



**IRISH
PLANNING
INSTITUTE**

Institiúid Pleanála
Na hÉireann

**Bye-Laws of the Irish Planning Institute
Procedures for investigating complaints against Members and
for taking disciplinary Action by the Irish Planning Institute**

Bye-Law No. 2

As approved by Annual General Meeting 7th December 2023

1. Introduction

- 1.1 The Institute will consider complaints received in writing regarding the professional conduct of Members (of all classes).
- 1.2 The purpose of these procedures is to provide for the processing of complaints regarding an alleged infringement of the Irish Planning Institute's Code of Ethics & Professional Conduct. It describes the roles of the Ethics and Professional Conduct Committee, the Investigation Panel, and the Council of the Institute.
- 1.3 The Institute will not use its disciplinary procedures to review the decisions of planning authorities nor to investigate allegations of maladministration on the part of planning authorities or other organisations. The Institute will not normally investigate allegations which fall within the competence of the courts, employment law, Ombudsman or similar.
- 1.4 If legal proceedings or a planning appeal are initiated by either party, the Institute's Complaints Procedure must be deferred until the planning appeal or legal proceedings are fully completed. The complaint form and/or any correspondence will be returned to the complainant, and they will be asked to submit their complaint when the processes have been completed.
- 1.5 Only complaints made within two years of the matter(s) complained of will be considered. This may be subject to exceptions when any appeal or legal proceedings have not been completed within this time.
- 1.6 Complaints correspondence will typically be sent and received by email or email attachment.

2. Making a complaint

- 2.1 A complaint shall be submitted using the Irish Planning Institute's Complaint Form. It shall include the name and contact details of the Complainant, the name of the Member that is the subject of the complaint (hereinafter referred to as the Complainee), and shall contain a description of the matter complained of and details of the circumstances giving rise to the complaint.
- 2.2 If the Institute is contacted regarding a potential complaint by email, letter or telephone call, the person concerned will be directed to or sent the Complaint Form and asked to submit this form by email attachment or by post. When a person completes the Complaint Form they are asked to give permission to forward the Form to the Complainee for their response. This is part of the Institute's Complaints Procedure and without this permission the complaint cannot be examined and will be discontinued. Anonymous complaints will not be considered.
- 2.3 When a completed Complaint Form has been received, the Administrator will acknowledge receipt and forward it for review, as outlined below.

3. Ethics and Professional Conduct Committee

- 3.1 When a complaint has been made, it shall be referred to the Chair of the Ethics and Professional Conduct Committee, who will review the complaint and decide, based on the

documentation and information submitted as part of the complaint, whether the complaint warrants referral to the Investigation Panel.

3.2 The Chair of the Ethics and Professional Conduct Committee may decide the complaint does not warrant referral to the Investigation Panel only in the following circumstances:

- a) Where the Complaint Form is incomplete or does not contain the name and contact details of the Complainant.
- b) Where the complaint relates to matters outside the scope of the Code of Ethics & Professional Conduct (Bye-Law No. 1).
- c) Where the complaint relates to matters subject to ongoing processes¹ as described.
- d) Where the Complainant has not given permission to send a copy of the complaint in full to the Complainee for their observations and comments.
- e) Where the Complainee was not a Member of the Institute at the time of the event(s) that are the subject of the complaint.
- f) Where the complaint does not relate to event/s within the last two years (other than where the ongoing processes have not been completed within that time).
- g) Where the complaint is trivial or minor in nature, vexatious or made in bad faith in the opinion of the Chair.

3.3 If the Chair of the Ethics and Professional Conduct Committee decides that the complaint does not warrant referral to the Investigation Panel, the Complainant shall be notified of this decision, and, within a period of 14 calendar days from the date of such notification, may appeal this decision in writing to the full Ethics and Professional Conduct Committee. The Committee shall consider this appeal at its next meeting, and shall make its decision on the appeal within a period of not more than one month following the appeal. The Committee may uphold the Chair's decision or may refer the complaint to the Investigation Panel, giving reasons for its decision. The Complainant will be notified of this decision. The decision of the Committee in this regard is final.

3.4 If, having considered the complaint, the Chair of the Ethics and Professional Conduct Committee is of the view that the complaint warrants referral to the Investigation Panel, the Panel shall be convened and the procedures below will apply.

4. Investigation Panel

4.1 The Investigation Panel shall consist of not less than three Corporate Members/Fellows, who have previously volunteered to be on this Panel, and none of whom shall be a current member of the Ethics and Professional Conduct Committee nor of the Council of the Institute, together with one non-member, who shall be nominated by the Institute Council for the period of the Council term to be a member of the Panel. In the event that any one or more of the three Corporate Members/Fellows on the Investigation Panel has any conflict of interest in the subject of the complaint in question/with either party involved, whether subjective or objective, they shall recuse themselves from the investigation, and shall be replaced for that investigation by another/other Corporate Members/Fellows. The replacements shall be nominated by the Ethics and Professional Conduct Committee.

4.2 The Investigation Panel shall, via the Administrator:

¹ These processes relate to legal proceedings or planning appeals

- Notify the Complainee in writing of the fact that a complaint has been received, and provide the Complainee with a copy of the complaint, including the completed Complaint Form, and with a copy of the Code of Ethics & Professional Conduct and these procedures.
- The Complainee will be asked to respond with their comments and observations in writing and informed that this correspondence, in full, will be made available to the Complainant. The Complainee will be asked to provide this response within 28 calendar days of being notified, or within such further period as may be permitted by the Investigation Panel.
- The Complainant is informed that the complaint has been sent to the Complainee, and that the Complainee has been asked to respond.

4.3 Upon receipt of the Complainee's response in writing to the complaint, the Investigation Panel shall send a copy of this response to the Complainant. The Complainant shall be invited to make a written response within 14 calendar days of this notification, or within such further period as may be permitted by the Investigation Panel.

4.4 In the event that either party does not submit a statement in writing in response to the complaint within the period as may have been permitted by the Investigation Panel, the Investigation Panel may proceed to adjudicate upon the complaint in the absence of such a statement.

4.5 The Investigation Panel may, at its discretion, do one or more of the following:

- Allow further exchange of observations between the complaint and the Complainee concerned.
- Set time limits for the provision of any information or documents to the Investigation Panel by the Complainant or the Complainee.
- Decide what procedure it will adopt in respect of any matter for which no procedure is specifically provided for in these procedures.

4.6 The Investigation Panel shall, upon request in writing by one or both parties, provide for an oral hearing to be held before it, either in person or by way of video link, to give evidence, and shall take such evidence and/or submissions into account in making its determination of the complaint.

4.7 Should a Member resign from membership while a complaint is under investigation, the Investigation Panel will consider if it is appropriate to continue its investigation and if it continues and it is concluded by the Council that the Member was in breach of the Code of Ethics and Professional Conduct, then the Council may impose the sanction that would have been imposed and this sanction is to be recorded and would be relevant to any application by the member to re-join.

4.8 In the event that the Complainee has been the subject of a previous proven complaint, the Administrator shall be entitled to inform the Investigation Panel of the previous complaint, the finding, and outcome including any sanction imposed, and refer the Investigation Panel to the relevant complaint documentation. This is to assist the Investigation Panel in making its recommendations on the appropriate sanction or outcome. The Administrator will only inform the Investigation Panel of the previous finding and outcome after the Investigation

Panel has decided whether the Complainee has breached the Code. This is subject to retention period limits below.

5. Determination

5.1 The Investigation Panel shall, at the conclusion of its investigations, prepare a written report, which shall outline the nature of the complaint, summarise the content of the submissions by the Complainant and the Complainee, and shall make a reasoned finding as to whether or not, in its opinion, the Complainee has breached the Code of Ethics & Professional Conduct. The Panel shall, based on this finding, make recommendations as to what sanctions (if any) should, in the opinion of the Panel, be imposed. The Panel shall give reasons for such recommendations.

5.2 The report of the Investigation Panel shall be submitted to the Ethics and Professional Conduct Committee, which shall consider this report at its next meeting. Following such consideration, the Committee shall decide if it adopts the findings and recommendations of the Investigation Panel, or not. If the latter, the Ethics and Professional Conduct Committee shall make alternative findings and/or recommendations as to sanction, giving reasons for these findings and recommendations.

5.3 The Committee's report, together with the associated documentation, shall be forwarded, via the Administrator, to the Council of the Institute for its decision. The Council shall consider this report at its next meeting, providing that notice of this matter shall have been given to each member of the Council, together with the report and documentation, at least a week before such meeting.

5.4 In the event that the recommendations of the Ethics and Professional Conduct Committee are that the Complainee has breached the Code of Ethics and Professional Conduct and/or that sanctions are recommended to be imposed, the Council, via the Administrator, shall make a copy of the report of the Ethics and Professional Conduct Committee available, by registered post, to both the Complainant and the Complainee and shall invite each party to make any further submissions in writing within 28 calendar days of such notification. In addition, if either party requests it, the Council shall also permit such party/parties to address it by oral hearing, either in person or by way of video link, before any decision is taken by the Council on the matter

5.5 After the expiration of the period for additional submissions by the parties, and following any oral hearing, the Council shall, at its next meeting, consider these submissions and shall determine if the complainee has breached the Code of Ethics and Professional Conduct, and shall determine the nature of the sanction that is to be imposed.

6. Sanctions

6.1 The primary purpose of sanctions is to protect members of the public, to maintain the integrity of the profession, and to declare and uphold proper standards of conduct and competence.

6.2 If a Member is found to have breached the Code of Ethics and Professional Conduct, the Council of the Institute must decide what (if any) sanction should be imposed. These sanctions are, in ascending order of severity:

- No penalty – the Institute may however wish to provide informal advice to the Member to aid their future professional practice.
- Reprimand – This may include requiring the Member to complete CPD in a particular field relevant to the matter within a specified period.
- Suspension of membership for a period of years, depending on the severity of the breach.
- Termination of membership (as per Article 2.10.1 (c) of the Institute's Constitution).

6.3 The decision of the Council is by simple majority of those present. If any member of the Council has any conflict of interest in the subject of the complaint in question, or in relation to the Complainant or Complainee, whether subjective or objective, they shall recuse themselves from the Council meeting when these matters are being considered, and such recusal shall be noted in the minutes of the meeting(s) in question.

6.4 The complainant and the Complainee shall then be notified, by the Institute's Administrator, of the outcome.

7. Record Retention Limits

7.1 The record retention limit for complaints files is three years from the date the complaint is finalised. Following this time, only information relating to any findings of breaches of the Code and sanctions imposed will be retained on the Member's file for a period of seven years, except in the case of Termination of membership which is required to be held indefinitely.

7.2 The Institute does not publish the names of sanctioned members.

8. Confidentiality and Fair Procedures

8.1 Maintaining confidentiality is a basic principle of complaints management. Members shall, as a matter of professional obligation, maintain confidentiality regarding any involvement in these procedures. Complainants and Complainees shall also be requested to maintain such confidentiality.

8.2 All efforts will be made to comply with fair procedures at all times.

8.3 The Institute is committed to compliance with GDPR throughout the complaints process.

9. Application of these Bye-Laws

9.1 In the event that a complaint against a Member is in respect of conduct which predated the coming into force of the current Code of Ethics & Professional Conduct, the relevant Code of Ethics & Professional Conduct shall be the one in force at the time of the alleged misconduct.