

Internet Services Providers Association of Ireland
Code of Practice and Ethics



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Internet Advisory Board Chairman's Introduction

The problems of regulating illegal and harmful content on the Internet is a significant challenge for society and one which has, over the past few years, exercised the energies and expertise of Governments, administrators, law enforcement officials and all those involved in providing Internet services. In Ireland much of this activity has taken place in the context of the ongoing implementation of the Report of the Review Body on the Illegal and Harmful Use of the Internet, a review commissioned by Government and published in 1998. That Report set the broad parameters within which downside issues associated with the Internet could be addressed.

In opting for a self-regulation approach, the report gave the Internet Advisory Board the central role of supervising the ongoing evolution of self-regulation and ensuring that sufficient progress was being made to justify the Government's commitment to a self-regulating regime. Much progress has in fact been made. For example, the Irish service provider industry established its public hotline for reporting child pornography in November 1999, fulfilling one of the mandates given to it by the Government report.

The publication of an industry code of practice has, however, always been a primary objective of the Internet Advisory Board who saw it as one of the key milestones in a successful move to self-regulation. Towards that end, members of the Board have been working closely with the Internet service provider industry over a long period of time to facilitate, assist and encourage the industry to meet this critical objective.

The preparation of such a code has inevitably involved tackling a range of complex legal, structural and technical issues and has demanded formal agreement between companies who operate in a fast-changing dynamic environment. Against this background, it is inevitable that lessons will emerge from the application of the code. Furthermore, those lessons will need to be fed back into the code as a matter of priority. I am glad to note that the code will be reviewed after one year of operation and I would envisage that the Internet Advisory Board will be active in monitoring the practical working of the code and in contributing to any enhancement after its first year of operation.

To have a meaningful effect, any code of practice must have the support of all members of the industry it seeks to regulate. Accordingly in view of the importance of the codes for self-regulation, the Advisory Board will be closely monitoring the implications of any unevenness in subscribing to the code.

Overall I believe that the publication of this first Code of Practice and Ethics is a significant move by the Irish service provider industry towards self-regulation and I congratulate all those involved in its production.



Eamonn M. Barnes
Chairman, Internet Advisory Board

Preface

It is an honour for me to present the first edition of the Code of Practice and Ethics of the Internet Service Provider Association of Ireland. The release of the first edition of the Code of Practice and Ethics is a significant milestone in the history of the ISPAI. It provides a clear framework for the members of the Irish Internet industry to work together on a range of common issues and problems. It also provides a clear reference point to consumers on the role and responsibilities of an Irish Internet Service Provider.

The Code has been developed against a background of major social, political and technological change and is a tribute to the perseverance and commitment of the members of the ISPAI and of the Internet Advisory Board.

The responsibility of an Internet Service Provider in the response to Illegal or Harmful content on the Internet is very uncertain and complex. Even, the title Service Provider applies to a wide range of activities and services on the Internet. Today there are Internet Access Providers, Internet Service Providers, Internet Hosting Providers, Internet Bandwidth Providers, email providers, websites, etc, etc.

In addition, there are a wide range of Internet Services that are available on the Internet today. Each service has different software programs, protocols and methods of communications. For example, email, web, chat rooms, newsgroups, p2p (peer-to-peer) are different protocols and there are a range of programs for each protocol. The Service Providers have different levels of control over the different services and thereby have varying abilities when dealing with the illegal use of these services.

However, this Code of Practice and Ethics outlines the self-regulatory environment that the Internet Industry has committed to and is a mark of assurance to a high quality of service and response to customer concerns from all Internet Service Providers.



Cormac Callanan
Chairman, ISPAI

Introduction

The Internet Advisory Board established by the Government of Ireland has requested that the Internet Service Providers of Ireland consider the adoption of a Code of Practice which would self regulate the industry in Ireland. This opportunity to self regulate is agreed to be more effective than any externally developed regulation. Accordingly this was accepted and agreed by the Internet Service Providers Association of Ireland Limited on the 11 day of January 2002.

Of course when you begin to talk about enforcement, obligations and control, in what has been to date an unregulated environment (in practical terms), then some persons are going to object. It is time for the members of the industry however, to take responsibility. Responsibility and reasonable, rational accountability is required after full consideration of the practical, technical and legal constraints. The Code of Practice will provide a forum within which those constraints may be assessed and evaluated and satisfactory and consistent solutions provided.

It is recognised that the Code of Practice is only a contribution towards regulating the Internet with a particular focus on misuse of the Internet. The global, substantive issues will not be solved by a unilateral approach. It is the belief of the Internet Service Providers of Ireland Limited that the Code of Practice, by providing a forum for review for its' Members will provide a more effective approach to the process of regulation.

1 Definitions & Interpretation

For the purpose of this Code of Practice and Ethics and unless otherwise stated, the capitalised words or expressions in this Code shall have the meanings set out herein. Any reference to the masculine gender shall include reference to the feminine gender and any reference to the neuter gender shall include the masculine and feminine genders and reference to the singular shall include reference to the plural. The titles or headings appearing in this Code are for reference only and shall not affect its construction or interpretation.

- 1.1 “Acceptable Use Policy” means any Member's Acceptable Use Policy governing the Customer's use of its Services.
- 1.2 “Anti-Spamming Software” means computer software used for filtering out Spam prior to it reaching e-mail addresses and / or newsgroups.
- 1.3 “Articles” means the Articles of Association of ISPAL.
- 1.4 “Associate Member” means a member subscribing to ISPAL and designated an Associate Member. Associate Members have the right to receive all ISPAL notices and attend at general meetings of ISPAL but do not have the right to vote at general meetings of ISPAL.
- 1.5 “Board” means the Board of Directors of ISPAL.
- 1.6 “Chair” means the Chairman of the Board of ISPAL.
- 1.7 “Chairperson of the Complaints Panel” means a person nominated by the Board who is not in the employ of a Member.
- 1.8 “Code” means the terms and conditions contained in this document and described as the Code of Practice and Ethics.
- 1.9 “Complaint” means a grievance which can be made by any Complainant in respect of any content or any Services available on the Internet.
- 1.10 “Complainant” means a member of the public or a Member who makes a Complaint to ISPAL.
- 1.11 “Complaint Decision” means a decision of the Board made pursuant to a Complaints Hearing.
- 1.12 “Complaints Hearing” means a meeting of the Board convened for the purpose of investigating and making a decision on a Complaint.
- 1.13 “Complaints Panel” means those persons appointed by the Board as the Complaints Panel which shall not be less than three (3) or more than five (5) in number including the Chairperson of the Complaints Panel.
- 1.14 “Complaints Panel Report” means a report compiled by the Complaints Panel and more particularly described in Clause 11.8.4.
- 1.15 “Complaints Procedure” means the Complaints Procedure set out at Clause 11 herein.
- 1.16 “Customer” means a user of any Member's Services.
- 1.17 “Full Member” means a Member subscribing to ISPAL and designated a Full Member. Full Members have the right to receive all ISPAL notices and attend and vote at general meetings of ISPAL and nominate persons for election to the Board.
- 1.18 “Hacking” means attacks and other forms of breach of Member's computer systems and illegal attempts to by-pass any of the security measures of computers connected to the Internet, or to disrupt their intended operation or purpose.

- 1.19 “Illegal” means content which is contrary to criminal law.
- 1.20 Harmful: Content which includes any unlawful, libellous, abusive, offensive, vulgar or obscene material or any activities deliberately calculated to cause unreasonable offence to others, which whilst not necessarily Illegal, is none-the-less considered inappropriate and deliberately calculated to cause unreasonable anxiety inconvenience or stress to others.
- 1.21 “Internet Advisory Board” means the non-statutory body established by the Minister for Justice, Equality and Law Reform as an advisory board to the Minister on matters relating to the internet and any successor thereto.
- 1.22 “ISP” means an internet service provider.
- 1.23 “ISPAI” means the Internet Service Providers Association of Ireland Limited.
- 1.24 “Member” means a Full Member or an Associate Member of ISPAI.
- 1.25 “Promotional Material” means material promoting Services of Members.
- 1.26 “Regulatory Policies” means regulations, additional to the matters set out in this Code, which are binding on the Members.
- 1.27 “Secretariat” means the Secretariat of ISPAI.
- 1.28 “Services” means internet services provided by any Member, including but not limited to, internet access provision, content provision, hosting provision and other online services.
- 1.29 “Spam” means unsolicited material or information sent to an e-mail address or newsgroup.
- 1.30 “Subject Member” means a Member in receipt of a written Complaint from the Secretariat.
- 1.31 “Terms and Conditions” means any Member's standard terms and conditions governing the provision of its Services to Customers.
- 1.32 “Third Party Content” means material accessible via a Member's Service, which originates from and/or is owned by one or more third parties (including, for the avoidance of doubt, that Member's Customer).
- 1.33 “Working Days” means Mondays to Fridays excluding public and bank holidays during business hours.
- 1.34 “www.hotline.ie ” means the www.hotline.ie service.

Any reference to a statute or enactment or to any sections thereof shall include any amendments thereto for the time being in force and all Statutory Instruments for the time being made, issued or given thereunder or deriving validity therefrom.

2. Statement of Policy

- 2.1 **End-User Empowerment:** ISPAL encourages the emergence of enabling technologies that give the customer and parent or guardian choice on the content matter they receive (with the proviso that those technologies are non-proprietary and that the burden of cost does not fall directly on the access provider).
- 2.2 **Responsibilities of Content Providers:** ISPAL considers the provider of content (most commonly the user who posts a news article or a web page) as being responsible in the first instance not only for ensuring that the content is legal but also that the content is suitable for the intended audience.
- 2.3 **Responsibilities of Members:** ISPAL acknowledges that it is the role of the State to make and to enforce the law. Members of ISPAL must observe their legal obligations to remove Illegal content when informed by organs of the State or as otherwise required by law. It should not, however, be the responsibility of a Member to determine the legality or suitability or to filter or otherwise restrict reception of or access to content material save where such action is taken following an identified breach (or anticipated breach) of the Code.
- 2.3.1 Compliance with the Code does not guarantee that a Member is acting within the law. Any principles set out or established under this Code do not represent any legal grounds for liability.
- 2.3.2 This Code does not purport to cover any violations or alleged violations pertaining to 'competition law' or to 'copyright law'.
- 2.3.3 ISPAL supports its Members in any independent decision taken by the Member to proactively limit the accessibility of Illegal material via its Services, but strongly believes that no greater responsibility, standard of care or obligation should be placed on a Member who takes such action, than is placed upon those Members who do not take such proactive action.

3. Scope of the Code

- 3.1 The principles set out or established by this Code shall not represent any legal grounds for liability except for compliance with this code. Members acknowledge that compliance with the Code does not necessarily guarantee that they are acting within the law.
- 3.2 This Code shall govern the conduct of the Members of ISPAI. The application of the Code shall be uniform and applicable to all of its Members without modification or exception. A Member may not, accordingly, avoid, by contract or otherwise, the application of the Code. The Member agrees that in subscribing to ISPAI it shall abide by the Code.
- 3.3 The Board or such of its directors as it may appoint from time to time shall administer the Code.
- 3.4 Whereas ISPAI may be proactive in the development of best or minimum practice documents, the application of the Code by ISPAI shall be reactive.
- 3.5 The Code may be amended from time to time by 75% majority vote of Full Members of ISPAI and each Member shall be given notice of any resolution to amend the Code in accordance with the Articles. Notwithstanding this process, the Code will be subject to review one year after its implementation following on consultations with the Internet Advisory Board.
- 3.6 For the avoidance of doubt, nothing in the Code shall be taken to suggest that the Board will adjudicate on the legality or otherwise of Third Party Content accessible on the Internet whether by Members or otherwise. Where a Complaint concerns the legality of Third Party Content, the Secretariat will advise the Complainant in the first instance, where possible, to contact the originator of the material directly, in the second instance to contact the relevant ISP and in the third instance to contact www.hotline.ie as provided for under Clause 7 hereof. Where the ISP is a member of the ISPAI then that ISP will follow the complaints procedure in Section 11.2.

4. General Requirements

ISPAI requires that Members adhere to the general requirements set out hereunder. Breach of any of the general requirements shall constitute a breach of the Code. For the avoidance of doubt, general requirements are only applicable to a Service marketed and contracted in the Republic of Ireland or hosted from or in the Republic of Ireland.

- 4.1 Members must use best endeavours to ensure that Services (excluding Third Party Content) and Promotional Material do not contain anything which is illegal and is not of a kind likely to mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise.
- 4.2 Members must use best endeavours to ensure that Services (excluding Third Party Content) and Promotional Material are not used to promote or facilitate any practices which are contrary to Irish law.
- 4.3 Members must use best endeavours to ensure that Services (excluding Third Party Content) and Promotional Material do not contain material inciting violence, cruelty, racial hatred or prejudice and discrimination of any kind.
- 4.4 Members must act fairly and reasonably in their dealings with Customers, other businesses and each other.
- 4.5 Members must use best endeavours to bring to the attention of Customers the existence of the Code and the Complaints Procedure pursuant to the provisions of the Code. Page 11 of 24 General Requirements
- 4.6 Members must use best endeavours to ensure that they bring their respective Terms and Conditions to the attention of all new Customers.
- 4.7 The Board may from time to time propose the adoption of Regulatory Policies on issues relevant to the Internet. These proposed Regulatory Policies must be adopted by a 75% majority of all Full Members voting to formally adopt such proposals as Regulatory Policies. Members who do not adhere to Regulatory Policies shall be deemed in breach of the Code.

5. Minimum Practices

ISPAI requires that Members adhere to the minimum practice guidelines set out hereunder. For the avoidance of doubt, breach of any of the minimum practice guidelines shall constitute a breach of the Code.

- 5.1 Each Member must have an Acceptable Use Policy and require Customers to adhere to it.
 - 5.1.1 Members must include in their Acceptable Use Policy clauses which provide that a Customer may not use the Member's Services to create, host or transmit any unlawful, libellous, abusive, offensive, vulgar or obscene material or engage in activities deliberately calculated to cause unreasonable offence to others.
 - 5.1.2 Members must include in their Acceptable Use Policy clauses which deal with Third Part Content, which whilst not necessarily illegal, is none-the-less considered inappropriate and deliberately calculated to cause unreasonable anxiety inconvenience or stress to others.
 - 5.1.3 Members must include in their Acceptable Use Policy a clause providing that the Member may from time to time receive notices from www.hotline.ie requesting the removal of specified material from web-sites or newsgroups being hosted by Members and providing that it is technically practical to do so Members must comply with such notices within a reasonable time.
- 5.2 Members must provide information to Customers about the availability of software tools which may assist them in filtering content which Customers deem unsuitable.
- 5.3 Members must follow best industry practice in offering 'filtering software' or 'filtering services' to a Customer.
- 5.4 Members must provide to www.hotline.ie a nominated Garda contact via the agreed form. This contact will be available, at a minimum, during Working Days.
- 5.5 Members must include on their web-sites the ISPAI logo with a link to the ISPAI web-site.
- 5.6 Members must include on their web-sites the www.hotline.ie logo with a link to the www.hotline.ie web-site.

6. Best Practices

ISPAI recommends that Members adhere, where reasonably possible, to best practice guidelines as set out hereunder. For the avoidance of doubt, breach of any of the best practice guidelines shall not constitute a breach of the Code and shall not cause ISPAI to invoke the Complaints Procedure.

- 6.1 Members will use reasonable endeavours, where possible, to respect any caching directions or restrictions of which they are advised by Customers whose web-sites they host.
- 6.2 Members will provide information to Customers regarding any software tools which they can use to protect their privacy.
- 6.3 Members will follow best industry practice in using Anti-Spamming Software.
- 6.4 Members will use best endeavours to co-operate with each other in investigating and defending instances of Hacking.

7. **www.hotline.ie Service**

ISPAI shall co-operate with www.hotline.ie in its efforts to remove Illegal material from Internet web-sites and newsgroups located in Ireland. Members are therefore required to adhere to www.hotline.ie procedures.

- 7.1 Members must register with www.hotline.ie.
- 7.2 Members must provide www.hotline.ie with a point of contact to receive notices from www.hotline.ie .
- 7.3 Members may from time to time receive notices from www.hotline.ie requesting the removal of specified potentially Illegal material from web-sites or newsgroups being hosted by Members. Provided it is technically practical to do so Members must comply with such notices within a reasonable time.
- 7.4 When requested by www.hotline.ie (where requested by a law enforcement authority) and where technically able to do so, Members must retain (subject to the provisions of the Data Protection Act, 1988) copies of removed material as may be required.
- 7.5 www.hotline.ie will actively seek to empower all end-users by providing information on ways end-users can protect themselves or their children from content which those end-users may consider harmful.
- 7.6 Following upon a Complaint made in relation to harmful Third Party Content, www.hotline.ie shall inform, where possible, the Complainant about the organisation hosting that content and will also forward the Complaint to the hosting company for them to take action according to their Acceptable Use Policy. Where the hosting company is a member of the ISPAI then that hosting company must follow the complaints procedure outlined in Section 11.2.
- 7.7 www.hotline.ie will not have any power to adjudicate on claims of infringement of copyright or advise or make any decision on matters of copyright law.

8. Advertisements and Promotion

- 8.1 Members must use best endeavours to ensure that Promotional Material transmitted by radio, television, tele-text, telephone, facsimile or any other form of communication shall observe the provisions of this Code and the Codes Of Standards, Practice And Prohibitions in Advertising, Sponsorship and other forms of Commercial Promotion Broadcasting Services published by The Independent Radio and Television Commission in the manner most reasonable and appropriate to the technology employed.
- 8.2 Members must use best endeavours to ensure that all Promotional Material complies with the provisions of the Code of Advertising Standards and the Code of Sales Promotion Practice which are supervised by the Advertising Standards Authority for Ireland.
- 8.3 Members must use best endeavours to ensure that Services and Promotional Material comply with the Code of Practice applied by Regulator of Premium Telecommunications Services Limited (trading as RegTel) when access to them is made via a premium rate telephone call.
- 8.4 Members must, in addition to the provisions referred to at Clauses 8.1 to 8.3 above, use best endeavours to comply, where appropriate, with any other code of practice expressly regulating Promotional Material.
- 8.5 Members must ensure that charges for Services are clearly stated in any relevant Promotional Material. Members must clearly state the price of the goods or services including all taxes. Where additional charges, (for example on-line charges) are payable, this should be stated.
- 8.6 Members must use best endeavours to ensure that textual pricing information relating to charges for Services is accurate, up to date, legible, prominent and presented in a fair and reasonable manner.
- 8.7 For commercial customers a contract will be deemed appropriate to satisfy the requirements of section 8.5 and 8.6.

9. Data Protection and Privacy

- 9.1 Members shall comply with the Data Protection Act, 1988.
- 9.2 Members should have a 'privacy statement' on their main website.

10. Transfer of Domain Names

- 10.1 Where Customers choose to transfer to another ISP (whether that ISP is a Member of ISPAI, or not), provided the relevant registry rules permit, Members must offer, when requested by Customers, the option of Customers retaining their respective domain name(s), other than where such domain name(s) are sub-domains of the relevant Member's own name.
- 10.2 Where a Customer elects to retain such domain name(s), the relevant Member must co-operate with the Customer's request and transfer the domain name(s) within five Working Days of the Customer transferring to another ISP or if such is the case within five (5) working days of the Customer discharging all sums due to the relevant Member in respect of the original registration of such domain name(s).
- 10.3 The time limits set out in clause 10.2 shall not apply where the relevant Member's Terms and Conditions require that all sums relating to all Services provided to the Customer, be paid prior to the transfer of any domain name(s) and the Member continues to act as the Customer's agent in respect of the domain name(s) until such payment is received.

11. Complaints Procedure

- 11.1 In considering Complaints, each member of the Board and each person nominated by the Board to the Complaints Panel is indemnified by ISPAL against any liability incurred or claim arising and made against them in the performance of their duties under the Complaints Procedure.
- 11.2 Where a Complainant makes a Complaint to a Member alleging that the Member has acted in breach of the Code, the Member must use reasonable endeavours to resolve the Complaint in the following manner:-
- 11.2.1 where the Complaint is notified in person, resolution where possible, should be sought during the Complainant's personal attendance, or within five (5) Working Days where additional information is required.
 - 11.2.2 where the Complaint is received by telephone, resolution where possible, should be sought during the initial telephone call, or within five (5) Working Days where additional information is required.
 - 11.2.3 where the Complaint is received by e-mail, resolution where possible, should be sought within five (5) Working Days via e-mail;
 - 11.2.4 where the Complaint is received by letter, resolution where possible, should be sought within ten (10) Working Days via post.
- 11.3 Where a Complainant notifies the Secretariat of a Complaint, the Secretariat will direct the Complainant to contact the relevant Member directly if the Complainant has not already done so.
- 11.4 Where a Complainant notifies the Secretariat of a Complaint, the Secretariat will, if the Complaint relates to Third Party Content, refer the Complainant to www.hotline.ie Where the Complaint concerns the legality of Third Party Content, the Secretariat will advise the Complainant in the first instance, where possible, to contact the originator of the material directly, in the second instance to contact the relevant ISP and in the third instance to contact www.hotline.ie as provided for under Clause 7 hereof. Where the ISP is a member of the ISPAL then the ISP will follow the complaints procedure in Section 11.2.
- 11.5 Anonymous complaints are not accepted by ISPAL but if deemed appropriate in the circumstances ISPAL may refer an anonymous complaint to the www.hotline.ie.
- 11.6 ISPAL, at its sole discretion, will not accept Complaints which, in its opinion, are vexatious, inexact, or wholly unjustified, trivial or of a minor nature and the decision of ISPAL in the matter shall be final.
- 11.7 Where a Complainant informs the Secretariat in writing that the Complainant's Complaint has not been resolved to the Complainant's satisfaction within the procedures and time limits set out in Clause 11.2 above, the Secretariat will:-
- 11.7.1 attempt to resolve the Complaint informally by telephone at no administrative charge to the Complainant within (5) Working Days;
 - 11.7.2 if the Complaint cannot be resolved informally by telephone the Secretariat will inform the Complainant that the Complainant may ask that the Complaint be dealt with pursuant to the Complaints Procedure set out in Clause 11.8 hereunder.
- 11.8 Where a Complainant asks for a Complaint to be dealt with pursuant to the Complaints Procedure the Secretariat will, normally within seven (7) Working Days of receiving a request in writing to deal with a Complaint pursuant to the Complaints Procedure, put in place the Complaints Procedure as set out herein.
- 11.8.1 The Secretariat will ask the Complainant to set out the Complaint in writing and to forward the written Complaint to the Secretariat together with a non-refundable payment of EUR 5.00 (IRE3.94) towards the administrative costs of handling the Complaint. The Secretariat is empowered to waive the said payment of EUR 5.00 (IRE3.94) at the sole discretion of the Secretariat.
 - 11.8.2 The Secretariat, on receipt of the Complaint in writing, will forward the written Complaint to the Subject Member and will require the Subject Member to return to the

- Secretariat a written response to the Complaint within ten (10) Working Days of receipt of the complaint. Failure by the Subject Member to return a written response to the Secretariat within ten (10) Working Days of receipt of the complaint will be considered a breach of the Code and shall result in the Complaint being referred to the Complaints Panel and the Secretariat will notify the subject Member accordingly.
- 11.8.3 In the event that the Complaint is not satisfactorily resolved within fourteen (14) Working Days after receipt of the Subject Member's written response required under 11.8.2 above the Secretariat may, at its discretion, refer the Complaint to the Complaints Panel which may then make further investigations into the Complaint in the manner deemed most appropriate and expeditious.
- 11.8.4 The Complaints Panel shall compile a 'Complaints Panel Report' setting out:- (a) the name and address of the Complainant; (b) the name and address of the Member or Members the subject of the Complaint; (c) the original Complainant's wording as set out in the Complainant's Complaint; (d) the manner in which the Complaints Panel investigated the Complaint to include all details of such investigation and the result of all enquiries made by the Complaints Panel into the Complaint and exhibiting copies of all documents received by the Complaints Panel, (e) all information available to the Complaints Panel, concerning the Complainant, the Subject Member or Subject Members and the Complaint; (f) the conclusions of the Complaints Panel arising out of the Complaints Panel investigations carried out concerning the Complaint.
- 11.8.5 The Complaints Panel, on concluding its investigation into the Complaint and in the event the Complaint is not satisfactorily resolved, may issue a Complaints Panel Report for consideration by the next appropriate Board meeting. Any Subject Member or Complainant who is a member of the Board or any member of the Board who either represents the Subject Member or the Complainant, shall not be present at that portion of the Board meeting while such Complaint is being discussed and / or considered by the Board.
- 11.8.6 Where the Board determines, having considered the Complaints Panel Report, that a Subject Member is not in breach of the Code, the Board shall forthwith notify the Subject Member and the Complainant of its findings.
- 11.8.7 Where the Board determines, having considered the Complaints Panel Report, that a Subject Member may be in breach of the Code, the Board shall convene a Complaints Hearing to which it will invite the Subject Member to attend and / or be represented and the Board will, not later than twenty-one (21) Working Days before such Complaints Hearing, furnish the Subject Member with a copy of the Complaints Panel Report. The Board will be entitled, at its discretion, to invite the Complainant to attend and / or to be represented at the Complaints Hearing and in which case the Board will notify the Subject Member accordingly at least ten (10) Working Days before the Complaints Hearing.
- 11.8.8 The Board will, within twenty eight (28) days after the conclusion of the Complaints Hearing, issue a Complaints Decision in writing and the Secretariat will within seven (7) Working Days thereafter provide a copy of the Complaints Decision to the Complainant and to the Subject Member.
- 11.9 The Complainant and the Subject Member accept that the decision on any Complaint rests with the Board and the Board's decision shall be final and conclusive.
- 11.10 The Board may, at its discretion, refuse to adjudicate on a Complaint where the subject-matter of the Complaint is the subject of legal proceedings or where the Complaint concerns the legality of material carried on any Services or the Board may suspend its adjudication pending resolution of any concerned or disputed issue or any enquiry of whatsoever nature by the Courts.
- 11.11 Where a Complaint appears to the Board to fall within the remit of a particular regulatory body (e.g. www.hotline.ie or the Office of the Data Protection Commissioner or the Advertising Standards Authority for Ireland) the Secretariat or the Board, may on giving the Member ten (10) days notice, refer the Complaint to a named regulatory body or bodies and not adjudicate upon the Complaint or the Board may, where it deems necessary, confer with a relevant regulatory authority on giving the Member ten (10) days notice of the Board's intention to confer with the named relevant regulatory body or bodies.

12. Sanctions

- 12.1 Where the Board decides, pursuant to a Complaints Hearing that a Subject Member has breached the Code, the Board may, taking all relevant circumstances into account, impose any one or more of the sanctions set out herein.
 - 12.1.1 The Board may require the Subject Member to remedy the breach of the Code within a reasonable time as agreed by the Board.
 - 12.1.2 The Board may require a written assurance from the Subject Member, or any associated individual, relating to future behaviour, in terms required by the Board.
 - 12.1.3 The Board may suspend the Subject Member from ISPAI without any reimbursement of membership fees in whole or in part.
 - 12.1.4 The Board may convene an Extraordinary General Meeting of ISPAI for the purpose of considering an extraordinary resolution to expel the Subject Member from ISPAI, in accordance with Article 10 of the Articles.
 - 12.1.5 The Board may, where the Subject Member is suspended or expelled pursuant to Clauses 12.1.3 or 12.1.4 above, publicise that fact.
- 12.2 For the avoidance of doubt, where the Secretariat or Board refers a Complaint to a third party pursuant to Clause 11.11 and that third party imposes a financial sanction on the Subject Member, the Board will not impose the financial sanction set out at 12.1.3 above.



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