



Registered Practices Inquiry Procedures

March 2019

1. Introduction

1.1 Registered Practices are required, through their registration, to abide by the Registered Practice Code of Practice (the Code). A Registered Practice must cooperate fully and provide assistance to any inquiry undertaken by CIEEM into the adherence by the Registered Practice to Code. The Registered Practice must not interfere with, frustrate or otherwise compromise, whether through any act or omission, the due process of any Registered Practice Inquiry Process undertaken under CIEEM's Registered Practices Inquiries Procedures.

1.2 A complaint may be lodged against a Registered Practice if there is doubt that the Registered Practice is complying with the Code. The primary purpose of these Registered Practices Inquiry Procedures is to ensure that those companies or organisations held out to the public as Registered Practices are meeting the obligations and standards set out in the Code.

1.3 A record of inquiry findings against Registered Practices shall be maintained by the Secretariat, consistent with the Data Protection Act 2018.

2. Definitions

2.1 Appeal Board. A panel of up to 3 members of the Professional Conduct Pool charged with considering a request for leave to appeal against the outcome of a Registered Practices Inquiry Process on the grounds of alleged injustice or that further evidence has come to light.

2.2 Appellant(s). The company/organisation or individual appealing against the outcome of a Registered Practices Inquiry Process. This may be the Subject(s) or the Complainant(s).

2.3 CIEEM Governance Regulations. The regulations and by-laws governing CIEEM as amended from time to time.

2.4 Code. The Registered Practice Code of Practice to which all Registered Practices are bound to comply by virtue of their contract of registration.

2.5 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.

2.7 Governing Board. The elected Members who are also Directors of CIEEM and have responsibility for the legal and strategic management of CIEEM. No member of the Governing Board will also be a member of the Registered Practices Inquiry Pool.

2.8 Member. Someone who has been registered as a Member of CIEEM.

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 case to answer regarding a potential breach of the Code to warrant referral for further inquiry to a Professional Conduct Panel.

2.9 Professional Standards Committee (PSC). A standing committee with delegated authority from the Governing Board to oversee the implementation of the Registered Practices Inquiry Process. No Member of the PSC will also be a Member of the Registered Practices Inquiry Pool.

2.10 Registered Practices 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 and representation as set out below in paragraph 5.6.

2.11 Registered Practices Conduct Panel. A panel of normally three members of the Registered Practices Conduct Pool, one of whom is normally a non-CIEEM Member, charged with making further inquiry into an alleged breach of the Code or failure to comply with the Registered Practices Eligibility Criteria including conducting a Registered Practices Hearing

2.12 Registered Practices Inquiry Process. The three-stage process described at paragraph 3.2.

2.13 Registered Practices Inquiry Pool. A group of CIEEM Members and non-Members trained in the implementation of the Registered Practices Inquiry Procedures.

2.14 Secretariat. The staff employed by CIEEM to provide the administration of the organisation and its Regulations, the provision of services to Members and Registered Practices and the implementation of the Strategic Plan.

2.15 Subject(s). The Registered Practice or Registered Practices against whom the complaint is made.

3. The Inquiry Process

3.1 These Registered Practices Inquiry Procedures set out the Registered Practice Inquiry Process by which CIEEM will consider a complaint against a Registered Practice. The Registered Practices Inquiry Procedures are distinct and separate from the Professional Conduct Inquiry Procedures which are used by CIEEM to consider complaints against CIEEM Members. They are based on the following core principles:

- No Registered Practice shall be considered in breach of the Code until so judged as a result of a Registered Practices Inquiry Process.
- Any investigation undertaken under the Registered Practices Inquiry Process shall be transparent and fair.
- Proven breaches of the Code shall receive a proportionate response.

3.2 The Registered Practices Inquiry Process comprises three stages:

Stage One: The Preliminary Investigation Panel 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 and Registered Practices Hearing by a Registered Practices Conduct Panel (taken from the Registered Practices Conduct Pool) 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 Registered Practices Conduct Panel'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. A request for anonymity may be made by the Complainant or by the Chief Executive Officer (CEO) of CIEEM to the PSC, excluding those Members of the PSC who will form any PIP.

- **a)** There are 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.
- **b)** It is in the public interest that the matter be investigated.

3.4 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.

3.5 All complaints should be submitted using the Registered Practices Complaints Form provided for this purpose and should be accompanied by relevant evidence. If CIEEM is the complainant, then the complaints form must be submitted by the Governing Board and then processed in the usual way. Complaints should be submitted in a timely way with reference to the period during which the alleged breach or breaches of the Code by the Registered Practice occurred. CIEEM would not normally consider a case under the Registered Practices Inquiry Process 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 omissions 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.

3.6 In the case of a complaint against a Registered Practice made by the Governing Board on behalf of CIEEM, the Governing Board is the Complainant. A decision to make a complaint regarding a possible breach of the Code by a Registered Practice must be a majority decision of the Governing Board in accordance with the CIEEM's Governance Regulations.

3.7 A Registered Practices Inquiry Process is a confidential process and all parties are expected to respect the confidentiality of the process and to restrict discussions about the complaint to those parties involved, including any witnesses, except where such disclosure is required by law or as necessary and appropriate to the party's immediate family or legal or professional advisers, provided that they agree to keep the information confidential. CIEEM reserves the right not to investigate a complaint where it is determined by the Preliminary Investigation Panel on review of the evidence that the Registered Practices Inquiry Process is being used primarily as a means of publicly embarrassing a Registered Practice.

3.8 If during any stage of the Registered Practices Inquiry Process it is believed that another Registered Practice or Registered Practices identified in evidence is or are potentially an additional Subject(s) in the complaint, even if they have not been identified as such at the outset by the Complainant, the Registered Practices Inquiry Process will normally be suspended in relation to the first Subject(s) until such time as that or those other Registered Practice(s) has/have been notified. The normal Registered Practices Inquiry Process will then be followed to determine whether the new Subject should properly be included in the original Registered Practices Inquiry Process against the first Subject(s) and the additional Subject(s) in a co-ordinated manner.

4. Stage One: Preliminary Investigation (Administrative Stage)

Confirmation

4.1 The Secretariat is required to check a complaint to confirm that it relates to a potential breach of the Code and that it is within the remit of CIEEM 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 or by the CEO of CIEEM must be made at this Confirmation stage and considered by the PSC. No member of PSC involved in the decision as to whether to allow anonymity shall subsequently be part of the Preliminary Investigation Panel. The decision of PSC as to whether to allow anonymity until the end of Stage One will be made known to the Complainant or CEO before any decision is taken to proceed further.

Determining if there is Evidence

4.3 The Secretariat will write to the named contact for the Registered Practice 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. The Registered Practice is obliged to nominate a named contact as part of the Registered Practices application process and the Registered Practice is obliged to keep the contact details of the named contact up to date. If there is no named contact or the contact details of the named contact have not been kept up to date the Secretariat will write to the Managing Director of the Registered Practice.

4.4 The Secretariat will inform PSC of the receipt of a complaint and a Preliminary Investigation Panel (PIP) will be formed. 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 to warrant referral to a Registered Practices Conduct Panel for further inquiry at a Registered Practices Hearing.

4.5 The Secretariat will provide the PIP with a copy of the complaint and the supporting evidence together with any rebuttal or explanation provided by the Registered Practice. The PIP will review this material to determine whether there is sufficient evidence of a case to answer regarding a potential breach of the Code to warrant referral for further inquiry and may request additional information from any party as it sees fit to assist in its determination, in which case it shall also review this additional information. The PIP is entitled to identify any aspects of the Code where it considers there is sufficient evidence of a case to answer regarding a potential breach of the Code and is not restricted to inquiring only into the areas raised by the Complainant. 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 which will be decided by a majority vote if necessary.

4.6 Where the review by the PIP confirms that there is sufficient evidence of a case to answer regarding a potential breach of the Code to warrant referral for further inquiry to the Registered Practices Conduct Panel, the complaint will progress to Stage Two and be referred to a Registered Practices Conduct Panel. "Sufficient evidence" indicates that there are facts or matters pertaining to the case that are best inquired into at a Registered Practices Inquiry 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 case to answer regarding a potential breach of the Code to warrant referral for further inquiry to a Registered Practices Conduct Panel, the Secretariat will write to the Subject(s) and the Complainant(s) to inform them of their decision outlining 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 at Stage One or are withdrawn by the Complainant will not be reported to the Governing Board and no information regarding such complaints shall be recorded or made public.

5. Stage Two: The Inquiry

5.1 A Registered Practices Conduct Panel will be convened to undertake an inquiry including a Registered Practices Hearing through which it will reach a judgement as to whether the Code has been breached. The Registered Practices Conduct Panel 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 named contact in the Registered Practice (see paragraph 4.3) that the complaint has been referred to a Registered Practices Conduct Panel for further inquiry including a Registered Practices Hearing 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 unless the Governing Board decides to become the Complainant.

5.3 The Secretariat will provide the Registered Practices Conduct Panel with the complaint and the supporting evidence, any documentary evidence in rebuttal or explanation and any additional information received (see paragraph 4.5). The Registered Practices Conduct Panel will review the information provided and may request additional information or evidence as they see fit to assist their inquiry. This further information or evidence will be reviewed by the Registered Practices Conduct Panel.

5.4 The Registered Practices Conduct Panel 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 Registered Practices Hearing and at the Registered Practices Conduct Panel's discretion, evidence from its own expert witness(es) may be sought for circulation to all parties. Additional supporting evidence or further explanation may be sought from the Registered Practice or Complainant(s) in the form of written statements which will be circulated to all parties.

5.5 The Registered Practices Conduct Panel is entitled to inquire into any aspects of the Code that it considers 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 Registered Practice and the Complainant(s) to provide them with information on the scope of the Registered Practices Hearing, a provisional date and all evidence under consideration.

The Registered Practices Inquiry Hearing

5.6 The purpose of the Registered Practices Hearing is to enable the Registered Practices Conduct Panel to assess the evidence to establish if there has been a breach of the Code. The Registered Practices Hearing will be undertaken either at a meeting or, less commonly, remotely by teleconference or videoconference. The Registered Practice 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'. Each Registered Practice and each Complainant shall not have more than two representatives each (not including witnesses). 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 Registered Practices Conduct Panel (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 Registered Practice and Complainant unless requested to do so at the relevant party's expense.

5.7 The Registered Practices Hearing is the opportunity for each party to present their case in order to enable the Registered Practices Conduct Panel to establish the facts of the complaint and to establish if there has been a breach of the Code. Further evidence from the Registered Practice or the Complainant(s) may also be sought or received during the hearing, although all written evidence must have been submitted prior to the commencement of the hearing. Guidance on the conduct of the hearing will be sent to all parties by the Secretariat.

5.8 The date or dates for the Registered Practices Hearing shall be determined by the Registered Practices Conduct Panel taking into account the reasonable requests of the parties but with the Registered Practices Conduct Panel's decision being final. The Registered Practices Conduct Panel will expect to complete the Registered Practices Hearing at the latest within six months of the date of the referral of the case by the PIP.

5.9 Neither the representatives of the Registered Practice nor the Complainant(s), or witnesses, will be eligible to claim recompense from CIEEM for any costs associated with the Registered Practices Inquiry Process or the Registered Practices Hearing.

5.11 If the Registered Practice's representative(s) admit(s) the breach of the Code prior to the Registered Practices Hearing, oral or written accounts may not be required in relation to that breach(es) in which case the Registered Practices Hearing will consider only any Statement of Mitigation submitted to the Registered Practices Conduct Panel by the Registered Practice.

5.12 Should the Registered Practices Conduct Panel conclude that the Code has been breached then, having taken account of any Statement of Mitigation, the Registered Practices Conduct Panel may apply one or more sanctions as follows:

- Issue a notice to improve/comply with the Registered Practice Eligibility Criteria and require evidence of improvement/compliance within a specific period not exceeding 12 months. If the necessary improvement/compliance is not demonstrated to the satisfaction of the Registered Practices Conduct Panel. It may apply further sanctions.
- Exclude the Registered Practice from registration as a Registered Practice for a given period not exceeding two years.

If the Registered Practice fails to comply with the notice to improve to the Registered Practices Conduct Panel's satisfaction within the fixed deadline further sanctions may be applied.

5.13 After the Registered Practices Hearing the Secretariat will inform the Registered Practice and the Complainant(s) of the decision of the Registered Practices Conduct Panel 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 within the specified timeframe set out in paragraph 6.1. All parties are expected to maintain confidentiality until the period to seek leave to appeal the decision has elapsed.

5.14 The decision of the Registered Practices Conduct Panel where the complaint has been upheld shall be communicated to the Governing Board by the Secretariat once the specified period for requesting an Appeal has passed and will be published as CIEEM sees fit in accordance with its Professional Conduct Inquiries Publications Policy. This will include publication in In Practice and on the CIEEM website and may occasionally include correspondence about the findings of the Registered Practices Conduct Panel to external stakeholders, local planning authorities and statutory agencies.

6. Stage 3: Appeal

6.1 A request for leave to appeal the decision of the Registered Practices Conduct Panel may be sought on the basis of new evidence becoming available since the Registered Practices Hearing which may have affected the outcome of the hearing, or an apparent injustice during the Registered Practices Inquiry Process or at the Registered Practices Hearing. The request for leave to appeal must be sought within ten working days of the date of the letter of the decision from the Registered Practices Conduct Panel and must state the grounds on which the appeal is sought.

6.2 Where the request for leave to appeal is on the grounds of new evidence, the request will be considered by the Chair of that Registered Practices Conduct Panel who may, if leave to appeal is granted, re-constitute the Registered Practices Conduct Panel to hear the additional evidence.

6.3 Where the request for leave to appeal is on the grounds of an alleged injustice the request will be considered by an Appeal Board composed of up to three members of the Registered Practices Inquiry Pool not previously involved in the Registered Practice Inquiry Process. If leave to appeal is then granted by the Appeal Board then a new Registered Practices Conduct Panel (not previously involved in the inquiry or hearing) will be established to hold a new Registered Practices Hearing. This new hearing will be run in accordance with Stage Two: The Inquiry (see above). The decision of the second Registered Practices Conduct Panel will replace that of the first Panel. There will be no right to a further appeal by any party.

6.4 If the request to appeal is denied, the basis for this will be communicated to the Appellant by the Appeal Board and the decision of the Registered Practices Conduct Panel will be upheld.

7. Costs

7.1 Where fees, charges, disbursements or expenses have been reasonably incurred by CIEEM when conducting the Registered Practices Inquiry Process due to one party having acted, in the view of the Registered Practices Conduct Panel, vexatiously, abusively, disruptively or otherwise unreasonably in the bringing or conducting of proceedings, the Registered Practices Conduct Panel has the discretion to make a judgement as to the awarding of costs to CIEEM against that party.

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