (020 3207 2340).



**CHAIRMAN LEGION COMPLAINTS COMMITTEE**

## DEFINITIONS

<b>Appeal</b>	An individual, body or formation of the Legion has the right to request a reconsideration of a decision or penalty award made by a Legion IP. There is a right to appeal, not a right of appeal.
<b>Complainant</b>	The person, body, group of members or Legion formation making a complaint under the current Royal Charter.
<b>Complaint</b>	Any matter, e.g. an alleged incident of mismanagement or misconduct that is brought to the attention of the Legion Complaints Committee (LCC), which is then considered serious enough to be the subject of an investigation under the current Royal Charter.
<b>Convening Instruction (CI)</b>	A written directive to an IP arranging for an investigation, produced on behalf of the MC
<b>Finding</b>	A conclusion reached by a Legion IP or the LCC based upon the preponderance of evidence.
<b>Hearsay</b>	Evidence given by a witness based upon information received second hand from others rather than direct personal knowledge.
<b>Investigation</b>	The procedure for inquiring into a complaint in order to establish the facts by questioning witnesses, hearing evidence, or gathering information in other ways and thereby basing the findings of the investigation upon the preponderance of evidence, arriving at a decision, making penalty award(s) and, if necessary, making recommendations.
<b>Investigation Panel (IP)</b>	A Panel of 3 or 5 Qualified Panel Members (QPM), augmented, where necessary, by personnel with specialist skills, nominated by the Chairman of the LCC (CLCC), in consultation with the Deputy Director General (DDG) or nominated representative, if necessary, to investigate and decide on certain matters.
<b>Legion Complaints Committee (LCC)</b>	The LCC is a body composed of members of the MC. The CLCC will be appointed by the Chairman of the MC. The LCC will decide on complaints, appeals and connected matters concerning complaints within the Legion.
<b>Mediation</b>	Intervention in a dispute in order to resolve it.
<b>Panel Advisers</b>	Professionally qualified individuals requested to attend an IP to provide advice.
<b>Panel Chairman (PC)</b>	A QPM appointed by the LCC Chairman, in consultation with the DDG or nominated representative, if necessary, to chair an IP.
<b>Penalty Award</b>	The action(s) which the Panel decides to impose following an Investigation. A penalty award made regarding membership status applies equally to non-members, TRBL members and The

Royal British Legion Women's Section (WS) members.

<b>Preponderance of Evidence</b>	The greater weight of the evidence required for the IP to decide in favour of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.
<b>Qualified Panel Member (QPM)</b>	A person trained by the Legion to carry out investigations as part of an IP.
<b>Recommendations</b>	Recommended course(s) of action to be implemented as a result of the findings of an investigation.
<b>Record of Proceedings (ROP)</b>	A written report made by an IP or the LCC of its proceedings, evidence, findings, penalty award(s) and recommendations.
<b>Statement</b>	A formal account of the facts made and signed by an individual for use during an investigation.
<b>Subject</b>	The person, body, group of members, or Legion formation against whom a complaint has been made and whose activities are to be investigated under the current Royal Charter.
<b>Terms of Reference (TOR)</b>	A collection of points, contained in the CI, which must be investigated and reported upon by a Panel or LCC.
<b>Volunteer</b>	A person, not necessarily a member, acting on behalf of the Royal British Legion (e.g. a Poppy Appeal Collector).

Note:

- In this guidance, the use of '**must**' means it is a specific requirement. Compliance with these requirements, as indicated, is mandatory. The uses of '**should** or '**may**' are for items regarded as minimum good practice, but for which there is no specific requirement. Discretion and good practice guidance should be used unless there is a valid reason not to do so.
- Reference to the Royal Charter in this guidance specifically refers to The 2003 Royal Charter of Incorporation and Schedules, of The Royal British Legion as amended.
- Words used in this document that indicate the male gender include the female gender.

**GLOSSARY OF ABBREVIATIONS**

Used throughout these procedures

AD (Ops)	Assistant Director (Operations)
CLCC	Chairman of the Legion Complaints Committee
CI	Convening Instructions
DG	Director General
DDG	Deputy Director General
IP	Investigation Panel
LCC	Legion Complaints Committee
MC	Membership Council
MMA	Membership Management Advisor
MSO	Membership Support Officer (Previously County/District Secretary)
PC	Panel Chairman
PM	Panel Member
PS	Panel Secretary
QPM	Qualified Panel Member
ROP	Record of Proceedings
TOR	Terms of Reference
WS	Women's Section

## **1. MAKING A COMPLAINT**

### **1.1 Who may make a Complaint?**

A complaint may be made by any of the following:

- A person (member or non-member) refused membership by a Branch Committee.
- A member who has been refused transfer to another Branch.
- A member, volunteer, client, member of the public, member of staff or committee who believes a Branch Committee, Branch sub-Committee or member has acted in a way that is detrimental to the interests of the Legion.
- A Branch that is dissatisfied with a decision of its County/District Committee relating exclusively to that Branch.
- Any Committee or sub-Committee that believes a person has acted in a way that is detrimental to the interests of the Legion (internally or externally).
- Any member or formation who believes that a person or formation has acted in a manner contrary to the Royal Charter.

The LCC may decide to establish an IP on the basis of evidence provided in Internal Audit or Compliance Audit reports. A complainant is not required in this case.

### **1.2 Complaint about a Member of Staff**

A member may raise a complaint about a member of staff for acting in a way that is detrimental to the interests of the Legion or in a manner contrary to the Royal Charter.

Such a complaint must be sent to the Director General (DG) who will, following consultation with the CLCC determine any necessary action either personally or through a nominated representative. The LCC should act in an advisory role. The Director HR must be consulted in any subsequent action taken.

Should such a complaint be made against the DG or the DD G then the matter should be referred to the Governance Committee who will determine and take any necessary action-  
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### **1.3 Complaint by a Member of Staff**

A RBL member of staff may raise a complaint about a member, a County/District Committee or sub-Committee or a Branch Committee or sub-Committee for acting in a way that is detrimental to the interests of the Legion or in a manner contrary to any Article, Rule or Governing Regulation in the Royal Charter.

Such a complaint must be sent to both the line manager of the complainant and to the CLCC. At this stage the line manager must attempt to mediate between the parties involved with the support of a County Committee member or MC member. The outcome of that mediation must be conveyed to the CLCC.

The CLCC, following consultation with the DG or his nominated representative, will decide whether the complaint should be investigated. This decision will be made after mediation

attempts have been made and exhausted by the line manager, in consultation with the relevant Head of Department.

If the CLCC decides to establish an IP, the Chairman of that IP must be a member of the Board of Trustees or the MC. A member of staff from Human Resources Directorate must attend any proceedings and act as a Panel Adviser.

#### **1.4 How to Raise a Complaint (Not involving members of staff)**

Any complaint being raised against a member of the Board of Trustees or a member of the MC should be directed to the CLCC. He, In turn, will pass the complaint directly to the Governance Committee who will determine and take any necessary action.

In cases where an individual wishes to raise a complaint, the matter must first be raised at a meeting of the complainant's Branch Committee. The Branch Committee must attempt an informal discussion to try to come to an amicable resolution which should be duly recorded. If the matter is not resolved the complainant may ask the County/District Committee to attempt an informal resolution. Again the mediation process must be recorded. Should the matter be serious enough and cannot be resolved locally, the complainant may make a formal written complaint to the CLCC. A formal complaint may be referred back down to the Branch or County/District level if the CLCC decides the matter is best dealt with at that level.

If the complaint is made against a Branch Committee or any Branch Officer or Committee Member, it must first be brought before the County/District Committee for informal resolution. If that fails to resolve the issue, a formal complaint may be made in writing to the CLCC.

Any complaint against a County/District Committee, Officer or Committee Member must be made in writing to the CLCC. The CLCC may recommend for a MC member to mediate prior to investigation. Any such mediation must be recorded.

In cases where a Legion formation wishes to make a complaint it must do so in writing to the CLCC.

The phrase 'in writing' includes the use of emails. However, the LCC retains the right to request a written and signed complaint.

There may be circumstances where it is inappropriate to report a complaint to the Branch or County or it is unclear who has jurisdiction over an incident. Such cases are to be referred directly to the CLCC.

#### **Branches and Counties/Districts have no authority to conduct formal investigations or make penalty awards.**

Prior to a formal complaint being made to the LCC, the complainant must confirm that the matter has been brought before the Branch/County/District Committee and remains unresolved. The complainant must include their details when making a complaint including their membership number if a Legion member. A complaint must be made by the person or body directly concerned, not "on behalf of". Anonymous complaints will not be accepted unless there are particularly compelling reasons to do so. The complainant must be aware that the details of the complaint will be released to the Subject prior to an IP and



as part of the ROPs after the conclusion of an IP. Complainants must be prepared to be present in person and give evidence to an IP where the complaint is investigated.

A complaint must clearly state, as a minimum:

**WHO** the complaint is against?

Including clear and thorough identification of any individual(s) or groups involved.

**WHAT** is the nature of the complaint?

Including sufficient detail to enable the Chairman of the LCC to make an informed decision on whether or not to investigate.

**WHEN** the incident occurred?

Including precise dates, times, etc.

**WHERE** the incident occurred?

Including the precise location, surroundings, etc.

**WHY** the incident is serious enough to be a complaint?

Including reasons for which the incident should be brought to Branch, County/District, or National level and what has been done at each lower level to resolve the situation.

**HOW** the incident brings the Legion into disrepute?

Including precise details based on objective facts and not opinions or subjective feelings.

Branches and Counties are to complete the Mediation Form (Annex H to these procedures) prior to the complaint being forwarded to the LCC.

### **1.5 Action by CLCC**

The CLCC may consult with the appropriate staff and will decide if a formal complaint is to be investigated. **There is no automatic right for a complaint to be investigated.** There are many reasons why the CLCC may decide not to proceed. Common reasons include, but are not limited to:

- The complaint does not clearly indicate; who, what, when, where, why and how.
- It is solely a Club matter and is best dealt with under Club disciplinary procedures;
- The action is not obviously detrimental to the interests of the Legion;
- It is a criminal legal matter that should be referred to the police (but may subsequently be the subject of a formal investigation);
- The action is of a less serious nature and an attempt should be made at a lower level to achieve an informal resolution.

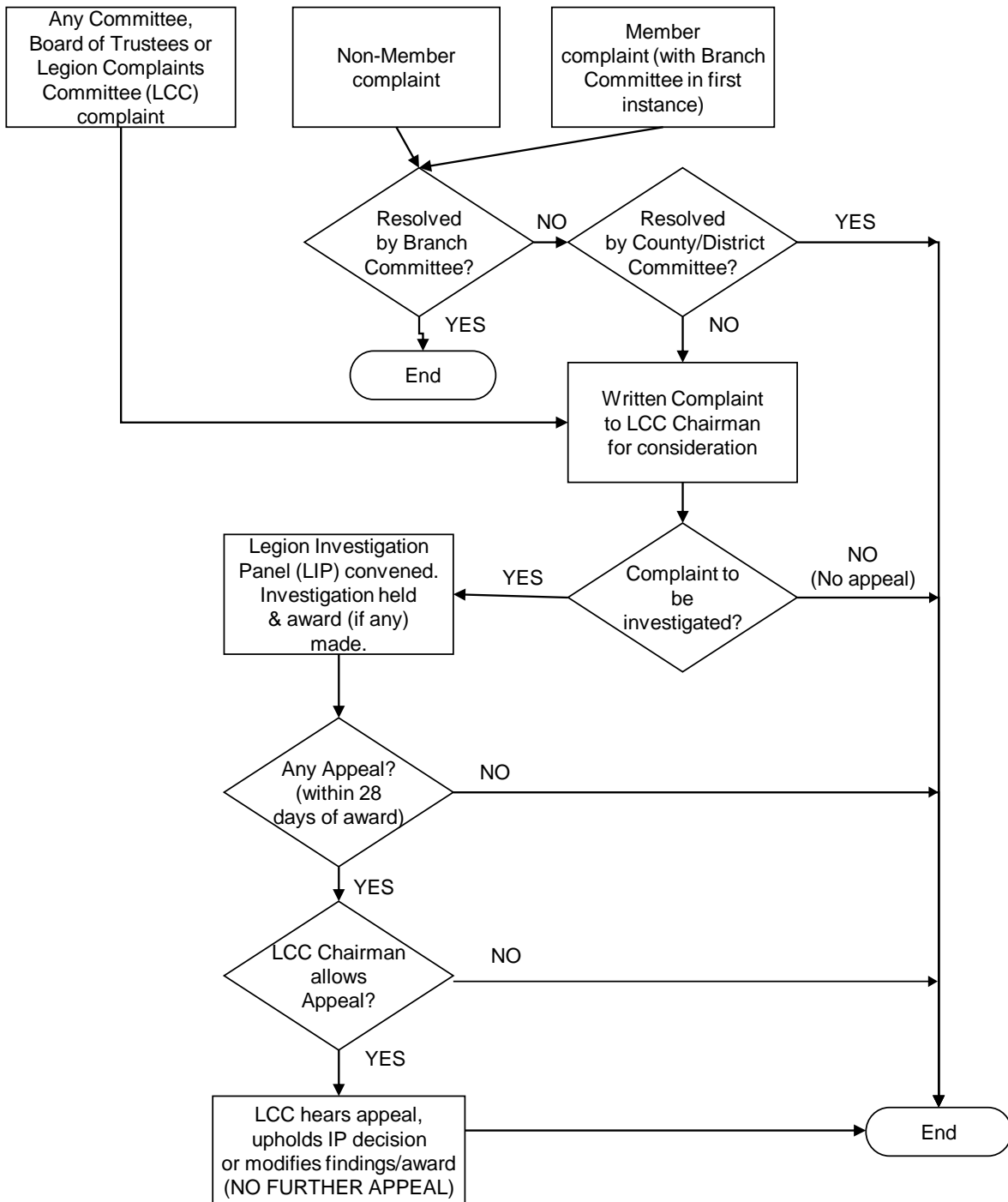
If the CLCC decides that a matter warrants a formal investigation, he is to establish an IP and issue correctly constructed CIs. There is **no appeal** against the decision of the CLCC on the decision to hold a formal investigation.

## **1.6 Suspension prior to an Investigation**

If it is necessary to protect the interests of the Legion prior to an investigation, the LCC or a Legion IP in consultation with the LCC, may suspend any County/District, Branch, Committee, sub-Committee or member for up to 90 days prior to a formal investigation. When necessary this suspension may be granted electronically by the LCC. The suspension may be revoked or extended by the MC or the LCC acting on its behalf..

The Board of Trustees, MC or a County/District Committee may recommend to the CLCC the suspension of a Branch, a Branch Committee, a Branch sub-committee or member for up to 90 days pending an investigation by the LCC or a Legion IP. The suspension may be revoked or extended by the MC or by the LCC.

**2. OUTLINE OF THE RBL COMPLAINTS PROCEDURES, APPLIED TO MEMBERS & VOLUNTEERS**



### **3. COMPOSITION OF THE IP**

#### **3.1 General**

The IP functions to investigate matters on behalf of the MC. County/District and Branch Committees, Members and individuals under the Royal Charter.

#### **3.2 The Panel**

A Panel is composed of 3 or 5 QPMs, one of whom is appointed as PC by the CLCC. Where necessary, the IP will be supported by staff with specialist skills. The PC must have no personal interest in, or prior knowledge of, the matter(s) to be investigated. A PS will be appointed from the area of responsibility in which the IP is conducting the investigation. The PS will be responsible for the provision of secretarial/administrative support. Where possible, the Legion's travel booking system should be used for booking transport and accommodation. The PC must check the suitability of his PM by ensuring that they have no personal interest in, or previous knowledge of, the case to be investigated.

#### **3.3 Staff Support**

The nominated representative of the DDG is responsible for notifying the PC of his appointment and of the impending investigation. The MMA will advise the PC of the administrative support to be provided and the name of the member of field staff who is to act as PS. The PS will be selected from an area outwith his own area. The DDG or nominated representative, in consultation with the CLCC and the relevant AD (Ops), may assign a new PS if any PM has a valid objection to the assigned individual. The PS, in consultation with the PC, is responsible for administrative support to the IP and for providing guidance on Legion matters and procedures. The PS is jointly responsible, with the PC, for producing a ROP and follow-up action as appropriate which includes notifying all parties concerned (usually Head Office, County/District, Branch(es), subject and complainant) of the outcome of the Investigation.

The responsibilities of the field staff are set out separately.

#### **3.4 Panel Advisers**

Where the IP requires advice of a technical nature, or assistance in the interpretation of complex evidence that cannot be provided by the PS, one or more Panel Advisers may be invited to assist the IP, for example Human Resources, Internal Audit or Accounts. The PS should pass any request for advisers to the DDG or nominated representative, to facilitate coordination among Directorates.

## **4. ROLES OF THE INVESTIGATION PANEL CHAIRMAN AND MEMBERS**

### **4.1 PC**

The PC is to chair the investigation. His overarching task is to conduct the investigation in accordance with the Royal Charter and the Legion's Complaints Procedures as set out in this document.

The CLCC is to supply the PC with a CI containing the IP's TOR. This is to contain a brief on the suggested scope and requirements of the Investigation, the matter(s) to be investigated, the evidence (written and oral) to support a complaint and a suggested list of witnesses required to support the evidence supplied. The PC may call for additional witnesses and may pursue any reasonable line of inquiry in order to comply with the IP's TOR. Individuals, including members of Legion staff, may be invited to appear before the IP to be interviewed and questioned on the pertinent matters of the IP. Relevant documents, written or other evidence may be called for examination by the IP. The PC is to refer any queries to the CLCC if the PS is unable to resolve them.

The PC must ensure that the Investigation is conducted in keeping with the Rules of Natural Justice (see page 24 ), that it is equally fair to all parties, and that all parties are afforded reasonable assistance in bringing their evidence before the IP. The PC has the discretion to limit the number of witnesses and amount of evidence brought before the IP. This is to ensure that only relevant evidence is presented, that the process is kept fair for all parties involved and that the complaint is resolved in a timely manner.

In assembling the IP's findings, the PC must ensure that the IP takes account only of the evidence which the IP has heard or seen, and is not influenced by any other considerations. Although the ROPs are to be drafted by the PS, it is the PC's responsibility to ensure that it reflects accurately what has taken place.

The PC may be required to present the proceedings to the MC or to the LCC in person.

### **4.2 PMs**

Each PM must assist the PC in carrying out his responsibilities (as set out above), particularly in the fair and equitable treatment of all parties concerned, their representatives, witnesses and evidence.

Each PM must attempt to reach his own conclusions based upon the preponderance of the evidence that he has seen or heard, and only vary his judgments with good reason and after proper consideration.

## **5. RESPONSIBILITIES OF THE FIELD STAFF**

### **5.1 AD (Ops)(North, Midlands, South)**

The AD (Ops) must satisfy himself that the correct level of secretarial and administrative support is provided to each IP undertaking investigations in his area of responsibility.

### **5.2 Field staff**

Staff MSOs must be prepared to provide the necessary secretarial/administrative support and guidance to an IP as required by their line manager and to act as the PS. A rota showing the MSO who have acted as PSs is available from the MMA.

The PS is to receive from the DDG, or nominated representative, copies of the Convening Instruction and documentary evidence available at the time.

The Staff MSO asked to provide support to an IP investigation is to:

- Undertake the administrative arrangements for the IP as agreed with the PC.
- Assist the PC in producing a ROPs of the investigation, which is circulated to other members of the IP for their endorsement, and dispatch it to the CLCC.
- Advise all concerned, on the authority of the CLCC, of the outcome of the Investigation. The subject and complainant must be advised of the outcome of the complaint before the staff MSO and AD (Ops) are advised.
- Provide the IP with guidance on Legion administrative policy and procedures when requested or thought necessary.

## **6. INVESTIGATION PANEL PROCEDURES**

### **6.1 Convening an IP**

Any complaint may be investigated by an IP as authorised by the current Royal Charter once the CLCC has determined that the complaint should be investigated under these procedures.

### **6.2 Initial Administration**

If the matter warrants an investigation, a PC will be appointed by the CLCC and a PS will be appointed by the AD (Ops) in consultation with the nominated representative of the DDG. The PC and PS will receive a written IP CI from the CLCC (see Annex A) containing details of the:

- Authority of the IP.
- PC and PMs.
- Matter to be investigated.
- TOR for the Investigation.
- Evidence available and a suggested list of witnesses.
- Guidance on additional evidence that may assist the IP.
- Details of Staff Support.
- Record of Proceedings requirement.

The PS may distribute further copies of the CI as necessary.

### **6.3 Preliminaries**

On receipt of the IP Convening Instruction, the PC, in consultation with the DDG, or nominated representative and, the PS, is to confirm the names of the PMs to assist in the investigation. The PS, in consultation with the PC is to:

- Determine the availability of all concerned to attend the IP and any disability access needs.
- Ensure that the venue is suitable i.e. the room can accommodate the IP and that there are adequate facilities for those involved in the IP when they are not required by the IP. There is no requirement for the IP to be held at the location of the Complainant or Subject. The location of the IP will be determined by the best interests of the Legion.
- Expenses will not, under normal circumstances, be paid to the Subject for any matters concerning the investigation. This includes, but is not limited to, travel costs, lost wages, legal fees, or any administrative costs. There will be no reimbursement of any expenses for witnesses called by the Subject. Payment of

expenses to the Subject, particularly in the case of a vexatious complaint, may be authorised by the CLCC.

- Upon receipt of the IP CI, the PS is to write to all parties concerned at least 15 working days prior to the date set for the IP to convene. The PS is to state the matter to be investigated, the Rule(s) and/or Governing Regulation(s) under which the IP is taking place, the date, time and venue for the IP and the rights of the Complainant(s), Subject(s) and witnesses. These must include the right to attend, to call witnesses to support their case, to have access to written evidence and opportunity to refute its contents and be represented by another member of the Legion, who shall not be legally qualified nor act in any legal capacity. A copy of the exact details (see Page 6 above) of the complaint must be provided to the Subject. A copy of the IP CI which contains the TOR for the Investigation must be provided both to the Subject(s) and Complainant(s).
- The PS is to collate all the evidence and distribute as indicated:
  - A copy of all written evidence must be provided to the Subject(s). A list of witnesses expected to appear before the IP and any evidence not provided previously must also be provided to the Subject(s) to allow time to prepare his defence. The information must be received by the Subject(s) no later than 10 working days prior to the IP convening.
  - If the Subject intends to produce any evidence or call any witnesses, he must provide a copy of any written evidence and a list of any witness he intends to bring before the IP. The information must be received by the IP no later than 5 working days prior to the IP convening. Failure to do so may prevent this evidence from being considered by the IP. The PC has the discretion to allow this evidence to be considered if the time limit has not been adhered to and good reasons have been shown. This decision, and the reasons, must form part of the ROPs.
- The PC will prepare an Investigation Plan prior to briefing the IP. This plan should include, as a minimum, evidence required, names and order of calling witnesses, order of questions. This planning phase should take place at least 3 days prior to briefing the IP. The Investigation Plan should be included in the ROP.

Once all the above has been completed to the satisfaction of the PC, the PC is to assemble the IP (to include Panel Advisers, as appropriate) to brief on:

- The authority and powers of the IP.
- The matter(s) to be investigated.
- The IP's TOR (Within the CI)
- The witnesses and evidence available, both of the IP and the Subject(s) (if any).
- The order in which evidence will be introduced and order and content of witness questions.
- The Record of Proceedings including statements, evidence, findings, penalty award(s), and recommendations.



## 7. INVESTIGATION PROCESS ACTION NOTES

It is essential for fairness and effectiveness that the PC is flexible in his approach to the manner in which the investigation is carried out. The following is a guideline and will assist the IP in their investigation and deliberations.

<b>7.1 Preliminary Briefing of Investigation Panel</b>	
The PC will brief the IP privately on:	<i>This enables the PC to satisfy himself that the investigation will proceed in a co-ordinated manner</i>
<ul style="list-style-type: none"> <li>• The authority and powers of the IP.</li> </ul>	
<ul style="list-style-type: none"> <li>• The matter(s) to be investigated.</li> </ul>	
<ul style="list-style-type: none"> <li>• The TOR of the IP.</li> </ul>	<i>The PC must ensure that PMs understand the scope or parameters of the investigation – i.e. what is to be investigated and what facts are to be established.</i>
<ul style="list-style-type: none"> <li>• The evidence required to support the complaint(s)</li> </ul>	<i>This may include identifying witnesses, the contents of Legion publications and policy documents, minutes, reports, accounts, and other material evidence.</i>
<ul style="list-style-type: none"> <li>• The order and manner in which evidence will be presented.</li> </ul>	<i>An investigation may require an IP to visit/convene in more than one location.</i>
<ul style="list-style-type: none"> <li>• The order and content of questions.</li> </ul>	<i>Reference to The TOR for the investigation will provide guidance on the type of questions.</i>
<ul style="list-style-type: none"> <li>• The ROP.</li> </ul>	<i>The ROPs must contain clear, indisputable findings without any possibility for misinterpretation, from which a fair penalty award and/or practical recommendations can result.</i>

<b>7.2 Preliminary Briefing of All Participants.</b>	
The PC briefs all concerned in the Investigation on:	<i>This is essential to assist the Investigation to run as smoothly as possible.</i>
<ul style="list-style-type: none"> <li>The identity and status of PMs and the PS.</li> </ul>	
<ul style="list-style-type: none"> <li>The reason for the Investigation and the matters to be investigated.</li> </ul>	<i>It is essential that all concerned understand the reason for the investigation and the matters to be investigated.</i>
<ul style="list-style-type: none"> <li>The manner in which the Investigation will proceed and seek confirmation from all present that they understand.</li> </ul>	<i>This may well have to be repeated on a number of occasions if the Investigation has to adjourn and reconvene.</i>
	<i>A Subject, when attending an Investigation, may be assisted by a representative who is a member of the Royal British Legion or in case of a staff IP a member of staff of The Royal British Legion, not legally qualified nor acting in any legal capacity.</i>
<b>7.3 Investigation Process</b>	
<b>1. The PC:</b>	
<ul style="list-style-type: none"> <li>Outlines to the IP the evidence to support the complaint, in that a member has acted in a way detrimental to the interests of the Legion. Evidence can be material, documentary, written statements or obtained by the questioning of witnesses.</li> </ul>	<i>The plan for the investigation (i.e. order of questioning) will be based upon the aspects to be investigated as reflected by the T OR. The evidence will be called for, as required, in keeping with this plan.</i>
<ul style="list-style-type: none"> <li>Outlines the evidence that challenges the complaint. This must include evidence provided by the Subject.</li> </ul>	<i>The IP must be fully aware of all the facets of the complaint.</i>
<b>2. The PMs, under the direction of the PC, will:</b>	
<ul style="list-style-type: none"> <li>Examine the case put forward and evidence (material, documentary, written statements) to support/challenge the complaint(s).</li> </ul>	
<ul style="list-style-type: none"> <li>Question witnesses in order to obtain the relevant facts surrounding the complaint.</li> </ul>	<i>During this process the Subject must be given the opportunity to question the evidence either personally or by a representative. The Subject will not “cross-</i>

	<i>examine” witnesses but will be able to refute the testimony. In order to facilitate this, the PC may choose to hear the Subject’s evidence last.</i>
<ul style="list-style-type: none"> <li>Following the questioning of each witness, draft a simple statement outlining the facts and have the witness sign as an accurate reflection of their testimony.</li> </ul>	<i>Such statements, along with other evidence, will form the basis of the IP’s findings.</i>
<p><b>3.</b> The IP convene in private to deliberate upon and record their findings. During this process the IP must:</p>	<i>During the deliberations the PC will call for:</i>
<ul style="list-style-type: none"> <li>Decide whether or not the evidence supports the complaint.</li> </ul>	<i>Comment from all PMs.</i>
<ul style="list-style-type: none"> <li>Decide whether a penalty award is appropriate.</li> </ul>	<i>For a vote on whether or not to uphold the complaint(s) against a member.</i>
<ul style="list-style-type: none"> <li>Make penalty awards and recommendations as appropriate.</li> </ul>	<i>The PC must not indicate his views or the manner in which he intends to vote until all other PMs have commented and voted.</i>
<p><b>4.</b> The PC supervises the drafting of a ROP which record the IP’s findings and, where necessary, their penalty awards and recommendations. Copies of all statements must be attached. Once completed the ROPs must be attached to a copy of the IP CIs and sent to the CLCC and DDG, or nominated representative for action as required.</p>	<p><i>The IP must not divulge the result(s) of the Investigation verbally.</i></p> <p><i>The subject(s) must be advised about any right to appeal, as appropriate.</i></p> <p><i>The PS must notify the Subject, the AD (Ops), the MSO and the complainant of the IP’s decision and/or penalty award within 14 calendar days of the closing of the IP.</i></p> <p><i>The subject and complainant must be advised of the outcome of the complaint before the MSO and AD (Ops) are advised.)</i></p>

## 8. PENALTY AWARDS

### 8.1 General

At the completion of the investigation, the PMs must consider the preponderance of the evidence and, if appropriate, make penalty awards and/or recommendations, informing all concerned of the result of the investigation - The outcome of the investigation is recorded in a ROP which is signed by all PMs.

**It is essential that any penalty award is properly and fully considered and is appropriate to the complaint and the circumstances.**

### 8.2 Penalty Awards against a Member

An individual member may be given one or more of the following penalty awards as a result of a complaint being upheld;

- Formal written reprimand.
- Suspension from office, voluntary appointment and duties for a specific period.
- Prohibition from holding office, voluntary appointment and duties at a certain level for a specific period.
- Prohibition from holding office, voluntary appointment and duties at any level within the Legion for a specific period.
- Suspension from and/or prohibition from voluntary appointments and duties as a member or non-member for a specific period.
- Removal from office , voluntary appointment and duties
- Suspension from Legion membership for a period of no less than 3 months and usually no more than 2 years.
- Expulsion from Legion membership

When considering the appropriate penalty award an IP must take into account the following aspects:

- **Nature of the Offence:** How seriously is it regarded in the eyes of the Charity and its members?
- **Motivation of the Member:** Was the act, or omission, deliberate or negligent?
- **Effect:** How much damage has been done to the Legion in the eyes of the public?
- **Character of the Member:** Has the member previously given good service to the Legion?

When the penalty award is being considered, PMs should individually review the various aspects of the offence and each make a note of his own opinion. Each P M should then indicate what he believes to be the appropriate penalty award, with the PC finally taking a vote. The PC does not have a casting vote.

For example, if it is judged to be a serious and deliberate act which has damaged the Legion's standing then expulsion may properly be awarded. If, on the other hand, the offence is of a less serious nature and the action one of poor judgement, and the member concerned is someone who has previously given good service, then a relatively short period of suspension might be awarded. No period of suspension from either membership or office, voluntary appointment and duties will be less than 3 months - otherwise it becomes purely nominal.

Suspension and prohibition from office or voluntary appointments and duties must at least be equal to the period of suspension from Legion membership. However, this may exceed the length of membership suspension. Suspension and prohibition can be for life.

The Charter does not stipulate the maximum length of a period of suspension from membership. However, before a suspension exceeding 2 years is considered, expulsion must first be considered and ruled out for a valid reason. This must be recorded specifically in the ROP.

“Suspension or expulsion from membership” means from membership of the Legion, including the Women's Section, and not merely from membership of a particular Branch. (After 5 years, the subject may apply to the LCC to be re-admitted to membership of TRBL. There is no automatic right of being granted membership).

An IP may uphold a complaint but not find the matter so serious as to justify expulsion or suspension. In this case the Subject can be informed in writing that, although the complaint has been upheld, expulsion or suspension has been considered to be inappropriate, but he is warned as to his future conduct. In this case a Formal Written Reprimand is appropriate. The IP may award a a reprimand as a warning further misconduct will not be tolerated. The letter of reprimand will be issued by the CLCC immediately after the 28 day Appeal period has elapsed.

### **8.3 Penalty Award against a Committee or Sub-Committee**

An IP may award either of the following penalties should any impropriety or maladministration be established:

- Suspend the Committee or Sub-Committee for a specified period.
- Dissolve the entire Committee or Sub-Committee.

If an IP makes such a penalty award, the next higher formation is responsible for nominating the body to assume the responsibilities of the suspended or dissolved Committee until such time as the committee is replaced or reactivated.

### **8.4 Penalty Award against a Branch**

In the event of a Branch being suspended or dissolved, it is the responsibility of the relevant County/District or, in the case of a Branch not belonging to a County or District, the MC, to administer, or appoint others to administer, the Branch; upon dissolution transfer the Branch members to other Branches of their choice. In both cases the Branch assets must be protected as a matter of priority.

### **8.5 Automatic Penalty Award(s)**

The LCC may decide that it is in the best interests of the Legion to expel someone from membership when an IP would have come to the same conclusion, on the basis of receiving evidence that they are found guilty in a court of law of an offence, that

- Disadvantaged the Legion
- Brought the Legion into disrepute
- Directly brings into doubt their credibility as a Member

The Member should be informed in writing of an automatic penalty award within five working days. There is no appeal against an automatic penalty award

### **8.6 Notification of Decision and Penalty Award**

Penalty Awards take immediate effect upon the closing of the IP (i.e. the formal lodging of the ROPs). Any decision and/or penalty award made against a member will be recorded on the Membership Database, and made public to the General Membership, where relevant, by Head Office. These actions will be taken only after the PS has informed all concerned and the time for an appeal (28 calendar days) has elapsed.

## 9. APPEALS PROCEDURE

### 9.1 Who May Appeal

Any person, Committee or sub-Committee may appeal against a decision and/or penalty award made by an IP by writing to the DG within 28 days of the formal lodging of the ROPs. The DG will immediately inform the CLCC. An appeal request must state the grounds for the appeal and any supporting arguments. An appeal could lead to an increase, decrease or annulment of any penalty award as well as the upholding of the original decision. In the case of an appeal to change the severity of a penalty award, a reasoned argument in support must be made for an increase or decrease in the penalty.

### 9.2 Right to Appeal

**There is a right to appeal but no right of appeal.** Where an appeal is to be heard the appeal investigation must be confined specifically to those aspects which are being challenged by the Board of Trustees, MC, County/District, Group, Branch, Committee or Sub-Committee, applicant, volunteer or member.

### 9.3 Grounds for Appeal

At least one of the following grounds must be satisfied before consideration can be given for an appeal;

- There was a material deficiency in the process:  
It must be established that published Legion procedures were not followed to such an extent that it created a prejudicial environment to conduct an investigation. Minor procedural errors are not automatically grounds for appeal.
- There is new evidence to support an appeal:  
Any new evidence must be submitted to the LCC prior to any appeal hearing.
- There is uncertainty over the interpretation of a rule that needs further testing.

### 9.4 How to Appeal

The Board of Trustees, Branch, Committee, sub-Committee and individual may appeal to the LCC against a decision made by an IP under the current Royal Charter. The appeal must be sent to the DG, within 28 days of the IP's notice of decision and penalty award, who will pass it to the CLCC. The LCC has the power to agree with, overturn or vary the IP's decision and penalty award.

### 9.5 Appeals Procedure – Legion Complaints Committee

All appeals are considered initially by the CLCC, via the DG. The CLCC will review the grounds of appeal and the arguments and evidence put forward in support. If the CLCC considers that there are insufficient grounds to allow an appeal he will advise all concerned. **There is no further appeal.**

If the CLCC determines that there are sufficient procedural errors in the proceedings, new evidence to support the appeal or valid grounds for an appeal being heard then the appeal will proceed. A minimum of three members of MC, sitting as the LCC, may consult with the CLCC to determine whether the appeal should be upheld.

The format for an Appeal Investigation follows that for any other investigation with the exception that the Appellant places evidence to support the appeal before the LCC. An Appellant, appealing under current Governing Regulations, may be represented by another member of the Legion who shall neither be legally qualified nor act in any legal capacity. Appeals are usually heard at Head Office, however, the LCC may choose another suitable location. Expenses will not be paid to the Appellant for any matters concerning the appeal. This includes, but is not limited to, travel costs, lost wages, legal fees, and any administrative costs.

The LCC, having heard the appeal, may:

- Uphold or dismiss the original complaint.
- Increase, decrease or dismiss the penalty award.
- Amend the findings of an IP.
- Amend the recommendations of an IP.

Following the hearing of an appeal, there is no further appeal.

The LCC may, of its own volition and without an appeal being made, review a decision of an IP and uphold, overturn or vary the penalty award, findings or decision as it sees fit.

**Note:** The Board of Trustees and MC also have the right to appeal against an IP's decision and/or penalty award under current Governing Regulations.



## **10. RULES OF NATURAL JUSTICE**

The Legion's Complaints Procedures, set out in this document, follow these Rules of Natural Justice, by which any person or group of people under investigation:

- Must be deemed innocent until proven otherwise based on the preponderance of evidence.
- Must be advised of the precise details of the complaint.
- Must be given a chance to explain their version of events and provide evidence in their defence.
- Must be judged by an impartial body with no personal interest or involvement in the investigation.
- Must have access to an appeals procedure following a decision by the investigating body

## 11. RULES OF EVIDENCE

### 11.1 General

**The most important task of an IP is to establish the facts and supporting evidence of a situation or complaint and to decide whether or not what occurred was detrimental to the interests of the Legion.**

The IP is the process by which the evidence is determined and 'examined' and the IP decides whether the preponderance of evidence supports the complaint. In the opinion of the LCC there must be sufficient evidence which is admissible, truthful and accurate for there to be a realistic prospect of a complaint being upheld **before** an investigation can take place.

The IP's decision must be based purely upon the evidence placed before it or the evidence which is established and corroborated during the investigation.

Evidence is information, which may be oral, documentary, or material, which tends to establish any matter of fact or circumstance, in respect of a situation or complaint that is being investigated.

### 11.2 Types of Evidence

- **Witness Evidence** is evidence obtained by the IP from a witness. Such evidence may be obtained as a result of the witness being questioned by the IP. Witness evidence must be recorded as a signed statement. If a witness refuses to complete a signed statement, a transcript or summary may be prepared and approved by the IP.
- **Documentary Evidence** may be, but is not limited to, written statements, letters, official records or reports, meeting minutes, accounts (financial or equipment), directives (such as Standard Operating Procedures), manuals, publications, photographs, video and audio recordings.
- **Material Evidence** is any item, object or thing of substance that assists the IP to establish the facts, sometimes referred to as "real" or "physical" evidence.

### 11.3 Relevant and Admissible Evidence

An IP may safely accept evidence if it is:

- **True and Accurate.** If the IP has any doubts about the veracity of a statement, or its certainty, then that statement must be rejected.
- **Relevant.** The evidence must bear directly on the matter being investigated. Earlier or similar events, or the previous activities of an individual or body involved in the investigation, are not relevant.
- **Not Hearsay.** A witness must report and record only what they heard or saw personally. No second hand accounts are admissible as evidence.
- **Safe.** Evidence must be able to withstand challenge. If evidence is considered to 'un-safe', or capable of more than one interpretation, then it must not be used.

At the end of an investigation the IP must be satisfied that the evidence that they have obtained, or that has been presented to them, proves 'on the balance of probabilities' that the circumstances that gave rise to the complaint are substantially correct.

## 12. QUESTIONS AND ANSWERS FOR INVESTIGATION PANEL CHAIRMEN

### **What happens if the IP is incomplete?**

*The Board of Trustees has recommended that an IP is to consist of at least three QPMs. If any QPM is prevented from attending then the Investigation may not proceed unless a further QPM can be obtained before the IP is due to convene.*

### **Who may attend an IP?**

*Only individuals invited or instructed to attend are allowed at an IP. The IP is not a public event, it is an internal matter between the Legion, the Subject, the Complainant, and any witnesses required to attend.*

### **May a Subject or Complainant use legal representation during the course of an investigation?**

*A Subject or Complainant to a formal investigation may seek legal counsel on their own behalf, outside the complaints procedures. However, the IP will correspond only with the parties to the investigation, and only those parties will be allowed to speak or to present evidence before an IP. Legal counsel will not be permitted attend an IP, even as a silent observer. Any RBL member who is legally qualified must not act or be allowed to act in any legal capacity as a representative at an IP.*

### **What if the County/District, Branch or Member concerned fails to attend the Investigation?**

*If any party indicates to attend and then fails to attend the IP, the reasons for non-appearance should be ascertained. If the non-attendant is the Subject of the investigation then the IP cannot go ahead until such time as the reason for non-attendance has been accepted as reasonable.*

*If a Member who is the Subject of the investigation refuses to attend the IP and it is established that the refusal is unreasonably deliberate, the IP may proceed without the Member being present. The circumstances of the refusal must in that case be recorded in the proceedings. The Member is to be informed in writing that the proceedings will go ahead in his absence.*

### **What are the rules concerning the recording of proceedings of an IP?**

*The PC, at his discretion, may permit audio recording. If the IP itself records the proceedings to assist in completion of the ROP then any of the parties attending may request a copy of the recording after the ROP has been completed. If other parties involved in the investigation wish to make a recording they may do so only at the discretion of the PC. However, expressed written permission must be obtained prior to the convening of the IP. The actual material recorded is Legion property and may not be divulged to the media or any outside body without the DG's express prior permission.*

**What if any of the parties appearing before the Panel resist the Panel's authority?**

*The PC may suspend the proceedings if he feels it necessary. The party concerned must be told that the matter will be reported to the Board of Trustees, and the IP may, without further inquiry, based on the evidence available, decide and make a penalty award under current Governing Regulations.*

**What if the evidence produced during the investigation discloses other possible complaints?**

*Any evidence which discloses other possible complaints not directly related to the IP must be recorded and form the basis of a separate report. Such a report could lead to a separate investigation. However, the IP should proceed to deal with the matter which has been laid before them.*

**What if the evidence produced during the investigation discloses civil or criminal offences?**

*Before taking any action the IP must consider if the Subject's behaviour could lead to criminal or civil proceedings. In case of assault or physical injury the assaulted individual must report this to the police. The PC should suspend the Investigation and report the matter to the CLCC. If there is any possibility of court action then no Legion action is to be taken until criminal or civil proceedings are completed.*

**What if the evidence produced during the investigation discloses aspects of the case that are not reflected in the TOR for the IP?**

*The PC should suspend the Investigation and report the matter to the DDG or nominated representative for review by the CLCC. In most cases the IP will be instructed to widen their investigation to include the newly exposed area of concern.*

**What if the evidence reveals procedural errors at an earlier stage that could invalidate the proceedings?**

*If it appears that the procedures could invalidate the proceedings currently before the IP then the IP Chairman should suspend the investigation and report the matter to the DDG, or nominated representative who will inform the CLCC. The CLCC may decide to issue a new CI or form a new IP.*