

Investigations and Sanctions Policy

Document Specification:			
Purpose:	To set out NALP's policy for how allegations or suspicions of non-compliance against NALP Members in respect of the NALP Code of Conduct are investigated, plus what sanctions may be imposed should those allegations be proven.		
Accountability:	Governing Board	Responsibility:	Director of Compliance & Regulation
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Version:	1.2	See Also:	NALP Code of Conduct Guidance on Offering Legal Services and Holding Out NALP 'Complaints about a NALP Member' policy

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Investigations and Sanctions Policy (Members)

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Introduction

NALP was established in 1987 and is a self-regulatory membership body dedicated to the support and promotion of Paralegal Professionals England and Wales. NALP offers various levels of membership, dependent upon the individual's needs (see <https://www.nationalparalegals.co.uk/memberships/> for details). However all members, regardless of which membership they have chosen, must adhere to the NALP Code of Conduct and all Guidance and Policies published by NALP.

It is acknowledged that paralegals are not statutorily regulated at the present time, NALP endeavours to ensure that its Code of Conduct and Ethics, Policies and Guidance, including the NALP Members' Handbook, help to ensure that our members remain compliant with the provisions of the Legal Services Act 2007, plus all other relevant legislation and statutory regulation in place. It is for this reason that NALP takes any allegations of non-compliance with our Code and policies, etc. very seriously and seek to take action to resolve any issues as quickly as possible.

1. Scope and Purpose of this Policy

This policy applies to all NALP members and staff. It covers all allegations, suspicions and incidents of a Member failing to comply with the Code of Conduct or any other Guidance, policy or procedure laid down by NALP, as amended from time to time. For the avoidance of doubt, it is the responsibility of Members to ensure they are familiar with all relevant guidance, policies and procedures, as well as the Code of Conduct, and ensure they remain compliant.

This policy also pertains to Members who fail to fulfil actions required by NALP to ensure such compliance, including where a requirement was not previously mandatory but a situation has arisen to make it necessary in the opinion of NALP.

Please note that this policy does not cover any activities of NALP as an Awarding Organisation. If your incident is in respect of the activities of the Awarding Organisation or one of its Centres, you should refer to the specific policies that can be found at the bottom of the NALP Website at:

<https://www.nationalparalegals.co.uk/>.

2. Reasons for Investigations

This policy looks at how we would manage any allegations or suspicions of non-compliance with our Code of Conduct, plus any guidance, policy or procedures set out by ourselves. There are a number of ways in which such incidents may be brought to the attention of NALP. The following covers the three main ways in which this might happen. However, this is not meant to be taken as exhaustive as we will investigate any allegations regardless of how they may come to our attention.

3.1 Complaints

Companies in every sector will, at some time or another, receive a complaint from a dissatisfied client. However, all NALP members are expected to have a robust complaints-handling process and to be able to resolve any such complaints themselves. All Members must, however, include in their process the option to any complainant to have their complaint escalated to NALP as the Membership Body.

Should a complaint be escalated to NALP that has not been satisfactorily resolved, NALP will investigate the circumstances behind the complaint as part of its Complaints Policy (see <http://www.nationalparalegals.co.uk/how-to-make-a-complaint-against-a-nalp-member>). If NALP has received a number of notifications of escalated (or potentially escalated) complaints against an individual Member, then NALP may launch a further investigation into the conduct of that Member. Similarly, if the outcome of an escalated complaint raises suspicions as to the conduct of a Member, this may also trigger a further investigation into the conduct of that Member.

3.2 Allegations

It is possible that an allegation may be raised by a third party regarding the conduct of a Member. This may be from a named or an anonymous source. If the source is anonymous, it must have sufficient detail and/or evidence to ensure that a full investigation can be undertaken fairly.

Named sources can be from members of staff, other paralegals, solicitors, barristers, court officials or any other third party who has come into contact with a Member in the course of their business.

Named sources may be provided with basic details of the outcome of any investigation if they request this, however, this will only be provided at the discretion of the NALP Governing Board and only if it is in the interests of NALP or the paralegal sector as a whole.

If an investigation has been instigated due to an allegation by, or request from, the Police or other Government Officer, NALP will cooperate to the fullest extent and release any and all information as required by them.

3.3 Discovery

NALP undertakes a number of ad hoc checks on its Members, including of their websites, any online reviews, etc. Should these checks indicate areas where a Member is non-compliant, or potentially non-compliant, with our Standards, this may trigger a full investigation into the conduct of that Member.

3. Examples of Non-Compliance

Non-Compliance covers any act by a Member of NALP which:

- Is contrary to the NALP Code of Conduct
- Misleads, or has the potential to mislead, clients or the general public
- Adversely affects, or has the potential to adversely affect, the reputation of NALP or the Paralegal Sector
- Is contrary to any Guidance, Policy or Procedure set out by NALP or any specific instructions given to the Member by NALP, whether the latter be verbal or written

Some examples of what actions may fall under the above are set out below. Please note this list is not exhaustive:

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- A Member refers to themselves as 'Lawyer' rather than 'Paralegal Lawyer'. Whilst not a reserved title, the term 'Lawyer' is usually construed by the general public as being synonymous with 'solicitor' and so has the potential to mislead
- A Member infers on their website that they are able to undertake a 'Reserved Activity'
- A Member fails to respond to a complaint received by them in a timely and professional manner
- A Member fails to discharge their duties to a client honestly and diligently. E.g. they fail to provide the promised service in a timely or professional manner, or fail to meet deadlines required by the client resulting in that client incurring otherwise avoidable inconvenience or loss
- A Member fails to ensure all information acquired during the course of their professional duties is kept confidential
- A Member claims a level of NALP membership they do not have (e.g. claims to hold a Fellowship membership when they hold an Associate membership)
- A Member claims to hold a 'Licence to Practise' when one has not been granted, even if an application for one has been made
- A Member deliberately undertakes 'holding out' – i.e. they indicate that are qualified and practising as a solicitor, barrister, chartered legal executive, conveyancer (unless licensed by the Council for Licensed Conveyancers (CLC)) or a notary public.
- A Member attracts negative publicity which identifies him as a member of NALP or of the Paralegal profession generally, whether or not that publicity is in direct relation to their professional activities

4. Cooperation by Members and Confidentiality

All Members are required to cooperate fully with any investigation undertaken by NALP, including providing full explanations, evidence and copies of any requested documentation. Should any such documentation contain information which may be considered business sensitive, NALP will ensure this is kept confidential, unless ordered to share this by the Police or other appropriate Government Official (i.e. HMRC, UKVI, etc.)

If a Member is asked to provide information about another Member in the course of an investigation, that Member must also ensure to keep the details of any investigation confidential.

5. Investigation and Notification Procedures

All allegations or suspicions, however they arise, will, in the first instance, be passed to the Compliance Officer to deal with.

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The investigation will look at all sides of the allegations. First the Compliance Officer will look at the allegation and then investigate as much as possible regarding the Member themselves. This could include, but not limited to:

- Corresponding with (or speaking to) the complainant or person raising an allegation to ensure a full understanding of the claims being made
- Gathering evidence from the complainant or any other person involved in raising the allegation or who may have any involvement in the incident itself
- Conducting online searches of the Member's website and social media accounts, plus any reviews or other online content held regarding the Member
- Going through any records held by NALP regarding the specific Member

These initial investigations will normally be completed within 20 working days from the date NALP became aware of the non-compliance (or potential non-compliance).

The Compliance Officer will then contact the Member and put all of the allegations and evidence before them and request a response, usually within 10 working days. The Member should ensure that they provide all relevant details and evidence to support their case at this time

NALP will aim to provide the Member with the final outcome in writing within 10 working days of receiving their response to the allegations, including details of any action plan or sanctions being imposed.

6. Potential Sanctions

The sanctions imposed by NALP will depend on the seriousness of the case and risk to the reputation of NALP or the Paralegal sector as a whole. The sanctions imposed could include, but not be limited to:

- Requiring a Member to comply with an Action Plan to resolve the areas of non-compliance, usually within a set timeframe
- Withholding or restricting the level of membership the Member can hold (including withholding a Licence to Practise)
- Revocation of a Licence to Practise
- Revocation of their Membership with NALP
- Public sanctions – i.e. including a notification on the NALP website that a membership has been revoked due to non-compliance with the Code of Conduct, but without specific details being provided.

7. Appeals Process

Should the Member disagree with the action plan and/or sanctions being imposed, they will have the option to raise an appeal. They must do so, in writing (email is accepted) within 7 working days of receiving the Final Outcome.

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Appeals will be dealt with by the Governing Board or a panel appointed by the Governing Board. The Compliance Officer will provide them with the full report of the case, including any relevant evidence or correspondence. The Member raising the appeal will also be able to raise any points they believe have not been taken into account during the investigation or subsequent allocation of sanctions.

The Governing Board (or appointed panel) will consider all the evidence available, along with the testimony from the appellant, and aim to issue their decision within 30 working days of receiving the appeal.

The decision of the Governing Board (or appointed panel) is final.

8. Policy Review

This Policy will be reviewed regularly, but not less than every two years.