

**ORIGINAL RECYCLING  
ASSOCIATION**

**CODE OF CONDUCT:**

**GUIDANCE FOR MEMBERS  
and OFFICERS ON  
ASSOCIATION and RELATED  
BUSINESS PRACTICES**

## **CODE OF CONDUCT AND GUIDANCE ON BUSINESS PRACTICE**

### ***Introduction***

A key feature of the UK business for recovered oils, plastics and associated materials is the importance that its members make to the element of self regulation. This coupled with strict formal UK waste law, provides for a highly regulated activity and thus a valuable contribution to protecting our environment and society as a whole.

In being part of a trade association members not only undertake an obligation to the Associations' themselves, and hence their fellow members, but to the wider public too.

This document presents a Code of Conduct and gives guidance to business practice. Any definitions used in this document are subject to those definitions contained in the Memorandum of Association and Articles of Association.

### ***Self Regulation of the Business***

Our businesses require commercial and technical knowledge, practical experience and judgement in the application of special skills and are governed by its Memorandum and Articles of Association.

The main purpose of this document is to help members to deal with the demands of their working lives and to cope with ethical problems. Committee Members of the Association are always willing to help its members who have doubts about the ethics of any proposed course of action and can offer guidance if necessary.

### ***Code of Conduct of the Original Recycling Association***

The Committee of the Association has adopted the following Code of Conduct.

1. This Code of Conduct is applicable to all members (Full or Associate).
  - A register of a member's professional standing and associated status of regulatory conformance is required as a condition of membership. It is required to be updated annually and data held in confidence by the Director.
2. All members who have subscribed to the terms of membership have a duty to:
  - Conduct themselves honourably in the practice of their business;
  - Maintain the highest standards of competence and integrity especially in carrying out any statutory duties;
  - Have regard at all times to the public interest; and
  - Further the interest of and maintain the dignity and welfare of the Association.

In order to fulfil their duty under this code, members shall give due attention to any general guidance on conduct, together with advice on specific issues, and shall conform to rulings on such matters that may be approved and issued from time to time by the Boards of ORA and CRA.

### ***Complaints: Members Professional Standards within the Associations***

The Association demands rigorous standards of its member's behaviour both within the Associations and in the wider business and industry context. In the event of a complaint from any Interested Party (which means a party who is governed by the

Association's constitution) either against a company Member or an Officer of the Association then the complaints procedure set out at Annex A should be followed.

### ***The Association Members in the Business Community***

The Association demands rigorous standards of its members business conduct; a lapse on the part of a member may have serious consequences for their own and or the business as a whole.

### ***Serving the Public Interest***

All members have responsibilities arising from their fundamental duty to serve the public interest and should be concerned with the progress of their business and the use to which it may be put.

Members through experience should appreciate the benefits that their services can bring to society and can also foresee possible dangers.

They therefore have a duty to refrain from exaggerated, ill informed or prejudiced statements. The ethical difficulties do not lie in the acceptance of these social responsibilities but rather in deciding what is marginally good or bad for society and what action is appropriate.

Members have a duty to identify the hazards of and assess the risks of their business activities and processes. They must strive for high standards of care in their own work places and take an active interest in safety throughout their organisations.

The Association does not condone any attempt to coerce its members into refraining from lawful activity.

### ***Members and Legislation***

Members should be aware of the general principles of law relating to health and safety, environmental protection, personal negligence, discrimination and human rights and data protection. In addition, there is much direct legislation which is specific to many areas of its members businesses.

### ***Impact on the Environment***

Members should use their knowledge and experience for the protection and improvement of the environment.

In addition to legal obligations, members have a duty to minimise adverse effects on the environment, to recommend and use best environmental practice and to seek opportunities to promote sustainable development.

### ***Business Ethics***

Members will conduct their business with integrity. There will be no payments, services, gifts, entertainment or other advantages offered by or given to any Association Member or third party, by way of example only suppliers, customers or officials, which are intended to influence the way in which that Member or third party goes about their duties.

### ***News and Media***

The news and media often deal with health and safety issues, environmental protection and other matters related to our businesses.

Members may be interviewed by reporters or representatives of the press or TV and may be asked to appear on radio or TV. They should bear in mind as to what they say may be taken as representing general opinion among members.

Caution is necessary and it should be borne in mind the nature and objective style of the programme or publication. It is important that members should be clear when expressing opinions rather than stating facts.

Under no circumstance may the Association's name be used to imply the endorsement of any personal view.

### ***Publications, lectures, talks and contribution to electronic media***

High standards of integrity are required of members submitting papers for publication.

Authors should be aware of intellectual property laws governing copyright. In particular they should:

- Always obtain permission from the copyright holder for the reproduction of photographs, charts, drawings, tables and direct quotations.
- Guard against wrongful disclosure of confidential information
- Give due acknowledgement to help and advice received

### ***External Tribunals and committees of enquiry***

After a major accident, or other incident that has caused public concern, a committee of inquiry may be set up.

Inquiries and tribunals often seek to determine whether incompetence, misjudgement or neglect on the part of the businesses contributed to the accident or incident.

Members called to take part in any such inquiry should establish the capacity in which they are being called.

The Association recommend members should seek legal advice before any such hearing. They should also ensure that legal advice and consultation is available to them through the proceedings in order damaging evidence may be questioned on their behalf.

### ***Maintaining Standards***

As a condition of membership all member companies agree to abide by the constitution of the Association. No Member may knowingly bring the Association into disrepute or demonstrate behaviour that in the opinion of the Committee be considered unworthy.

The Association is not qualified or empowered to adjudicate on legal issues. It can only take appropriate action under its Code against a member in those instances where they have been judged by a properly constituted independent legal process to be in contravention of the law.

It would be expected that an individual employee or contractor who raises an issue of professional standards about his company's behaviour would first address that matter with the company in question.

If any member wilfully refuses or neglects to comply with the constitution of the Association or Code of Conduct underpinning professional behaviour or for the time being or any other rules of the Association, then that Member may be subject to the complaints procedure (Appendix A) and liable for expulsion by a resolution of the Committee provided that at least one month before the meeting at which such resolution is passed the said Member shall have had notice thereof and of the intended resolution for their expulsion and that said member shall at such a meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence said Member thinks fit.

The Committee may at its own discretion co-opt a previously elected Committee Member or Members to assist them in their deliberations. To the extent that the Member or Members are external persons or bodies, then the costs of that Member or Members will ordinarily be paid by the Member subject to possible expulsion.



## ANNEX A

### **COMPLAINTS PROCEDURE: COMPLAINTS MADE AGAINST AN ASSOCIATION COMPANY MEMBER AND/OR ASSOCIATION OFFICER**

#### ***Principles:***

If the Association receives a complaint from a party from within the Association or an Interested Party that is made against an Association company Member or an Officer of the Association, it will take steps to ensure that such a complaint is heard fairly and in within a timely fashion.

The parties will first seek to resolve the matter through negotiation. Failing resolution under negotiation, the parties may seek to resolve the matter by way of arbitration. If the process of arbitration is agreed the Chairman will set up a panel of a representative panel of Members who are not conflicted or biased toward the interests of any of the parties and whose decision shall be binding on all parties.

If the Chairman is required to set up a panel for the arbitration process, then he is permitted, entirely at his own discretion, to appoint an external person or persons to sit on the panel. The Chairman will normally require the parties to pay the costs of that external person in equal shares, subject to any award the panel may make as to the costs of the arbitration.

If resolution is not found and the Committee is asked to form a tribunal, then the overriding requirement is the principle of natural justice. This means procedures will be fair and seen to be fair. Any tribunal will be required to ask itself whether what it is doing and saying meets that requirement.

#### ***The Tribunal***

This will normally be the Association's Committee or a special sub committee who will take steps to ensure its procedures are compliant with the Association's constitution. No person who is directly involved in the issues to be adjudicated (as a witness, presenting the case for the tribunal or respondent) can be a member of the tribunal.

The Committee may, entirely at its own discretion, co-opt members from another independent body or refer the matter in its entirety to them. The Committee may also require an independent expert to be appointed to sit on and/or Chair the tribunal. In the event that the Committee decides to do so, then the costs of that member, independent body and/or expert shall ordinarily be paid in equal shares by the parties, subject to any award of costs that the tribunal may make.

#### ***Preliminary Steps***

1. Any complaint must be lodged immediately with an Association Officer who will refer it urgently to the Committee via its Chairman.

2. If the Committee decides that the complaint must be pursued then a written statement will be sent to the respondent informing him of the precise nature of the complaint and explaining that the respondent has the following choices:
  - a) to admit that he acted as alleged and to enter into negotiations with the complainant to find resolution to the complaint; or
  - b) to admit that he acted as alleged and accept the summary decision of nominated sub committee as to the appropriate penalty; or
  - c) to admit the alleged actions but ask to be allowed to make representations to a tribunal as to the penalty to be imposed; or
  - d) if he wishes to defend the complaint he has the right to have it referred to a tribunal.

If the respondent chooses option (a) and resolution cannot be found, the parties may opt to find resolution through arbitration, failing which the parties may ask for the Committee to set up a tribunal.

If the respondent chooses option (b) then the sub committee will convene as soon as possible to decide on the penalty and when the respondent is informed of the penalty he will also be advised of his right of appeal if he feels the penalty is inappropriate.

If the respondent chooses (b) or (c) then the Committee will meet as soon as possible in order to appoint a tribunal to handle the matter.

### ***Setting Up the Procedure for a Tribunal Hearing***

The respondent should be accorded the following rights:

- to have a proper hearing of the case so that he can represent himself and/or make adequate representations as to any penalty;
- to have reasonable time to prepare his case (and if he makes a reasonable request for extra time it should not be refused);
- to have a person of his choice present at any oral hearing;
- to see or hear all of the evidence against him, to test that evidence by questioning witnesses and to comment on the evidence;
- to put forward his own case, including presenting his own evidence and that of his witnesses.

Depending on the nature and seriousness of the complaint, the Committee or sub committee can choose to offer the respondent the option of having the matter dealt with by written representations, or by an oral hearing.

### ***Initiating the Process***

The Committee/sub committee will give written notice to the respondent confirming the following:

- the precise nature of the complaint that the tribunal will adjudicate;
- his rights, set out above;
- the constitution of the tribunal that will deal with the complaint;
- the procedure to be adopted, making clear any time limits that will be imposed on steps to be taken.

### ***Conduct of Written Representations***

1. Those presenting the case for the complainant should:

- Assemble any documentary evidence and obtain signed statements from any witnesses and present these, together with his own narrative of the relevant events, and the reasons why the complaint should be upheld. This material should be submitted to the members of the tribunal and to the respondent.

Only a complaint or allegation or statement or evidence that is submitted in the manner described above is deemed admissible.

2. The respondent should respond by setting out his case and producing any further supporting documents or statements of case. This is to be submitted to the tribunal members and to the complainant within five (5) days prior to the tribunal hearing date.
3. In response, those presenting the case for the complainant will only be allowed to comment on any issues that have been raised by the respondent that were not covered by the complainant's original submissions.
4. The tribunal members will then meet to discuss all the evidence and arguments that they have received, to decide whether the complaint is upheld, and if so what the penalty should be.

### ***Conduct of Oral Hearing***

The procedure is largely similar to that for dealing with written representations. The hearing date and place will be fixed (agreed between the tribunal and respondent) when the complainant, the respondent and the witnesses will be present in person.

Witnesses should not be allowed into the room until it is time for them to give their evidence.

It opens with a statement of the complaint against the respondent and a summary of the facts from the complainant. Evidence will be put forward in the form of documents, or witnesses who give their evidence orally and can be questioned by both those presenting the case for the tribunal, the complainant and the respondent.

### ***Evidence and Proof***

Evidence will be limited by the tribunal to what is relevant to the issues before the tribunal. It falls into two categories, fact and opinion. Evidence of a person's opinion is only appropriate in cases where it is evidence from an expert.

Proof will be judged on the balance of probabilities of the simple principle that the majority of the tribunal are convinced..

### ***Reaching a Decision***

Members of the tribunal will take the necessary time to make a considered decision. Once a decision has been made the members of the Tribunal can provide a date on which they will announce their decision.

### ***Penalties***

A penalty will be made having consideration of all the circumstances and which may include:

- Whether the respondent is an individual Officer of the Association or a Member company;
- Whether the issue is or has been the subject of a formal investigation by a regulatory body in England and Wales;
- The nature of the respondent;
- The possible consequences of the penalty outside of the Association.

### ***Post Tribunal -Decision Procedure***

Once a tribunal decision has been made the complainant and the respondent will be notified of it and given the reasons as quickly as possible.

As other Members of the Association may have become aware of the matter notice of the outcome may be given to the membership.

If the decision is against the respondent he will be given notice his right to appeal

against the decision and/or the penalty imposed.

### ***Appeal Procedure***

The respondent can appeal against a tribunal decision within 30 days after the decision. If a respondent chooses to appeal then he will make it clear whether he is appealing against the decision or the penalty or both.

The appeal will be heard before an appeal tribunal (which will comprise Members other than those who were involved in the original tribunal). The appeal tribunal shall re-evaluate the original tribunal's decision. The appeal tribunal shall either confirm or refute the original tribunal's outcome.

### ***Disclaimer***

While this Code of Conduct is designed to assist the Association Members it is not intended to be a guide to the law. Members and/or Officers who require further guidance are recommended to seek legal advice.

Dated July 2011