

# Disciplinary Procedures

Revised May 2018

## 1. INTRODUCTION

- 1.1 All Members of the Chartered Institute of Ecology and Environmental Management (CIEEM) are required through their contract of membership to abide by the Code of Professional Conduct (the Code). A Member who is the Subject of a complaint must use their best endeavours to assist in any inquiries CIEEM might make to investigate the complaint and must not seek to dissuade, penalise or discourage a person from bringing a complaint. Members must also not interfere with or otherwise compromise due process.
- 1.2 A complaint may be lodged against a Member if there is doubt that their professional conduct complies with the Code. The primary purpose of these Disciplinary Procedures is not to punish, but to protect the public, to maintain public confidence in the integrity of the profession, to uphold proper standards of professional behaviour and, where appropriate, to direct the Member in breach as to how to improve their practice to an acceptable standard.
- 1.3 A record of disciplinary findings against Members shall be maintained by the Secretariat, consistent with the General Data Protection Regulation 2018.

## 2. DEFINITIONS

- 2.1 Appeal Board. A panel of up to 3 Members from the Disciplinary Pool charged with hearing an appeal against the outcome of a disciplinary inquiry.
- 2.2 Appellant(s). The individual(s) appealing against the outcome of a disciplinary inquiry. This may be the Subject(s) or the Complainant(s).
- 2.3 Code. The Code of Professional Conduct to which all CIEEM Members are bound to comply by virtue of their contract of membership.
- 2.4 Complainant(s). The individual(s) or organisation making the complaint (who may or may not be a Member(s) of CIEEM). In some instances CIEEM itself will be the Complainant (e.g. in the alleged misuse of post-nominals).
- 2.5 Disciplinary Board. A panel of normally 3 Members from the Disciplinary Pool, one of whom should normally be a non-CIEEM Member, charged with making further inquiry into an alleged breach of the Code at a Disciplinary Hearing.
- 2.6 Disciplinary Hearing. The meeting (which may be in person or via teleconference/other remote means) at which further inquiry is made to enable a decision to be reached on whether the Code has been breached. The Subject(s) and Complainant(s) shall be invited to attend this meeting with any witnesses as appropriate.
- 2.7 Disciplinary Pool. A group of CIEEM Members and non-CIEEM Members trained in the implementation of the Disciplinary Procedures.
- 2.8 Governing Board. The elected Members who are also Directors of CIEEM and have responsibility for the legal and strategic management of the organisation.
- 2.9 Preliminary Investigation Panel (PIP). A sub-committee of normally three Members of the Professional Standards Committee charged with looking into a complaint to decide whether there is sufficient evidence of a possible breach of the Code to justify further inquiry at a Disciplinary Hearing.
- 2.10 Professional Standards Committee (PSC). A Standing Committee with delegated authority from the Governing Board to oversee the implementation of the Disciplinary Procedures. No Member of the PSC will also be a Member of the Disciplinary Pool.
- 2.11 Subject(s). The Member or Members of CIEEM against whom the complaint is made.

## 3. THE DISCIPLINARY PROCESS

- 3.1 These Disciplinary Procedures set out the process by which CIEEM will consider a complaint. They are based on the following core principles:
  - no-one shall be considered in breach of the Code until so judged as a result of a disciplinary inquiry;
  - any investigation shall be transparent and fair; and

- proven breaches of the Code shall receive a proportionate response.

3.2 The disciplinary process comprises three stages:

**Stage One:** Verifying that a complaint can be considered by CIEEM and establishing that there is sufficient evidence to support an allegation of a breach(es) of the Code to justify further inquiry.

**Stage Two:** An inquiry by a Disciplinary Board to establish whether any breach of the Code has occurred, and, if so, what sanction is appropriate.

**Stage Three:** A right to seek leave to appeal the Disciplinary Board's decision.

The stages are explained in more detail in Sections 4, 5 and 6 below.

- 3.3 It is considered that to be transparent and fair, a Complainant is required to be identified from the outset of an investigation. However, in exceptional circumstances a request for anonymity may be allowed for Stage One of an inquiry in which case the Chair or Vice Chair of PSC will act as the Complainant. Whether such exceptional circumstances apply will be at the discretion of PSC who will determine whether:
- a. there are recognisable and evidenced reasons of significant personal or professional risk to justify a Complainant remaining anonymous and the complaint cannot reasonably be brought by any other person without the need for anonymity; and
  - b. it is in the public interest that the matter be investigated.

Even in such exceptional circumstances anonymity can only be offered until the end of Stage One and the original Complainant(s) will need to agree to be identified before Stage Two can commence.

- 3.4 All complaints should be submitted using the Complaints Form provided for this purpose and should be accompanied by relevant evidence. Complaints should be submitted in a timely way with reference to the period in which the alleged actions occurred. CIEEM would not normally consider a case if the alleged breach has occurred more than 12 months prior to the complaint but will make allowance for the fact that some series of actions or behaviour can occur over a longer time period and it may be some time before facts come to light or a pattern emerges that causes concern.
- 3.5 An inquiry into a complaint is a confidential process and all parties are expected to respect confidentiality as far as is possible and restrict discussions about the complaint to those parties involved, including any witnesses, unless otherwise required by law. CIEEM reserves the right not to investigate a complaint where it is determined by the PIP on review of the evidence that the disciplinary process is being used primarily as a means of publicly embarrassing a Member.

## 4. STAGE ONE: PRELIMINARY INVESTIGATION (ADMINISTRATIVE STAGE)

### *Confirmation*

- 4.1 The Secretariat is required to check a complaint to confirm that it relates to professional conduct and that it is within the scope of CIEEM's authority to consider. If either condition is not met then the Complainant will be informed and no further action will be taken.
- 4.2 Any request for anonymity by the Complainant must be made when the complaint is submitted. The decision of PSC as to whether to allow anonymity until the end of Stage One will be made known to the Complainant before any decision is taken to proceed further.

### *Determining if there is Evidence*

- 4.3 The Secretariat will write to the Subject(s) to inform them that a complaint has been made against them, to provide them with a copy of the complaint and to invite them to provide documentary evidence in rebuttal or explanation as they see fit.
- 4.4 The Secretariat will inform PSC of the receipt of a complaint and a Preliminary Investigation Panel will be formed. A PIP is normally made up of three Members of PSC. The PIP is required to make an initial assessment of the material relating to the complaint and to decide whether there is sufficient evidence of a case to answer regarding a potential breach of the Code of Professional Conduct to warrant referral to a Disciplinary Board for further inquiry.

- 4.5 The Secretariat will provide the PIP with a copy of the complaint and the supporting evidence. The PIP will review the evidence to determine whether it indicates a possible breach of the Code and may request additional information as it sees fit to assist its review. PIP Members will undertake their review independently of each other but they may then discuss their views in private at a teleconference in order to agree a recommendation.
- 4.6 Where the review by the PIP confirms that there is sufficient evidence of a possible breach of the Code, the complaint will progress to Stage Two and be referred to a Disciplinary Board. Sufficient evidence indicates that there are facts pertaining to the case that are best inquired into at a disciplinary hearing but should not be taken to imply that a breach of the Code has occurred.
- 4.7 Where the PIP believes that there is insufficient evidence of a breach of the Code to justify referral of the case to Stage Two, the Secretariat will write to the Subject and the Complainant to inform them of their decision and outline the main reasons behind it. No further correspondence shall be entered into regarding the reasoning and the complaint will be considered closed unless new evidence of a possible breach of the Code is provided within two weeks of the date of the letter.
- 4.8 Complaints that are closed or are withdrawn by the Complainant will not be reported to the Governing Board and no information regarding such complaints shall be made public.

## **5. STAGE TWO: THE INQUIRY (JUDICIAL STAGE)**

- 5.1 A Disciplinary Board will be convened to undertake an inquiry through which it will reach a judgement as to whether or not the Code has been breached. Disciplinary Boards are formed from Members of the Disciplinary Pool and do not include anyone also serving on the PSC or the Governing Board. The Disciplinary Board may appoint a legal adviser to advise on procedural matters and it will be supported by the Secretariat for the duration of its inquiry.
- 5.2 Following the conclusion of Stage One, the Secretariat will inform the Complainant(s) and the Subject(s) that the complaint has been referred to a Disciplinary Board for further inquiry and provide the name(s) of the Complainant where anonymity was provided for Stage One. Should the Complainant(s) refuse to waive anonymity at this point no further inquiry into the alleged breach(es) will be made.
- 5.3 The Secretariat will provide the Disciplinary Board with the complaint and the supporting evidence. The Disciplinary Board Members will review the complaint and may request additional information or evidence as they see fit to assist their inquiry.
- 5.4 The Disciplinary Board may hold a teleconference or preliminary meeting to discuss the available evidence and to agree any directions that need to be made. In preparation for a hearing and at the Disciplinary Board's discretion, evidence from its own Expert Witness(es) may be sought for circulation to all parties. Additional supporting evidence may be sought from the Subject(s) or Complainant(s) in the form of written statements which also will be circulated.
- 5.5 The Disciplinary Board is entitled to inquire into any aspects of the Code that it feels may have been breached based on the evidence before it and is not restricted to inquiring only into the areas raised by the Complainant. The Secretariat will subsequently write to the Subject(s) and the Complainant(s) to provide them with information on the scope of the hearing, a provisional date and all evidence under consideration.

### ***The Disciplinary Hearing***

- 5.6 The purpose of the disciplinary hearing is to enable the Disciplinary Board to assess the evidence to establish if there has been a breach of the Code. The hearing will be undertaken either at a meeting or, less commonly, remotely by teleconference or videoconference. The Subject(s) and the Complainant(s) will be invited to partake in the hearing and will do so at their own expense. They may be represented by lawyers, or may be accompanied by a 'Friend'. The hearing shall normally be open to the public although some parts may be held in private if it is deemed to be appropriate to do so by the Chair of the Disciplinary Board (e.g. to hear confidential evidence). The hearing will be recorded with the agreement of all the parties involved. This may be by audio-recording. CIEEM shall retain the recordings as a matter of record for issues of accuracy, but will not normally make the recording available to the Subject and Complainant unless requested to do so at the relevant party's expense.

- 5.7 A hearing is the opportunity for each party to present their case in order to enable the Disciplinary Board to establish the facts of the complaint. Further evidence from the Subject(s) or the Complainant(s) may also be sought or received during the hearing, although all written evidence must have been submitted prior to the conclusion of the hearing. Guidance on the conduct of the hearing will be sent to both parties.
- 5.8 Neither the Subject(s) nor the Complainant(s), or their nominated representatives or witnesses, will be eligible to claim recompense from CIEEM for any costs associated with the complaint or hearing.
- 5.9 Following the hearing the Disciplinary Board may dismiss or uphold the complaint. If the complaint is upheld the Disciplinary Board will identify which clause or clauses of the Code has/have been breached and why.
- 5.10 If the Subject(s) admit(s) the breach prior to the hearing, oral or written accounts by the Subject(s) or the Complainant(s) may not be required and the hearing will consider only a Statement of Mitigation.
- 5.11 Should the Disciplinary Board conclude that the Code has been breached then, having taken account of any Statement of Mitigation, the Disciplinary Board may apply a sanction as follows:
- reprimand the Subject(s);
  - reprimand the Subject(s) with advice;
  - reprimand the Subject(s) with conditions such as stipulating training or other learning requirement (at the Subject's expense) and requiring evidence of completion of that training/requirement within a specified time period. If the condition(s) are not met to the Disciplinary Board's satisfaction it may recommend further sanctions; or
  - exclude the Subject(s) from membership of CIEEM permanently or for a given period.
- 5.12 After the hearing the Secretariat will inform the Subject(s) and the Complainant(s) of the decision of the Disciplinary Board together with the reasons for its decision and any sanctions or advice. It will notify both parties of a right to seek leave to appeal its decision. All parties are expected to maintain confidentiality until the period to seek leave to appeal the decision has elapsed.
- 5.13 The decision of inquiries where the complaint has been upheld shall be communicated to the Governing Board by the Secretariat once the period for Appeal has passed and will be published as CIEEM sees fit in accordance with its Disciplinary Inquiries Publications Policy. This will include publication in *In Practice* and on the CIEEM website and may include by correspondence to external stakeholders such as employers, local planning authorities and statutory agencies.

## 6. STAGE THREE: APPEAL

- 6.1 A request to appeal the decision of the Disciplinary Board may be sought on the basis of new evidence becoming available since the hearing which may have affected the outcome of the hearing, or an apparent injustice during the inquiry. The request to appeal must be sought within ten working days of the date of the letter of the decision from the Disciplinary Board.
- 6.2 Where the appeal is on the grounds of new evidence the request will be considered by the Chair of that Disciplinary Board who may, if leave to appeal is granted, re-constitute the Disciplinary Board to hear the additional evidence.
- 6.3 Where the grounds for appeal are an alleged injustice the request will be considered by an Appeal Board composed of up to three Members of the Disciplinary Pool not previously involved in the inquiry. If the appeal is granted then a new Disciplinary Board will be established to hold a new hearing. This new hearing will be run in accordance with Stage Two: The Inquiry. The decision of the second Disciplinary Board will replace that of the first Disciplinary Board. There will be no right to a second appeal.
- 6.4 If the request to appeal is denied, the basis for this will be communicated in writing to the Appellant and the decision of the Disciplinary Board will be upheld.

**These Disciplinary Procedures came into effect on 1<sup>st</sup> June 2016**