

## Guidance notes for professional conduct regulations

These guidance notes describe the procedures for all aspects of the professional conduct regulations, in order to assist those who wish to use the regulations or have duties as part of the process. They do not purport to interpret the regulations and in the event of any conflict between this guidance and the regulations the professional conduct regulations take precedence.

The professional conduct regulations are a six-stage process

- an assessment either of whether an allegation should be resolved by discussion, is frivolous or vexatious, or is appropriate for the professional conduct procedure (clauses 8-10)
- an investigation by a professional conduct panel of a formal allegation to determine the evidence for and against the allegation and make recommendation to Board of Directors (clauses 11-19)
- decision on the allegation by the Board of Directors (clauses 20-24)
- determination of the sanctions by a Sanctions panel (clauses 25-29)
- appeal process (clauses 30-38)
- reporting and review (clauses 39-43)

These guidance notes follow the stages of the procedures and the clauses of the regulations. Not all clauses are listed in the guidance as they are self explanatory.

### Professional conduct procedure

#### Raising a complaint under the Professional conduct regulations

##### Clause 1

An allegation against an individual member may be brought if the individual was a member at the time of the alleged breach. The Professional conduct process will continue even if the individual has since ceased to be a member, or ceases to be a member during the process.

Complaints against Registered Organisations are covered by the [Regulations for the registration of organisations: complaints procedure \(December 2014\)](#)

##### Clause 2

CifA has the right to nominate an individual to bring a professional conduct complaint against any member of CifA on its behalf if it learns of any potential case from whatever source. That individual should prepare an allegation in line with Clause 3 and will be handled in the same way as any other allegations (Clause 4).

##### Clause 3

All allegations received against CifA members should be accompanied by a standard professional conduct complaint form from the CifA website ([www.archaeologists.net/regulation/complaints](http://www.archaeologists.net/regulation/complaints)) with

supporting evidence and details of any attempt to resolve the matter before completing this (see Clause 5).

An allegation should refer to the relevant clauses of the CifA *Code of conduct* or other regulations which the member has been alleged to have breached. Each alleged breach is an 'element' of the allegation and each element is assessed separately as part of a whole allegation.

#### Clause 4

Any allegation of improper conduct should be signed by the complainant; it is not possible to bring an anonymous complaint although it may be possible for complainants' contact details not to be made available to the respondent. Allegations may be brought via the committee of a Special Interest or Area Group.

#### Clause 5

As part of the allegation process the complainant must provide examples and if possible evidence of how they have tried to resolve the matter through discussion (Clause 3). If the assessor does not feel that this has been demonstrated or that the matter may be better resolved through discussion, they can make this determination under Clause 9.

#### Clause 6

For an assessment to be made on the allegation the CifA expects every member who is the subject of an allegation to follow the processes in the professional conduct regulations. If the member does not respond the process will go ahead using the evidence available.

#### Clause 7

All allegations are reported to Council on a quarterly basis. Details of the parties concerned are not normally disclosed.

### **Receipt of an allegation**

All allegations will be appropriately acknowledged by a member of staff

The Chief Executive will be notified of any allegation of misconduct. If an allegation is made against the Chief Executive it will then be referred to the Honorary Chair.

### **Stage 1 Assessment**

#### Clause 8 & 9

Assessment is intended primarily to separate out matters that may not best be resolved through the professional conduct process. A not uncommon example would be a dispute of a contractual nature that appears not to relate to professional ethics.

The assessor is usually a senior member of staff unless there is in a potentially prejudicial position or additional expertise are needed.

Copies of all documentation relating to the case will be kept in the CifA office and each file should have a numbered log sheet to track evidence

The assessment should not take up much time as it is a process to assess whether the allegation has been completed properly and is relevant to be processed under the professional conduct regulations.

The assessment does not have to involve contact with the individual against whom the complaint is made or the complainant.

The assessor will review the following

- a. that the allegation received should more appropriately be resolved by discussion
- b. that the allegation received appears to be frivolous or vexatious and reject the allegation
- c. that the Professional conduct regulations do not comprise the appropriate process under which to consider the allegation, and reject the allegation
- d. that the allegation is appropriate for consideration under the Professional conduct regulations, and shall be investigated as a formal allegation

If the assessor determines to reject the allegation CifA will notify the complainant of this decision as soon as possible.

#### Clause 10

If the assessor determines that the allegation should more appropriately be resolved by discussion the assessor will report this to the Chief Executive and contact the complainant and respondent accordingly. The allegation can be resubmitted if attempts to advance discussion prove fruitless.

If the assessor determines that the professional conduct Regulations are the appropriate process to hear the allegation, then this will be investigated as a formal allegation and reported to the Chief Executive.

### **Stage 2 Investigation**

#### Clause 11

The appointment of a professional conduct panel does not indicate that the assessor believes that the allegation is true. It is the role of the Professional conduct panel to carry out the full investigation of an allegation and to make a recommendation to the Board.

#### Clause 12

The professional conduct panel will consist of three people, two of which will be accredited members of CifA.

#### Clause 16-17

CifA will contact the member against who the allegation is made (the respondent) within 28 days of appointment unless exceptional circumstances apply.

At this stage the respondent will be asked to comment on the allegation and submit evidence. The panel can also ask for further comments from the complainant or to carry out other investigations to help them to reach a decision.

A recommendation will be made on the basis of the evidence presented whether the respondent has submitted a reply or not (clause 5).

#### Clause 18

The professional conduct panel will assess the evidence and statements provided and will make a determination of one of the following to be recommended to Board of Directors for each element of the allegation

- a. the allegation is inappropriate for the Professional conduct regulations and is rejected
- b. there is no case to answer (from the evidence provided in support of the allegation)
- c. that there has been no breach of the *Code of conduct* and the allegation should be rejected
- d. there has been no significant breach of the *Code of conduct* but conduct warrants an advisory recommendation
- e. that there has been a significant breach of the *Code of conduct*

To clarify the difference between clause 18b and 18c

- 18b – no case to answer from the evidence provided in support of the allegation
- 18c – the evidence for the allegation has been disproved by the evidence from the respondent

Clause 20

The professional conduct panel may at any stage decide to cease or suspend their work due to anticipated or actual civil or criminal proceedings, serious illness, or any other compassionate ground and report to Board of Directors.

Clause 19

The Professional conduct panel will report their findings to the Board of Directors as a summary report with recommendations

Clause 21

Three members of Board of Directors must be present to vote on a professional conduct panel recommendation.

The Board of Directors will vote on

- a. whether they agree with the findings of the Professional conduct panel
- b. whether they disagree with the findings of the Professional conduct panel as they have identified matters for further consideration – in this case the Board will provide the professional conduct panel with the details they wish to be considered further.

Clause 22

If the Board of Directors agree with the findings of the professional conduct panel and the decision warrants an advisory recommendation or is a significant breach of the *Code of conduct*, the Board will ask for a Sanctions panel to be appointed.

### **Stage 3 Sanctions**

Clause 25

If the Board of Directors agrees that a Sanctions panel should be convened to consider sanctions the Chief Executive will appoint 6 people for this purpose.

The Sanctions panel shall be able to act if four or more of the panel is present.

#### Clause 27

The Sanctions panel will be provided with the investigator's summary report, the case file, and the respondent's representation to enable them to make one of the following four findings on each element of the allegation

- a. in the event that there does not appear to have been any significant breach of the *Code of Conduct*, that investigations have revealed opportunities for improvement in specified areas, whether the subject of the allegation or not. The finding shall make advisory recommendations regarding any potential for improvements or redress, eg using the Institute's arbitration scheme, redoing a piece of work, apologising, or making a compensatory payment not exceeding £2,000
- b. that the Board of Directors should issue a formal reprimand (normally drafted by the sanctions panel)
- c. that the Board of Directors should suspend the member against who the allegation is made from membership of the Institute for at least one year and no more than three years
- d. that the Board of Directors should expel the member against who the allegation is made from membership of the Institute

#### **Stage 4 Appeals Process**

#### Clause 30

The member who is subject to an allegation may appeal the findings of the Board of Directors or the sanction recommended by the Sanctions panel.

#### Clause 31 & 32

An appeal must be made in writing to the Institute 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 grounds on which an appeal may be made are that

- a. the determination is flawed because the defined process for considering a complaint was not followed
- b. that the determination was wrong in that insufficient weight was given, or incorrect conclusions were made from the evidence provided
- c. that the respondent has acquired new information, which could not have been submitted to the investigator during the initial investigation which would have been likely to have influenced the decision of the professional conduct panel
- d. that the sanction imposed was excessive in the light of the determination

Council will assess the merits of the appeal based on the submitted grounds of appeal and supporting evidence provided by the respondent.

#### Clause 33 & 34

The chair of Advisory Council or their nominee will assess the merits of the appeal and will determine

- a. that the appeal is frivolous or vexatious and reject the appeal

- b. that there is insufficient cause given in the appeal to take the matter further and reject the appeal
- c. that there is sufficient cause to set up an Appeal panel

Clause 35

The chair of Advisory Council will appoint an appeal panel of six people made up of five members of Advisory Council and one other who may or may not be an archaeologist and/or a member of CIfA.

Clause 36

The appeal panel will decide

- a. confirm the finding of the Board of Directors (and therefore the subsequent sanction)
- b. rescind the finding of the Board of Directors (and therefore the subsequent sanction)
- c. to substitute the finding of the Board of Directors with another from clause 18 c, d, or e,
- d. that the new evidence was unlikely to affect the decision by the Board of Directors and confirm the finding of the Board of Directors
- e. that the new evidence could not have been provided during the earlier investigation and was likely to affect the decision of the Board of Directors and that the Professional conduct process (under a new Professional conduct panel) should start again from clause 10
- f. confirm the sanction of the Sanctions panel
- g. to substitute the sanction of the Sanctions panel with another from clause 27

Clause 38

All Appeal panel decisions are final.