



**RTPI**

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## **COMPLAINTS PROCEDURES**

### **PROCEDURES FOR INVESTIGATING COMPLAINTS AGAINST MEMBERS AND FOR TAKING DISCIPLINARY ACTION BY THE ROYAL TOWN PLANNING INSTITUTE**

As adopted by the Board of Trustees on 25<sup>th</sup> November 2015<sup>1</sup>

#### **Definition**

1. The Complaints Procedures comprise a five-stage process:
  - Stage 1: Assessment of a complaint, or information that comes to the attention of the RTPI which might lead to a complaint, and collection of preliminary material to enable a decision on whether or not to investigate
  - Stage 2: Formal investigation
  - Stage 3: Decision on the complaint and determination of sanction (if a breach of conduct is determined) by the Conduct & Discipline Panel
  - Stage 4: Appeal process
  - Stage 5: Publicity
2. The RTPI Bye-Laws state disciplinary proceedings will be undertaken by a panel or committee with powers to take disciplinary action. The procedures are to be clear to ensure protection of the public and robust in respect of professional standards.

#### Conduct and Discipline Panel

3. The Conduct and Discipline Panel (“the Panel”) is responsible for investigating any alleged breach of the Code of Professional Conduct (“the Code”) on behalf of the Institute. The Panel is empowered to investigate any matter that may be a breach of the Code whether or not a formal complaint has been made. The Panel is empowered to decide whether a breach has occurred and, where it has, to discipline a Member in accordance with RTPI Bye-Laws and these procedures.
4. The Panel is appointed by the Institute’s Board of Trustees and shall consist of a maximum of eight appointees and a minimum of six appointees, being:
  - a. the Chair and Vice Chair, both of whom are required to be Chartered Members of the Institute;
  - b. up to a maximum of four other RTPI Members, at least one of whom shall be a Legal Member or Legal Associate Member;
  - c. up to a maximum of three lay people.
5. The Panel shall be quorate when four appointees of the Panel are present, of which at least three must be Chartered Members and one must be the Chair or Vice Chair. All Panel appointees will be asked to declare any conflicts of interest at the beginning of each meeting and, in the event of any such conflict appearing, the relevant appointee shall take no part in the relevant item.

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<sup>1</sup> Stage 1 amended 3 February 2016

### Appeal Committee

6. The Appeal Committee shall consist of three people drawn from a pool of Members or other persons established for this purpose, one of whom shall be nominated as the Chair of the Appeal Committee. At least one appointee of the Appeal Committee shall be a lay appointee. No current appointee of the Panel or Trustees shall serve on any Appeal Committee.

### RTPI Investigating Officer

7. An RTPI Investigating Officer will, collate information and responses from all parties and, in most cases, assess whether or not the complaint is appropriate for consideration under the RTPI Complaints Procedures. The RTPI Investigating Officer is the nominated contact between the Member and the complainant, the Panel and the Member and the Appeal Committee.
8. If in any case an RTPI Investigating Officer is unavailable, or has a prior/current relationship, connection or interest (beyond their role as Investigating Officer) which could affect their impartiality, they shall declare it and the functions shall be performed by another RTPI employee designated for that purpose by the Director of Professional Standards & Development.

### RTPI Member

9. A 'Member' means any person who is a Member of any class of Membership defined in the Byelaws of the Institute.
10. In any case where a Member resigns from the Institute after a complaint has been made against him or her, and before it has been determined, the Panel shall continue its investigation and may make a decision as though the Member had not resigned. The remaining provisions of the Complaints Procedures shall continue to apply as if the person were still a Member.

### **Terms of disciplinary investigations**

11. The following types of complaint are not normally appropriate for the RTPI Complaints Procedure:
  - a complaint relating to the conduct of a Member which is alleged to have occurred more than two years prior to the date of the complaint unless there are exceptional circumstances to justify an investigation. For example, where it has taken more than two years for other civil, criminal or disciplinary processes to be completed;
  - a complaint regarding a decision by a local planning authority or alleged poor administration on the part of a local planning authority or other organisation;
  - a complaint which falls within the competence of a criminal court, civil court, employment tribunal, Local Government Ombudsman or other duly appointed tribunal which has not yet been exhausted, or which has not reached conclusion.
12. A complaint must be made in writing on the prescribed form and sent to the Institute. It must identify the person making the complaint, identify the Member(s) against whom the complaint is made, specify the conduct that has led to the complaint and identify the paragraphs of the Code or any other Bye-Laws and /or Regulations which are alleged to have been breached. The RTPI Investigating Officer and/or Panel can identify the alleged breaches under the Code in instances where no breaches or incorrect

breaches have been identified in the complaint or alter the breaches under which the complaint should be heard if the evidence presented in relation to the complaint so suggests.

13. The RTPI may also decide to investigate information it receives in relation to a Member's conduct. Such information shall be handled in accordance with the same procedures as though a formal complaint had been made.
14. Complaints made against more than one Member will be dealt with as an individual complaint against each Member. If during the course of an investigation information is received that another Member may have been in breach of the Code then a separate investigation in accordance with these procedures will be instigated into the action of such Member.
15. All correspondence / documentation submitted or generated by the RTPI and/or either party is to remain private and confidential throughout the complaint process and thereafter, and is intended solely for the use and purpose of the complaint process.

### **Stage1: Assessment of complaint & preliminary material**

16. On receipt of a complaint(s), or information received, an RTPI Investigating Officer shall assess the matter and determine whether any of the circumstances set out in clause 11 apply, and whether a formal investigation into the matter(s) should be undertaken. Complaints which appear frivolous or vexatious, or where there is no obvious evidence presented to suggest a breach could have occurred, will not be investigated.
17. This decision will be considered for approval by the Director of Professional Standards & Development or nominated deputy.
18. The RTPI Investigating Officer may seek additional information from the complainant or, in instances where the complainant agrees, from the Member in order to facilitate a decision as to whether or not to undertake a formal investigation. There is, however, no formal obligation on the Member to respond at this stage.
19. In instances where the complaint is not to be investigated the reasons for this conclusion will be communicated to the complainant. Informal confidential advice may also be issued to the Member or the complainant.

### **Stage 2: Formal investigation**

20. Once a decision to proceed with a formal investigation has been taken, the Member shall be informed in writing of the particulars of the alleged breach with a request for his or her formal written response.
21. Members are required to co-operate with any investigation undertaken, in accordance with the Code.
22. Members are given three weeks to provide their formal written response. After three weeks have elapsed the investigation may proceed whether or not the Member's response has been received.
23. All information provided by a Member or complainant in substantiation or refutation of a complaint, whether in writing or via a meeting, shall be disclosed to the Member and the complainant. Parties will have three weeks to comment on any such information after which the RTPI Investigating Officer will terminate the correspondence unless, in his or her opinion, new information relevant to the determination of the complaint has been provided.

24. The RTPI Investigating Officer has the discretion to extend any period allowed for the submission of material within this procedure, but this discretion will only be exercised in exceptional circumstances (for example, serious illness, accident, absence/holiday or other compassionate grounds).
25. The list of Panel Members will be made publicly available to ensure the Member and complainant can review and he or she can determine, in his or her view, whether there is any potential conflict of interest with regard to the case under investigation. The RTPI Investigating Officer should be informed and the Panel will decide whether the panel appointee in question absents themselves from any panel discussion and decision on that case.
26. All evidence and documentation submitted by the complainant and the Member will be provided to the Panel. The RTPI Investigating Officer will produce a factual summary report referencing this documentation.
27. At its sole discretion the Panel may in exceptional circumstances invite the parties concerned to discuss the matter in front of the Panel.
28. The RTPI Investigating Officer or Panel may but is not obliged to terminate an investigation:
  - a. if the complainant fails to provide information requested in writing within the period notified to him or her;
  - b. if the complainant withdraws the complaint either in writing or at a hearing of the Panel;
  - c. where the behaviour of the complainant is judged to be unacceptable under clause 15; or
  - d. in the event of the death of the Member under investigation.
29. A complaint that has been terminated shall be reported to the Board of Trustees and will not be re-opened unless significant new material is produced that could not reasonably have been provided prior to the conclusion of the original investigation.

### **Stage 3: Decision on the complaint and determination of sanction**

30. The Panel will consider the written responses received during the investigation and shall determine one of the following on each element of a complaint :
  - a. That there has on the balance of probability been no breach of the Code of Professional Conduct and the complaint should be rejected;
  - b. That there has on a balance of probability been a breach of the Code of Professional Conduct; or
  - c. That the decision should be deferred.
31. If the Panel makes a determination under clause 30(a) or 30(b), the reasons for it shall be notified to the complainant and the Member and reported to the Board of Trustees. The decision is not subject to review by the Board of Trustees. No further correspondence will take place concerning the decision with the complainant or any other person. Informal advice can also be given to the Member or the complainant.
32. If the Panel makes a determination under clause 30(b), the Panel will go on to determine the appropriate sanction. The Panel may take any one of the following actions on each element of a complaint:
  - a. no penalty, and provide informal advice to aid the Member in his or her professional practice;
  - b. warn the Member as to his or her future conduct, with or without naming him

- or her in any subsequent publicity, making advisory recommendations where appropriate;
- c. reprimand the Member, with or without naming him or her in any subsequent publicity, making advisory recommendations where appropriate;
  - d. suspend the Member from Membership of the Institute for any period the Panel specifies, naming him or her in any subsequent publicity unless there are exceptional reasons for not doing so;
  - e. terminate the Member's Membership forthwith or from such a date as specified by the Panel, naming him or her in any subsequent publicity unless there are exceptional reasons for not doing so.
33. When considering the appropriate penalty the Panel shall take into account any earlier breach of the Code of Professional Conduct by the Member within the previous six years.
34. The decision of the Panel and the reasons for it shall be notified to the complainant and the Member and reported to the Board of Trustees.
35. Whilst suspended from Membership a person shall be deprived of all privileges and benefits of Membership, shall not use the Institute's designatory letters, shall not describe him or herself as a Chartered Town Planner and shall not hold him or herself out in any way as being a Member of the Institute. Such a Member shall however remain bound by the provisions of the Code of Professional Conduct and shall be liable to pay subscriptions on the normal basis.
36. In addition to any general conditions imposed by the Board of Trustees for the lifting of a suspension from Membership, no Member shall be re-admitted to Membership until any arrears of subscriptions have been paid.

#### **Stage 4: Provision for appeal**

37. The Member against whom the complaint was made may appeal the finding and/or the sanction of the Panel provided that he or she remains a Member throughout the investigation and appeal process.
38. The grounds on which an appeal may be made are that:
- a. The defined process for considering a complaint was not followed;
  - b. That the determination was wrong in that insufficient weight was given to, or incorrect conclusions were made from the evidence provided;
  - c. That the Member has acquired new information, which could not have been submitted to the investigation previously which would have been likely to have influenced the decision of the Panel;
  - d. That the sanction imposed was excessive in the light of the determination.
39. Any such notice of appeal must be made in writing to the RTPI Investigating Officer within 28 days of the date of the relevant decision, and must state the grounds for the appeal and state the facts or matters relied on in support of the appeal. The RTPI Investigating Officer has the discretion to extend the period for notice of appeal but this discretion will only be exercised in exceptional circumstances (for example, serious illness, accident, absence/holiday, or other compassionate grounds).
40. If an appeal is duly made, the decision of the Panel shall not be implemented and the decision of the Appeal Committee shall be substituted therefor.
41. The Honorary Solicitor may attend any meeting of the Appeal Committee and may participate in the proceedings of that meeting to the extent determined by the Chair.

The Honorary Solicitor shall not participate in any vote of the Committee.

42. The Member will be informed of the appointees to the Appeal Committee that will be considering his or her appeal so that he or she can identify, in his or her view, whether there is any conflict of interest. In the event of a conflict arising, the Member shall notify the RTPI Investigating Officer of the nature of that conflict. The RTPI Investigating Officer will then draw it to the attention of the relevant appointee of the Appeal Committee and seek agreement on whether they should stand down from the meeting. If no agreement is reached the matter will be referred to the Honorary Solicitor whose decision will be final.
43. The Appeal Committee will hear the case anew and will be provided with all the documentation that was available to the Panel as well as the additional appeal documents and their decision shall be final. No further documentation may be submitted unless it falls under clause 38(c).
44. A Member who makes an appeal against the decision of the Panel shall at the same time as making the appeal notify the RTPI Investigating Officer whether he or she wishes to have the appeal determined by written representations, or wishes to appear in person or by a representative before the Appeal Committee. In any appeal, the Appeal Committee may determine that it wishes to hold a hearing before determining the appeal irrespective of any request made by the Member under this paragraph.
45. For appeals determined by written representations, the Member shall comply with the timetable for making representations and counter-representations notified to him or her by the RTPI Investigating Officer. If the Member fails to comply with the timetable the Appeal Committee shall be entitled to determine the appeal without further notice.
46. For appeals determined by a hearing, the Member shall comply with the procedural requirements of the Committee. If the Member fails to comply with such requirements the Appeal Committee may proceed to hold the hearing without the Member present and determine the appeal.
47. All documentation to be considered by the Appeal Committee shall be forwarded to the RTPI Investigating Officer at least four weeks prior to the date of the hearing so that it can be circulated to all parties at least three weeks prior to the date of the hearing. Late evidence will only be admitted in exceptional circumstances (for example, serious illness, accident, absence/holiday, or other compassionate grounds) at the discretion of the Appeal Committee.
48. The Member may choose to be accompanied by a legal or other representative, but such representation is not mandatory. Notification of such representation must be made to the RTPI Investigating Officer no later than three weeks prior to the date of the hearing.
49. The Member or the chosen representative may call witnesses to give evidence in his or her defence, and may cross-examine any witnesses called by the Committee to give evidence.
50. The Appeal Committee and / or the Honorary Solicitor or other legal representative on behalf of the Institute shall be entitled to question any party or witnesses.
51. The Appeal Committee shall be entitled, at their discretion, to disallow any evidence or questioning which is, in their opinion, defamatory or otherwise inappropriate.
52. The Appeal Committee may invite the complainant or any other person to give evidence in any appeal.

53. The Appeal Committee, if satisfied that the Member has been duly notified of the date, time and location of the hearing and the Member does not attend, shall be entitled to proceed to determine the appeal in the absence of the Member or his or her representative.
54. The Appeal Committee may halt or adjourn a hearing in order to take legal advice on any matter that arises during the course of a hearing or, at its discretion, on the application of one of the parties.
55. The Appeal Committee shall make determinations based on the grounds of the appeal on stating at least one of the following:
  - a. Confirm the finding of the Panel (and therefore the subsequent sanction). This may include a conclusion that any new evidence was unlikely to affect the decision by the Panel.
  - b. Rescind the finding of the Panel (and therefore the subsequent sanction), and substitute the finding of the Panel with another from clause 30.
  - c. To substitute the sanction of the Panel with another from clause 32. In making their determination, the Appeal Committee will not be limited by the sanctions imposed by the Panel.
  - d. In exceptional circumstances, find that the new evidence could not have been provided during the earlier investigation and was likely to affect the decision of the Panel and that the Complaints Procedures should start again from Stage 2.
56. The decision of the Panel (if no appeal is made), or the Appeal Committee where convened, shall be final, and notice of the decision and the reasons therefore will be sent to the Member and complainant in writing. The Board of Trustees will be notified of all decisions of the Panel and Appeal Committee.

#### **Stage 5: Publicity**

57. The Panel, or Appeal Committee where convened, may publicise any findings of a breach of the Code that it considers appropriate in the interests of the Institute or the public.
58. No publicity will be given until an appeal, including those where clause 55 (d) applies, has been determined or the period to lodge an appeal has expired.