



INSTITUTE OF HISTORIC BUILDING CONSERVATION

Disciplinary Regulations: Summary *Approved by IHBC Council 11 March 2010*

Brief Overview

- 1 The Institute of Historic Building Conservation (IHBC) is an organisation set up to police standards in the conservation of the historic environment specifically by assessing the qualifications and the experience of applicants who, on receiving membership at whatever category, are then expected to abide by professional standards contained in the Institute's Code of Conduct.
- 2 From time to time allegations may be raised that a member has acted contrary to the professional standards of the Code of Conduct. We hope that the members concerned would be able to come to an informal settlement or understanding and the Institute will always seek to encourage such an outcome. However, the Institute is aware that there may be cases where it may not be possible to come to agreement in that way and the Complainant may wish to pursue an allegation of Improper conduct by lodging a formal complaint. This will necessarily require the institution of formal disciplinary proceedings.
- 3 This paper gives a brief overview of the regulations which are the means for the hearing and ruling by the Institute on allegations of improper conduct and the way they allow each party opportunity to make his or her case and to defend themselves, and allow for appeal against the findings and/or recommendations of the Inquiry Panel.
- 4 The system which the Institutes uses is based on three tiers:
 - consideration by the Secretary, in consultation with the Chair of the Disciplinary Committee and Membership Secretary (the Preliminary Inquiry Panel) to assess whether a case to answer has been substantiated;
 - investigation of a case by the Inquiry Panel;
 - and referral to the Disciplinary Appeals Panel to consider appeals against the findings and/or the recommendations of the Inquiry Panel.
- 5 Council has no part in these proceedings and is limited to overall responsibility for ensuring that the Regulations are administered appropriately and correctly, and then by endorsing the decisions of the Inquiry Panel and the Disciplinary Appeals Panel. Council also confirms the sanction which has been recommended against the member alleged to have acted improperly.
- 6 Although confidentiality is important, and the Institute requests all parties to maintain confidentiality, it is also important that the regulations allow full

justice and that the Institute should be able to give an adequate and fair hearing to all cases. On the other hand the Institute cannot be held responsible for breaches of confidentiality by any of the parties to the proceedings.

- 7 Anybody planning to complain formally to the Institute must read the full Disciplinary Regulations which are the means for the hearing and ruling by the Institute on allegations of improper conduct. The Regulations give details of liabilities, adjournments, costs, confidentiality of proceedings, rules of conduct for panels, expulsions and reinstatements.

Definitions

- 8 The following definitions are used in this paper:

Improper conduct Conduct contrary to the Institute's Code of Conduct

The Complainant The person or body by whom a complaint has been made alleging that a member has engaged in Improper conduct

The Respondent The member against whom a complaint has been laid

The Appellant A member who has been found by the Disciplinary Panel to have engaged in Improper conduct and who has appealed to Institute against the finding

Disciplinary Committee The panel which acts as the reserve from which members of Inquiry Panels and Disciplinary Appeals Panels are selected

Preliminary Inquiry Panel The Panel which assesses whether a substantive case to answer has been made

Inquiry Panel The Panel which carries out the main investigation of such a case

Disciplinary Appeals Panel The Panel which assesses appeals against the findings of the Inquiry Panel

Disciplinary Committee

- 9 The Disciplinary Committee is appointed by Council at its first full meeting after the AGM. It has not less than twelve members, including four members who are former members of Council and four members who are not serving and have not served on Council. The Disciplinary Committee functions as a reserve from which the members of both Inquiry Panels (five members) and Appeals Panels (three members) are drawn. Appointment is for three years, save in the circumstances of an on-going inquiry, but re-appointment can happen after one year of non-service.

Preliminary Inquiry Panel

- 10 Complaints are made to the Secretary, within a reasonable time of the conduct complained of occurring (currently one year). It is important that the Complainant allows the complaint to be copied to the Respondent in its entirety. Where the Chair of the Disciplinary Committee, Secretary or Membership Secretary (the Preliminary Inquiry Panel) is involved in the complaint, the Vice-Chair of the Institute will take their place.
- 11 All complaints are first referred to the Preliminary Inquiry Panel, made up of the Chair of the Disciplinary Committee, the Secretary and the Membership Secretary. This Panel will assess whether a case to answer has been established. The Preliminary Inquiry Panel may inform Council of the allegation of Improper Conduct. The Chair of the Disciplinary Committee may seek conciliation between the Complainant and the Respondent through written communication or by mediating between them.
- 12 After conducting its enquiries the Preliminary Inquiry Panel may
 - a dismiss the case
 - (i) if it considers that a *prima facie* case is not made; or
 - (ii) if the alleged Improper conduct is of so trivial nature as not to need action
 - b seek to obtain the withdrawal of the complaint through conciliation between the parties
 - c if it considers that a *prima facie* case is made, appoint an Inquiry Panel to investigate the case
- 13 If the Preliminary Inquiry Panel dismisses the complaint, it will inform Council, the Complainant and the Respondent.

The Inquiry Panel

- 14 In the case of 12(c) above, the Preliminary Inquiry Panel shall select five members of the Disciplinary Committee to make up an Inquiry Panel, to investigate the allegation of improper conduct and report its findings to Council. The Inquiry Panel shall contain at least two members who have never been members of Council and it shall select one of its members to be Inquiry Panel Chair (IP Chair).
- 15 Importantly, the Inquiry Panel shall be free to examine all aspects of the original complaint and shall not be bound by the findings of the Preliminary Inquiry Panel in respect of any aspects of the complaint (i.e. it may decide that there is not a *prima facie* case to answer, notwithstanding the views of the Preliminary Inquiry Panel).

- 16 Investigation of the allegation can be by hearing, with the date of the hearing being given to the Complainant and the Respondent not less than 42 days before the hearing (the date can be subject to negotiation).
- 17 If four members of the Inquiry Panel are unable to agree that the case is proved, it will be dismissed. If four members agree that it is proved, the Inquiry panel can take evidence in mitigation, and then decide its recommendation to Council of the sanction on the Respondent, recommending either
 - (a) no action
 - (b) a written warning to the Respondent of his or her future conduct
 - (c) expulsion from membership for a specified time under Article 2.6 of the Articles of Association
- 18 If four members of the Inquiry Panel cannot agree, then no action is taken.
- 19 On being informed, with the Respondent, of the decision of the Inquiry Panel and the recommended sanction, the Respondent shall be informed of their rights of appeal against the decisions. Any appeal must be made to the Chair of the Disciplinary Committee in writing within 30 days. The Respondent must provide a statement of his or her grounds for appeal which must include new evidence or matters not fully or properly examined by the Inquiry Panel.
- 20 The Chair of the Disciplinary Committee then informs Council of the decision and any sanction chosen. The Respondent can make a statement in person to Council at that stage. The Chair of the Inquiry Panel should be present. Council's job then is to review the procedures used and confirm the sanction or approve a lesser one; it cannot approve a greater sanction.

The Disciplinary Appeals Panel

- 21 If the Respondent appeals against the findings and/or recommendations of the Inquiry Panel, the Chair of the Disciplinary Committee shall select a Disciplinary Appeals Panel of three members from the members of the Disciplinary Committee, other than those who have already sat as the Inquiry Panel; it then chooses a Chair from amongst its members.
- 22 The Disciplinary Appeals Panel shall address itself solely to the grounds of appeal submitted by the Respondent, the first task being to determine whether the appeal as received includes new evidence or raises matters which were not fully or properly examined by the Inquiry Panel. It will conduct its inquiries in the same way as the Inquiry Panel.
- 23 If two members of the Disciplinary Appeals Panel agree, then it can decide that
 - (a) the appeal should be rejected
 - (b) a less severe penalty than that recommended by the Inquiry Panel be

- recommended to Council, or
(c) the appeal be upheld.

- 24 The decision of the Disciplinary Appeals Panel and a statement of the reasons for its decision are then given to the Chair of the Disciplinary Committee in writing. He tells the Appellant of the decision of the Disciplinary Appeals Panel and the reasons for its finding, explaining, if the appeal is rejected, that Council is to be informed, giving the Complainant an opportunity to make a statement to Council. Both Inquiry and Disciplinary Appeals Panels Chairs may attend that meeting.

Announcement of decision by Council and reinstatement

- 23 It is important, in the case of the expulsion of a member, that the membership of the Institute is informed of the name, membership number and category of membership of an expelled member but in cases for which a lesser sanction has been imposed members shall be informed of the decision but not the name. The normal way to do this is to put a notice in the next available edition of the Institute's journal *Context*.
- 24 A member who has been expelled from membership may be readmitted to membership at the expiration of a period to be decided by Council on reaffirmation in writing of his or her intention to act in accordance with the Memorandum and Articles of Association of the Institute, to be guided by the objects for which the Institute is established, and to be bound by the provisions of the Institute's *Code of Conduct*.