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RTPI
Royal Town Planning Institute

Board of Trustees

CONDUCT AND DISCIPLINE ANNUAL REPORT 2018

Report from the Director of Scotland and Ireland

FOR INFORMATION

The Board of Trustees is asked to note the report.

1. Introduction

This paper provides Trustees with information on the work of the Conduct and Discipline Panel and the member complaints service in 2018. It also sets out initial ideas on taking forward the service in the future.

2. Conduct and Discipline Panel

The Panel met on three occasions in 2018 (February, June and October). The Panel comprises:

- Paul Barkley LARTPI
- John Craig MRTPI
- Anthony Fussey MRTPI
- Gordon Halliday MRTPI
- Alan Hubbard MRTPI
- Tim Smith LLB (Hons) (Lay person)
- Kirsteen Thomson MRTPI
- Lauren Whitworth MRTPI

Kirsteen Thomson stood down as Chair and from the Panel at the February meeting. Gordon Halliday was appointed as Chair and John Craig as Vice Chair at the meeting in June. Anthony Fussey and Lauren Whitworth joined the Panel at the February meeting.

Sandra Whitehead, Complaints Investigator, left her post in December 2018. She has been replaced on an interim basis by Ruth Richards.

3. Complaints and Appeals

Over the course of the year the Panel has determined 18 complaints, including 8 which arose from failure to comply with CPD or Professional Indemnity Insurance. Officers have considered a further 15 complaints for investigation, an additional 7 complaints received in 2018 are awaiting consideration, making a total of 40 compared to a total of 52 in the previous year.

Of those 18 complaints it considered, the Panel found 10 members to be in breach of the Code of Professional Conduct and 2 letters of advice were issued although no breach was found. Three

members were warned as to their future conduct and 2 reprimands were issued. 2 members were suspended and one has had their membership terminated. These three cases were all regarding CPD/ PII. The Panel also found a member to be in breach if they did not provide their PII documentation within a specified timeframe. If this wasn't done it was agreed that the member would be suspended for 6 months. 16 of the 18 cases investigated involved consultant members.

Two appeals were submitted in 2018, one of which was withdrawn. For the one appeal considered, the Appeals Panel increased the penalty from a warning to a reprimand. There were no appeals in 2017.

The number of complaints received in each of the last 10 years is:

2009	27 + further 102 PII investigations
2010	23 + further 7 CPD and 109 PII investigations
2011	32 + further 10 CPD and 106 PII investigations
2012	31 + further 5 CPD and 32 PII investigations
2013	26 + further 3 CPD and 25 PII investigations
2014	32 + further 3 PII investigations
2015	29 + further 3 CPD and 17 PII investigations
2016	41
2017	39
2018	29

A brief summary of each case completed by the Panel in 2018 follows:

1. **17-05** A consultant member was found to have breached the Code for failing to exercise due care, and failing to notify the client prior to undertaking additional work and incurring additional fees. The member submitted an appeal but this was subsequently withdrawn. The member was warned as to their future actions.

2. **17-18** A consultant member was found to have breached the Code for failing to exercise due care and failing to provide written terms of engagement. The member appealed against the decision but appeal panel upheld the decision. Member received a reprimand.

3. **17-25** Complaint against a consultant member for failing to inform in advance of additional fees. No breach was found but a letter of advice was sent to the member referring him to the Ethics and Professional Standards Advice Note concerning written terms of engagement.

4. **17-30** Complaint that a consultant member failed to verify the authenticity of a document. No breach of the Code was found but the member was advised as to the need to verify the authenticity of any documents relied upon and to make it clear where documents are supplied by a third party.

5. **17-31** Complaint against a consultant member concerning a failure to provide written terms of engagement in a timely manner. A breach of the Code was found and the member was warned.

6. **17-35** Complaint against a local authority member that he failed to advise the Council of the Local Government Ombudsman's recommendations or ensure they were implemented. No breach of the Code found.

7. **18-01** Member found to be in breach of the Code for failing to comply with the PII and CPD monitoring requirements and agreed to suspend her membership for 3 months, the member subsequently complied.

8. **18-02** Member referred as they had failed to comply with the PII and CPD monitoring requirements. The member then complied and the complaint has been closed**.**

9. **18-03** Member referred as they had failed to comply with the PII and CPD monitoring requirements. The member then complied and the complaint has been closed**.**

10. **18-04** Member referred as they had failed to comply with the PII and CPD monitoring requirements. The member then complied and the complaint has been closed**.**

11. **18-05** Member found to be in breach of the Code for failing to comply with the PII and CPD monitoring requirements and agreed to suspend her membership for 3 months.

12. **18-06** Member referred as they had failed to comply with the PII and CPD monitoring requirements. The member then complied and the complaint has been closed**.**

13. **18-07** Member found to be in breach of the Code for failing to comply with the PII and CPD monitoring requirements and agreed to suspend his membership for 3 months. Due to his continued non-compliance, his membership was terminated.

14. **18-08** Member referred as they had failed to comply with the PII and CPD monitoring requirements. The member then complied and the complaint was closed**.**

15. **18-10** Complaint that a consultant member had failed to provide written terms of engagement for part of a commission, to not keep to terms of engagement for another part of the commission and a failure to act with due care and diligence. A breach of the Code was found and the member was warned. Member has also failed to provide details of his PII and this matter remains in hand.

16. **18-11** Complaint that a local authority member had failed to insert correct conditions and mis-labelled plans within a committee report. No breach of the Code was found.

17. **18-13** Complaint that a consultant member used inappropriate and unprofessional language in an email to a junior LPA planner. A breach of the Code was found and the member was reprimanded.

18. **18-15** Complaint against a consultant member that he included false or inaccurate statements in a letter to the LPA. No breach of the Code found.

<u>Complaints received and considered by the Complaints Investigator / Director pursuant to Stage 1 of the Complaints Procedures and where no investigation has gone forward.</u>

1. **17-32** A decision has been made not to investigate this complaint as it was considered to be outside the remit of the Code. It was alleged that the member, a local authority planning officer, had constructed an unauthorised porch to her property without obtaining planning permission, in contravention of Council policy. A retrospective planning application was subsequently approved, therefore no enforcement action was necessary. This matter was not considered to fall within the scope of professional activities of the Member.

2. **17-37** Decision made not to investigate this complaint as it was out of time. This complaint related to the actions of the Member in his dealing with various planning applications dating back from 2008 to 2014, which have been subject to LGO investigations and Judicial Review proceedings that finally reached a conclusion in 2015. This complaint should have been brought to the Institute in 2016 soon after the conclusion of all other proceedings, and still within two years of the date of the last alleged conduct, in 2014. There were no exceptional circumstances to justify investigating this matter out of time**.**

3. **17-38** Decision made not to investigate for the reason set out above in case 17-37. This complaint is linked to 17-37 and 17-39.

4. **17-39** Decision made not to investigate for the reason set out above in case 17-37. This complaint is linked to 17-37 and 17-38.

5. **18-12** This complaint concerned a comment alleged to have been made by a Member which the complainant considered to be detrimental to his own professional reputation. No evidence was submitted to verify the alleged comment and no evidence could be provided as to the precise details of what was said, when and to whom.

6. **18-14** This complaint concerned matters of professional judgement of the Member regarding his interpretation and application of planning policy and guidance within his planning statement. These were not considered to be matters which the Institute would investigate.

7. **18-17** It was alleged that the Member has allowed a conflict of interest to arise in respect of his involvement in the Neighbourhood Development Plan and his role as Head of Planning within the same area. No evidence of his activities/involvement in the Neighbourhood Plan was provided.

8. **18-18** It is alleged that the Member, a local authority planner, has implied within correspondence that the complainant, a fellow Member/planning consultant, has ignored the advice of the LPA and thereby caused delay and frustration for his client. The fact is that the complainant had been advised to seek planning permission for a proposed development as opposed to seeking confirmation that the development could be completed under Class O.

9. **18-19** This complaint concerned the Council's response to Stage 1 of the Council's complaint process. It matter was withdrawn prior to a decision being made as to investigation.

10. **18-20** It was alleged that the Member had written a letter containing untrue and exaggerated comments and that he was also responsible for the contents of a letter written by his colleague which is also alleged to contain errors and disingenuous statements of opinion. There was no evidence to support these allegations and it was not feasible that the Member would have been personally responsible for the actions of another qualified and very experienced colleague.

11. **18-21** Complaint that a licentiate member had plagiarised the content of her Licentiate Assessment of Professional Competence application. This has now been withdrawn.

12. **18-22** Complaint that a local authority planner had given misleading advice to the complainant concerning existing development proposals regarding a certain area of land, in 2015. This matter was considered to be out of time. The complainant further alleged that a Consultee letter had not been placed on the Council's website until after the application had been to Planning Committee. This was considered to be an administrative matter and therefore not within the remit of the RTPI's disciplinary processes.

13. **18-24** Allegation that a consultant had a conflict of interest having previously advised the complainant on a development scheme and then (2 years later) advising a neighbour. No evidence was provided that he had advised the neighbour and the member had denied acting for them.

14. **18-27** Allegation that the planning officer's report failed to consider key aspects of the development proposed. Matter was considered at Judicial Review and no deficiencies were found.

15. **18-29** The complainant alleged that the member had failed to take appropriate actions himself and to ensure that his staff maintain the integrity of the planning system. It centred on a number of development proposals which have been granted consent and the local plan allocations against the views of local residents and the Town Council. No specific evidence of inappropriate actions was submitted to support the complaint, only letters of objections to the above schemes. A complaint was also lodged with the LPA. This was considered to be a matter for the LPA.

Complaints received and still under consideration

1. **17-28** Decision has been made to investigate an allegation that confidential material was inappropriately disclosed. We have been awaiting the conclusion of Employment Tribunal proceedings which we have only now been informed of.

2. **17-36** This complaint could not be investigated initially as it concerned a live planning application. The complainant has now resubmitted his complaint now that the planning application has been determined.

3. **18-16** Decision has been made to investigate an allegation that a consultant member withdrew a planning application without instruction from his client.

4. **18-23** Decision has been made to investigate a possible conflict of interest in acting for a number of neighbours objecting to a planning application.

5. **18**-**25** A decision has yet to be made as to whether to undertake an investigation. Further details of the complaint have been requested together with information on other complaints that may have been lodged elsewhere.

6. **18**-**26** Decision has been made to investigate allegations with regard to fees charged, terms of engagement and actions of the consultant member.

7. **18-28** The complaint alleges the inclusion of inaccurate documents and statements with a planning application. We are awaiting determination of the relevant planning application before a decision can be made as to investigation – the complainant has been invited to resubmit his complaint once the application has been determined.

Across the year the Complaints Investigator and Director of Scotland and Ireland dealt with 95 enquiries regarding possible complaints or from members seeking advice on professional standards issues.

4. General Data Protection Regulations

In 2018 the complaints service has needed to adapt to the GDPR and, as such, the complaints form has been revised to contain details on how the Institute will handle personal data and to ensure that complainants have permission to share personal data contained in their complaint with the Institute. We are also trialling the redaction of personal data during the investigation process after undertaking a benchmarking survey of how this is handled across other professional bodies.

5. Issues and Trends

Important issues raised in the year whilst undertaking the complaints investigation service include whether there is a need for the Institute to have a power to suspend members who are subject to very serious accusations. Current advice is that this cannot be done as it goes against the spirit of natural justice and the need to treat members as innocent until proven guilty. It is intended to examine this further.

A separate paper on members disclosing serious convictions will be considered by the Board later in the meeting.

Recent years have seen a raise in complaints regarding members' use of social media and although there are references to ensuring proper use in the Institute's member advice note on ethics, we are considering scope to develop this advice further.

A perceived lack of awareness and understanding on the issue of retired members providing planning advice has been raised with the Panel and work is underway looking to clarify and highlight this amongst members.

6. Taking the Complaints Service Forward

The Senior Executive Team have explored how to take forward the complaints service in the future. It is considered that there is a need for the service to be more of an asset for RTPI, our members & the public. In doing this it should be:

- more proactive and frontloaded in providing advice and support to members and the public
- seen as a more valuable part of the RTPI's offer in promoting professional excellence and which highlights the importance of RTPI membership
- a more corporate service which is at the front and centre of the Institute's work
- supported to embed feedback and learning to identify issues for the profession and the Institute
- benchmarked regularly with similar services in other professional bodies to identify learning to enable it to continuously improve
- supported to move towards more digital-based approaches

Opportunities to drive this forward are presented by the review of the Corporate Strategy, the new Customer Relationship Management System, the new website and the development of the new volunteering strategy.

7. Resource Implications

None.

8. Communications Implications

None.

9. Legal implications

None.

10. Jurisdiction and devolution implications

The member complaints service covers all members internationally irrespective of location..

11. Equality and diversity implications

None.