

Guidance on Complaints and Disciplinary Procedure

Introduction

The Chartered Institute of Procurement & Supply is a professional body incorporated in the UK by Royal Charter.

This document explains the CIPS complaints and disciplinary procedure. It contains information for anyone making a complaint, for any member of CIPS who becomes the subject of a complaint, and for all other members of the institute or the general public who wish to understand the process.

CIPS Code of Conduct

All CIPS members must agree to sign up to and be bound by the institute's Code of Conduct, both at initial registration and then annually, on renewal, when they are reminded of the Code and asked to re-state their commitment. In addition, members may complete an online ethics test. Successful completion of the test confers an Ethical Procurement Mark and members awarded the CIPS Ethical Procurement Mark are listed on a publicly accessible register.

A copy of the Code of Conduct is attached. The Code is regularly reviewed and revised to ensure that it embodies and protects the very highest standard of professional conduct.

Members who breach the Code of Conduct will be subject to disciplinary action.

Charter and Bye-laws

The institute is obliged under the terms of its Charter and Bye-laws to investigate complaints made against members for failure to observe the professional and ethical standards laid down in the Code of Conduct. The bye-laws give authority for a Disciplinary Committee to investigate complaints against members and, if it is found that they have breached the Code, to take appropriate action.

CIPS is not a regulatory body required by statute to police the professional conduct of its members, but it does have obligations and rights to ensure its members uphold ethical standards and, as a point of principle, treats complaints against its members with the utmost seriousness.

The disciplinary process set out in CIPS' regulations is underpinned by the principles of natural justice:

- the right to a fair hearing
- the right of reply
- no bias or conflicts of interest (or appearance of such)

Governance

The Global Board of Trustees (GBT) is the institute's governing body and is ultimately responsible for the integrity of the disciplinary process. The GBT delegates the investigation of complaints and the

recommendation of appropriate sanctions to its Disciplinary Committee but is responsible for endorsing sanctions and authorising their implementation.

The GBT's instruction to the Disciplinary Committee is to form a view on its behalf and the Committee's eventual recommendation to the GBT carries the weight of what Charter calls a 'direction'; it is presented for formal endorsement rather than debate. The GBT would normally not reject the Committee's direction unless it concludes that the process the Disciplinary Committee has followed in arriving at the direction has not been sound.

There is provision for either the member or the complainant to appeal against the decision, but once the appeal has been heard and a decision has been made, that decision is final.

Disciplinary Committee

The Disciplinary Committee is a sub-committee of the Global Board of Trustees. It is an ad hoc committee which is convened only when a case is referred.

Membership of the Committee is determined by the GBT. Terms of office are normally three years, with members retiring in rotation to provide continuity of knowledge and consistency of approach.

The Disciplinary Committee consists of 5 members: a Chairman and 4 independent members of whom at least one will have legal expertise and one will have experience of dealing with breaches of the code of conduct in their own professional discipline.

The Company Secretary provides support to the Committee but does not participate.

Making a Complaint

Any complaint about the conduct of a member should be made in writing and submitted in the first instance to the Company Secretary at Easton House. The complaint should set out the details of the alleged breach of the Code and include any supporting documentary evidence.

The Disciplinary Committee cannot investigate a complaint if:

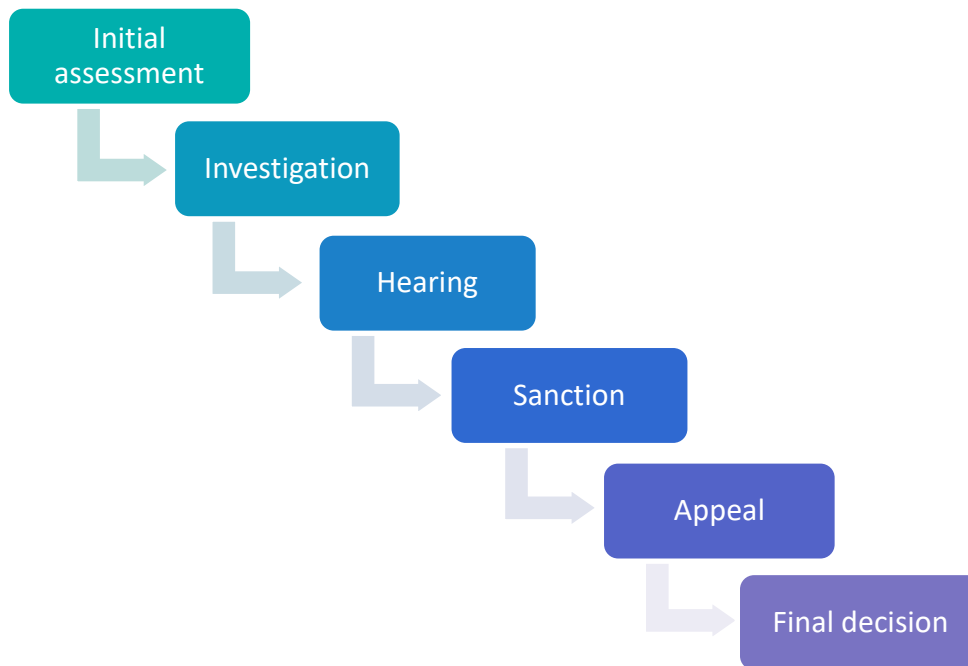
- The person concerned is not, or is no longer, a member of the institute¹
- The complaint is not in writing (notification by telephone can be accepted but must be followed up by email or postal communication)
- The complaint is anonymous²

¹ membership status can be verified through the Member Search facility on the CIPS website. Lapsed or resigned members will not be allowed to reinstate if a complaint has been made against them in the meantime. There is a separate process for handling complaints about individuals who hold the CIPS Ethical Procurement Mark but are not CIPS members.

² anonymous complaints could be malicious and CIPS would have no way of validating the allegations

We need to know if the matter is the subject of court proceedings. If it is, we would normally await the outcome of the proceedings before referring the case to the Disciplinary Committee.

The Stages of the Disciplinary Process



Stage 1 – Initial Assessment

When a complaint is received, it is assessed by an initial review panel which consists of the Chairman of the Disciplinary Committee, the Director of Professional Development and the Company Secretary. Their job is to verify that the complaint is admissible and they will check that:

- a) the person named in the complaint is a current member of the institute
- b) the complaint is in writing
- c) the complainant is identified
- d) the complaint relates to a breach of one or more principles of the Code of Conduct.

Once these criteria are satisfied, a copy of the complaint and any supporting documentation is sent to the Disciplinary Committee, and an acknowledgement is sent to the complainant. The initial review panel does not give an opinion on whether or not there is a case to answer. A copy of the complaint and any supporting documentation is sent to the member asking for their comments in writing, and the process is explained to them. When the member's response is received, the Disciplinary Committee is convened.

While the institute has no statutory powers to compel the member to co-operate, it does expect its members to reply promptly to requests for information. However, if the member does not respond, then the Disciplinary Committee will proceed with the case and reach a judgement based on the evidence to hand.

Stage 2 - Investigation

The case file will be sent to the members of the Disciplinary Committee to consider independently and a meeting will be arranged to discuss the evidence and agree one of the following options:

- that based on the information presented there is no case to be answered and the file can be closed;
- that there appears to be a case to answer but additional information or evidence is required before a decision can be made;
- that based on the information presented there is a case to answer and a formal hearing should be held.

If the Disciplinary Committee decides that there is a case to answer, it will set a date and venue for the hearing and instruct the Company Secretary to inform the member. The member must be given at least 21 days' notice in writing. The Company Secretary will also inform the complainant who may attend the hearing to present their case in person, but they will be interviewed by the Disciplinary Committee separately.

The Disciplinary Committee may ask the complainant, the member, or any other interested party for further information or clarification of any of the points of evidence prior to the hearing. Copies of all the documents which the committee is going to consider will be sent to the member prior to the hearing.

Stage 3 – Hearing

The member may attend the hearing in person, submit evidence in writing or be represented by another member of the institute. If the member chooses neither to attend nor to send a representative, then the Disciplinary Committee will consider the written evidence and reach a decision on that basis.


If the member or his/her representative attends, he or she will be invited to present the member's response to the allegations. The Disciplinary Committee may ask questions and will then consider its decision in private.

The Company Secretary attends the hearing to take a record of the proceedings and advise on procedural matters, but does not take part in the decision-making.

The Chairman may adjourn the meeting if the committee decides that additional information or clarification of a particular point is required, and reconvene it at a later date. Once the decision has been made, the Chairman prepares and signs a formal minute of the meeting, recording the decision and the rationale. A copy of the formal minute is sent to the member and to the complainant as soon as possible after the hearing, but within 21 days at the latest.

Stage 4 - Sanction

The Disciplinary Committee will select what it considers to be the most appropriate sanction, which should be proportionate to the seriousness of the breach of the Code of Conduct. The options are:

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- expulsion from membership (lifetime)
or
 - suspension from membership with conditions imposed for reinstatement
or
 - a written reprimand with conditions imposed for continuation of membership
or
 - no sanction imposed

The Committee will normally put its recommended sanction (its 'direction') to the next scheduled meeting of the GBT (there are four GBT meetings each year). However, if the complaint is very serious and the Committee's decision is to expel the member, then the GBT may ratify the decision at a special board meeting convened for this purpose.

The member has the right to attend and address the GBT meeting or send another member to speak on his or her behalf, or send a written submission, and the GBT must consider any such representation before formally approving (or rejecting) the committee's direction. The member must therefore be provided with the date, time and venue for the GBT meeting as soon as possible after the hearing. The member may put his or her case to the GBT but may not take any further part in the proceedings. The complainant may also address the GBT, but separately from the member.

The GBT then votes on the recommended sanction; the decision must be approved by a two thirds majority vote.

The GBT's decision must be communicated to both the member and the complainant in writing within 7 days of the meeting.

The Legal Position

A CIPS disciplinary hearing is not a court of law and there is no requirement for the allegations to be proven 'beyond all reasonable doubt'. The Disciplinary Committee's role is to take due account of all the evidence available and to make a judgement on the facts of the case on a 'balance of probabilities', based on that evidence.

CIPS is not a regulatory body with a legal mandate and there are no provisions for legal representatives to be present. However, the GBT must ensure that all procedures are followed correctly and that all relevant legislation, such as the Data Protection Act, is adhered to.

The CIPS disciplinary process is not designed to provide evidence for any formal legal proceedings associated with the case. However, both the member and complainant should be aware that any documents produced as

part of the disciplinary process are likely to be “discoverable” if subsequent court proceedings occur. The Disciplinary Committee will not normally consider a complaint until any ongoing legal proceedings have been concluded.

Stage 5 - Appeal

If both parties accept the Committee’s decision, the sanction will be applied and a note made on the member’s record. If either party wishes to appeal the decision, they must do so within 21 days of the communication of the decision.

Appeals are heard by a separate, independent committee, the Ethics Review Panel. In addition to considering appeals against Disciplinary Committee Decisions, the Ethics Review Panel also determines whether or not the CIPS Ethical Procurement Mark should be removed from individuals or organisations listed on the Ethical Procurement Registers.

An appeal should be in writing, setting out the basis for the challenge. While the appeal is pending, the Committee’s decision will remain in effect unless and until an appeal is successful.

There are only two grounds on which an appeal against a Disciplinary Committee decision might be successful:

1. due process was not followed
2. new information has come to light that was not available to the Disciplinary Committee at the time it took its decision (such as mitigating circumstances)

The Ethics Review Panel will review the case file and determine whether or not there were any process errors or omissions. It will not comment on the appropriateness of the sanction unless it can be shown that the Committee did not take all the available evidence into account.

The Ethics Review Panel’s decision on whether to uphold or amend the sanction will be communicated to both parties and to the Chairs of the Disciplinary Committee and the Global Board of Trustees. The Panel’s decision is final and there can be no further appeal.

Stage 6 – Final decision

Whether or not there has been an appeal, if it is decided that it is in the public interest, the outcome of the hearing may be published. Expulsions from membership will always be reported.

The member will also be removed from the published member register and, if applicable, the ethical mark register (if the member has only been suspended for a short period or reprimanded, they may be allowed to re-join these registers once they have completed remedial learning and re-taken the ethics test).

Enquiries

If you would like more information about the CIPS complaints procedure, or you wish to lodge a complaint, please contact the CIPS Company Secretary at Easton House, Easton on the Hill, Stamford, Lincolnshire PE9 3NZ.