

Regulations for professional conduct

Published May 2019



The Chartered Institute for Archaeologists is incorporated by Royal Charter.

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Regulations for professional conduct

General provisions

- 1** The Institute may update or amend these regulations from time to time as it sees fit.
- 2** Any person or organisation ('the Complainant') may allege that an individual accredited member or registered organisation of the Institute ('the Respondent') has breached the *Code of conduct* while undertaking archaeological activities in their or its professional life during a period of membership or an application for membership of the Institute. Where an allegation is made that a Registered Organisation has breached a provision of the Code, such Registered Organisation shall not be held to have breached the Code where it is able to demonstrate, to the satisfaction of the Institute or any professional conduct panel appointed by the Institute in accordance with these regulations, that it has taken reasonable steps to ensure that its staff comply with the Code. Reasonable steps shall include, but are not limited to, ensuring that staff are made aware of and receive suitable training in appropriate standards and guidance relevant to their role and experience, given sufficient instructions on how to carry out their duties, and receive adequate supervision and support in order to deal with any problems that arise.
- 3** For the avoidance of doubt, these regulations shall not apply to alleged breaches of the *Code of conduct* by an individual member or representative of a registered organisation in their personal life. The Institute reserves the right to refer such allegations to the police or other authorities where appropriate. The Institute will normally suspend any ongoing investigation under these regulations where it becomes apparent that an allegation is the subject of any civil or criminal proceedings or ongoing investigation by police or other authorities.
- 4** The Institute shall only consider alleged breaches of the *Code of conduct* as was in force at the time of the alleged breach. However, allegations shall be handled under the terms of these regulations which are in place at the time the allegation is submitted to the Institute. On receipt of an allegation, these regulations shall be followed whether the Respondent is or is not still an individual member or registered organisation of the Institute at the time the complaint is submitted.
- 5** The Institute may at its absolute discretion suspend for a fixed or indefinite period or terminate the investigation of an allegation on ill health or compassionate grounds.
- 6** The Institute shall not normally consider submissions made on behalf of a Complainant or Respondent by a third-party individual or organisation. However, the Institute may permit such submissions at its absolute discretion where approval is sought in advance.
- 7** Complainants and Respondents should respond in a timely and constructive manner to the Institute and those individuals or bodies appointed by the Institute to assist with the handling of allegations. Where a Complainant or Respondent fails to respond or responds in inadequate terms this shall not prevent the Institute or those it has appointed from reaching a conclusion based on the available evidence.

- 8** Determinations under these regulations made by a professional conduct panel or appeal panel are on the balance of probabilities after consideration of the available evidence. A panel shall make its own determination of the facts giving rise to the allegation where such facts are in dispute.
- 9** Where the Institute receives multiple allegations against the same Respondent, different Respondents or connected Respondents (eg against an individual member and the registered organisation that member works for) which appear to be related on factual or other grounds it may appoint one professional conduct panel to investigate the allegations, and one appeal panel to hear appeals, in parallel. Complainants are encouraged to include all relevant matters in a single complaint to avoid unnecessary delays to the assessment and investigation of allegations.
- 10** The Chief Executive shall have the authority to appoint panel members under these regulations. The Chief Executive may also decide to replace all or some members of a panel at any time. The Chief Executive may appoint a nominee to make such appointments or replacements as they see fit.
- 11** The members of a professional conduct panel volunteer their time to assist with the investigation and determination of allegations. Accordingly, the speed with which allegations are handled is, to an extent, dependent on panel members' availability.
- 12** Subject to any overriding provisions in these regulations, or to the extent that the Institute has itself placed information in the public domain, the Institute expects all parties to an allegation, assessment, investigation or appeal to keep the fact of, progress and outcome of such matters confidential until advised otherwise by the Institute. If any party materially fails to comply with this paragraph the Institute may at its absolute discretion dismiss a complaint and/or issue a public or private reprimand.
- 13** The Institute will not normally issue any public statement concerning an allegation made under these regulations until the conclusion of the assessment, investigation and appeals processes (as applicable). However, the Institute may at its absolute discretion confirm that an allegation has been received, is being assessed or is being investigated if it considers this necessary to protect the legitimate interests of the Institute, the Complainant, the Respondent or any third party.

Stage 1: Procedure for making an allegation regarding professional conduct

- 14** Disputes may be better resolved by discussion rather than confrontation. The Institute will wish to see evidence that steps have been taken towards achieving resolution by discussion before an allegation has been submitted.
- 15** The allegation shall be submitted on a form provided by the Institute. It shall identify the person or organisation making the allegation, identify the individual member or registered organisation against whom the allegation is made, specify the conduct that has led to the allegation, and identify the paragraphs which are alleged to have been breached in the *Code of conduct*. The allegation may also refer to any other relevant by-laws and/or regulations that

apply from time to time. Assessments and investigations may consider how the Respondent's conduct compares with the Institute's standards, guidance and policy statements, which advise on good practice in complying with the *Code of conduct*.

Stage 2: Procedure for receipt of an allegation

- 16** On receipt of an allegation about the conduct of a Respondent, the Chief Executive or nominee shall appoint a Case Receiver who does not have a prejudicial interest in the allegation or parties involved. The Chief Executive or nominee may also appoint a Case Receiver if information comes to the Institute's attention that might indicate a breach of the *Code of conduct*, regardless of whether an allegation related to that information or potential breach has been presented by a third party.
- 17** Subject to paragraph **18**, the Case Receiver shall acknowledge receipt of the allegation from the Complainant, inform the Respondent that an allegation has been received, and inform the Complainant and the Respondent that the allegation shall now be assessed under stage 3 of these regulations.
- 18** If it is clear to the Case Receiver that the documentation received does not in fact relate to a breach of the *Code of conduct* then the Case Receiver shall inform the Complainant that the matter is dismissed and shall not be considered further under these regulations.

Stage 3: Procedure for assessment of an allegation

- 19** The Chief Executive or nominee shall appoint a Case Assessor, who does not have a prejudicial interest in the allegation or parties involved, to assess the allegation. The Case Assessor may or may not be the same person as the Case Receiver.
- 20** The Case Assessor may at their discretion seek additional information from the Complainant, the Respondent and any other relevant party regarding the allegation and may set a reasonable deadline for responses.
- 21** The Institute shall normally only assess allegations made within twelve months of the last incident or last conduct that forms the basis of the allegation. The Case Assessor shall, at their discretion, determine whether the Institute should process any allegation about something that happened more than twelve months before the allegation was received by the Institute.
- 22** The Case Assessor shall not be expected to read all documents supplied by the Complainant in detail but shall gain a sufficient understanding of the allegation to make a determination under paragraph **23**.
- 23** The Case Assessor shall decide whether to make any of the following determinations:
 - 23.1** that the allegation does not appear to be an allegation of a breach of the *Code of conduct* and is dismissed;

- 23.2** that the allegation appears to be frivolous or vexatious and is dismissed;
- 23.3** that there is no reasonable prospect of a breach of the *Code of conduct* being found and the allegation is dismissed; or
- 23.4** that there is an apparent breach of the *Code of conduct* relating to inadequate planning or recording of Continuing Professional Development (CPD) matters only in respect of a Respondent that is an individual member.
- 24** The Case Assessor (or the Institute on the Case Assessor's behalf) shall inform the Complainant and the Respondent whether they have made any determination under paragraph **23** as soon as reasonably practicable.
- 25** If an allegation is dismissed under paragraph **23.1**, **23.2** or **23.3** it shall not be considered further under these regulations. However, the Case Assessor may, at their discretion, issue advisory recommendations to either the Complainant or Respondent.
- 26** If the Case Assessor decides not to make any determination under paragraph 23 then the allegation shall be considered in accordance with stage 4 of the regulations. In this case the Case Assessor may, but is not required to, identify from the information provided to them any additional potential breaches of the *Code of conduct* (i.e. breaches not alleged by the Complainant) for consideration under stage 4 of the regulations. The Case Assessor may also identify certain alleged breaches that are inappropriate for further consideration.
- 27** If the Case Assessor determines under paragraph **23.4** that there is an apparent breach of the *Code of conduct* relating to inadequate evidence for CPD they may:
- 27.1** issue a warning to the Respondent; or
- 27.2** if there has been a failure to provide evidence of satisfactory planning or recording of CPD and no reasonable excuse has been put forward, impose a sanction of suspension or expulsion of the Respondent.
- 28** If the Case Assessor imposes a sanction of suspension or expulsion in connection with CPD matters under paragraph **27**, they shall notify the Respondent of their right to appeal in accordance with paragraph **50**, however this shall not prevent the Institute from publishing a report of such suspension or expulsion before the deadline for appeals has passed or, in the event of an appeal, before the appeal process has been concluded.

Stage 4: Procedure for investigation of an allegation

- 29** The Chief Executive or nominee shall appoint a professional conduct panel of either three or five individuals, who may be members of the Institute or members of the public, and who do not have a prejudicial interest in the allegation or parties involved, to investigate the allegation.
- 30** The quorum for decision-making for a three-person panel is two. The quorum for decision-making for a five-person panel is three. If the panel finds it difficult to organise a quorate

meeting the Chief Executive or nominee may substitute one or more panel members at any time.

- 31** The Chief Executive or nominee may also appoint a Presenter, who does not have a potentially prejudicial interest in the matter, to assist the professional conduct panel by marshalling and reviewing the evidence concerning the conduct of the Respondent. The Presenter may be the Case Receiver, the Case Assessor or another individual.
- 32** If appointed, the Presenter may be asked to prepare for the professional conduct panel a summary of the issues in the allegation, any evidence they consider relevant or irrelevant (whether it appears to support either the Complainant or the Respondent), and/or a correlation of the alleged conduct of the Respondent with the relevant clauses of the *Code of conduct*, Institute standards and guidance or policy statements.
- 33** If appointed, the Presenter may, but is not required to, identify from the information provided to them any additional potential breaches of the *Code of conduct* (i.e. breaches not alleged by the Complainant) for consideration under stage 4 of the regulations.
- 34** The professional conduct panel may conduct its investigation as it sees fit. Allegations shall normally be determined based on a review of the papers submitted, however the professional conduct panel may at its discretion arrange a formal hearing if it considers this necessary or appropriate.
- 35** The Complainant shall be given the opportunity to provide further accompanying evidence to support the allegation by a set deadline. After the expiry of this deadline no further evidence shall be considered save where requested by or at the absolute discretion of the professional conduct panel.
- 36** The Respondent shall be given the opportunity to respond to the allegation and to provide accompanying evidence that the Respondent feels is relevant to the case by a set deadline. After the expiry of this deadline no representations by the Respondent shall be considered save where requested by or at the absolute discretion of the professional conduct panel.
- 37** The Complainant will not ordinarily be given a copy of the Respondent's response to the allegation but may be asked to comment on the response or aspects of it at the absolute discretion of the professional conduct panel.
- 38** Where the Complainant provides evidence that the Respondent has not had sight of in preparing its response, the professional conduct panel shall invite the Respondent to comment on such evidence where it considers it may have a material impact on its determination of the allegation.
- 39** After concluding its investigations, the professional conduct panel shall determine, based on the arguments and evidence put before it, in respect of each alleged breach of the *Code of conduct*, that:
 - 39.1** there has been no breach of the *Code of conduct* and the allegation is rejected; or

- 39.2** there has been a breach of the *Code of conduct* and that the panel should now consider what (if any) sanction should be imposed in accordance with paragraph **40** or **41** (as applicable).
- 40** If the professional conduct panel determines that there has been a breach of the *Code of conduct* in respect of a Respondent that is an individual member it may:
- 40.1** issue a reprimand;
 - 40.2** require certain actions to be completed within a specified timeframe as a condition of continued membership of the Institute;
 - 40.3** suspend the Respondent from membership of the Institute for at least one year and no more than three years without the opportunity to seek renewal of membership during such period; or
 - 40.4** expel the Respondent from membership of the Institute.
- 41** If the professional conduct panel determines that there has been a breach of the *Code of conduct* in respect of a Respondent that is a registered organisation it may:
- 41.1** identify matters (and make associated recommendations) which will be reviewed when considering any future application to renew registration;
 - 41.2** require certain actions to be completed within a specified timeframe as a condition of continued registration by the Institute; or
 - 41.3** issue a reprimand; or
 - 41.4** remove the Respondent from registration by the Institute.
- 42** Any sanction under paragraph **40.3** or **40.4**, and any proposed sanction on account of a Respondent's failure to comply with conditions set out in accordance with paragraph **40.2**, requires approval by the Board of Directors in accordance with the Institute's by-laws 8.4 and/or 8.5 (as appropriate). Subject to any right of appeal, the decision of the Board of Directors in respect of any such proposed sanction, suspension or expulsion is final.
- 43** Any sanction under paragraph **40** or **41** may be accompanied by an advisory recommendation to the Respondent, Complainant or third parties, which may include but is not limited to improvements, undertaking relevant CPD, redoing a piece of work or apologising.
- 44** After reaching a determination under paragraphs **39** to **41** (as applicable), the professional conduct panel shall prepare (with assistance from the Institute or third parties appointed by the Institute where appropriate) a summary report to include its determination of the allegation, the reasons for its determination and the sanction(s) (if any) it shall impose on the Respondent.

- 45** The professional conduct panel (or the Institute on the professional conduct panel's behalf) shall inform the Complainant and the Respondent of its determination under paragraphs **39** to **41** (as applicable) as soon as reasonably practicable and shall send to the Complainant and Respondent a copy of its summary report.
- 46** Where the professional conduct panel has imposed a sanction on the Respondent under paragraph **40** or **41** such sanction shall not apply until the deadline for appeals has passed and, in the event of an appeal, until the appeal process has been concluded.

Suspension or expulsion

- 47** In the event of suspension of an individual member in accordance with the Institute's by-law 8.5, such individual shall be automatically reinstated to the rights and privileges of membership at the end of the period of suspension subject to compliance with the conditions set out at by-law 8.5.
- 48** In the event of expulsion of an individual member in accordance with the Institute's by-law 8.4, such individual shall be entitled to reapply for membership of the Institute up to a maximum of three times in accordance with by-law 8.7. The membership application shall be supported by sufficient evidence to enable the Institute in its discretion to conclude the member has taken sufficient steps to ensure that the circumstances of the allegation or similar conduct would be unlikely to arise again.
- 49** In the event of expulsion of a registered organisation, such organisation shall be permitted to reapply for registration in accordance with the conditions set out in the Institute's regulations for the registration of organisations.

Stage 5: Procedure for considering appeals

- 50** In respect of CPD planning or recording matters only, the Respondent may appeal against a determination of a Case Assessor of a breach of the *Code of conduct* and/or the sanction imposed.
- 51** In respect of any matter not falling under paragraph **50**, the Respondent may appeal against a determination of a professional conduct panel of a breach of the *Code of conduct* and/or the sanction imposed, provided the Respondent has remained a member throughout the assessment and investigation of the allegation and at the time of submitting their appeal. The Complainant has no right of appeal under these regulations.
- 52** The grounds on which an appeal may be made are that:
- 52.1** there was a material failure to follow the correct process for considering an allegation as set out in these regulations which has prejudiced a determination;
 - 52.2** a determination of the professional conduct panel, based on the evidence available, was perverse;

- 52.3** the Respondent has acquired new information, which could not have been submitted at an earlier stage, which is likely to have a material impact on a determination of the professional conduct panel;
- 52.4** a sanction imposed was excessive in the light of a professional conduct panel's determination; and/or
- 52.5** in respect of CPD planning or recording matters only, evidence of satisfactory CPD is available and/or the Respondent has a reasonable excuse for failing to provide such evidence.
- 53** Any notice of appeal must be made in writing to the Institute within 28 days of the date on which the Respondent was notified of the determination of the Case Assessor (in respect of CPD planning or recording matters) or professional conduct panel (in respect of all other matters). The notice of appeal must identify the relevant ground(s) of appeal as set out at paragraph 52 and state the facts or matters relied on in support of the appeal.
- 54** The Chair of the Advisory Council or a nominee shall assess the merits of an appeal. If it is determined that there is sufficient cause given in the appeal to take the matter further, then the Institute shall inform the Complainant and Respondent and the Chair of the Advisory Council or a nominee shall set up an appeal panel of either three or five Advisory Council members, who do not have a prejudicial interest in the allegation or parties involved, to consider the appeal.
- 55** If the appeal is rejected the Institute shall inform the Complainant and Respondent as soon as reasonably practicable.
- 56** The quorum for decision-making for a three-person panel is two. The quorum for decision-making for a five-person panel is three. If the panel finds it difficult to organise a quorate meeting the Chair of the Advisory Council or nominee may substitute one or more panel members at any time.
- 57** After considering the grounds of appeal and facts or matters relied on by the Respondent, the appeal panel shall make determinations which may include, but are not limited to, one or more of the following:
- 57.1** to require the same professional conduct panel to reconsider all or part of its determination and/or sanction;
 - 57.2** to appoint a new professional conduct panel to consider all or part of the allegation under stage 4 of the regulations;
 - 57.3** to amend, substitute or rescind all or part of a determination and/or sanction [including increasing the severity of a sanction];
 - 57.4** to confirm a determination and/or sanction and reject the appeal; or

57.5 in respect of the planning or recording of CPD matters only, that there is or is not evidence of satisfactory CPD or a reasonable excuse for failing to provide such evidence.

58 Decisions made by the appeal panel are final and there is no further right of appeal, save that if the appeal panel requires a new or the existing professional conduct panel to consider or reconsider all or part of the allegation, the findings of that professional conduct panel are subject to any fresh appeal under paragraph **51**.

Stage 6: Reporting and review

59 In the event of a reprimand, suspension or expulsion the Institute shall publish a report including the name of the Respondent involved and the details of the sanction decided, unless there are exceptional compassionate grounds for not doing so. The Institute may also make this information known to third parties by other means.

60 Save in exceptional circumstances or as expressly provided for elsewhere in these regulations, the Institute shall not publish a report under paragraph **59** before the deadline for appeals has passed and, in the event of an appeal, until the appeal process has been concluded.

61 Whatever the outcomes of any cases, the Institute shall normally arrange for a review of proceedings approximately every two years. The review shall be undertaken by a lay person (who is not a member of the Institute) who shall review the papers from all or a selection of the completed proceedings in the period of the review and prepare a report. The review report shall be presented to the Board of Directors which shall have absolute discretion as to how to respond to matters identified in the review report.