

# Regulations for the registration of organisations

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## complaints procedure

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## complaints procedure

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## **REGISTRATION COMMITTEE (ORGANISATIONS)'S COMPLAINTS PROCEDURE**

Complaints may originate from the actions of a member of the Institute or other persons, or arise from information that comes to the attention of the Institute might lead it to make its own allegation.

The Registration Committee (Organisations)'s complaints procedure is a five stage process

- Stage 1: an assessment either of whether a complaint is frivolous or vexatious, is appropriate for the Registration Committee (Organisations)'s complaints procedure or whether there appears to have been sufficient attempt to resolve any disputes
- Stage 2: an investigation by a duly appointed Registered Organisation complaints panel of a formal allegation to determine the evidence for and against the allegation and record their findings, make recommendation to Registration Committee (Organisations)
- Stage 3: a review of the Registered Organisation complaints panel report by the Registration Committee (Organisations) and agreement of proposed sanctions or determination of other actions
- Stage 4: appeal process
- Stage 5: reporting and review

### **Raising a complaint under the Registration Committee (Organisations)'s complaints procedure**

1. Complaints against a Registered Organisation should be made on a complaints form (available from the ClfA office or online at [www.archaeologists.net/regulation/complaints](http://www.archaeologists.net/regulation/complaints)).
2. The Complaint should specify how the Registered Organisation has not met good practice. If there is more than one issue, each element is assessed separately as part of a whole complaint.
3. Any complaint of poor practice should be signed by the complainant; it is not possible to bring an anonymous complaint although it may be possible for complainants' contact details not to be made available to the respondent. Allegations may be brought via the committee of a Special Interest or Area Group
4. The complaints procedure will not investigate or discuss further any issues that appear to be disciplinary matters (ie constituting a potential breach of the *Code of conduct*), or contractual matters that could be more appropriately dealt with by arbitration or mediation. If an issue could lead to a disciplinary matter this will take precedence over the Registration Committee (Organisations)'s complaints procedure, which will be suspended until completion of the disciplinary process. It is also possible that the disciplinary process may be started following the completion of an investigation into a Registered Organisation complaint.
5. For an assessment to be made on the complaint ClfA expects every Registered Organisation who is the subject of a complaint to follow the processes in this procedure.

If the Registered Organisation does not respond the process will go ahead using the evidence available.

6. As part of the complaint process the complainant must provide examples and where relevant possible evidence of how they have tried to resolve the matter through discussion. If the assessor does not feel that this has been demonstrated or that the matter may be better resolved through mediation they can make this determination.
7. All allegations are reported to ClfA Board of Directors on a quarterly basis. Details of the parties concerned are not normally disclosed.

#### **Receipt of a complaint**

8. All complaints will be appropriately acknowledged by a member of ClfA staff normally in writing
9. The Chief Executive and the Chair of the Registered Organisation committee will be notified of any complaints.
10. ClfA may commence the complaints process in cases which are in the wider interests of the profession or the Institute, even if no formal complaint has been received. In such cases these complaints procedures will be applied.

#### **Stage 1: Assessment**

11. The Assessment is intended to assess whether the alleged allegation has been completed properly and is relevant to be processed under the Registration Committee (Organisations)'s complaints procedure
12. The assessors will normally be the Standards Compliance Manager and the Chair of the Registration Committee (Organisations) unless either has a potential conflict of interest.
13. Copies of all documentation relating to the case will be kept in the ClfA office
14. The assessment may or may not involve any contact with the organisation against whom the complaint is made.
15. The assessors will review the following
  - whether the complaint has been completed correctly
  - whether the complaint appears to be frivolous or vexatious
  - whether there appears to have been sufficient attempt to resolve any disputes, if appropriate before submitting the allegation
  - whether the Registration Committee (Organisations) complaints procedure is the appropriate procedure to follow: those matters which are not appropriate may include

- matters which have already been dealt with by ClfA or are materially similar to those which have already been dealt with by ClfA unless the complaint concerns a new occurrence
    - matters which are best considered in an alternative forum
    - disputes about matters of legitimate academic judgement or professional opinion
    - contractual disputes
    - matters that appear to be Disciplinary (ie breach of the *Code of conduct*)
16. If the assessors determine to reject the complaint they will notify the complainant of their decision within 28 days of receipt of the complaint.
17. If the assessors determine that the complaint should more appropriately be resolved by discussion the assessors will report this to the Chief Executive, the complainant and respondent accordingly.
18. If the assessors determine that the Registration Committee (Organisations) complaints procedure is the appropriate process to hear the complaint then the complaint will be investigated.

## **Stage 2: Investigation**

19. The appointment of a Registered Organisation complaints panel does not indicate that the assessors believe that the Registered Organisation has failed to follow good practice. It is the role of the Registered Organisation complaints panel to carry out the full investigation of an allegation and recommend
- a. the allegation is inappropriate for the Registered Organisation complaints procedure at this time
  - b. there is no case to answer
  - c. that practice has been below standard or does not constitute good practice, and warrants an advisory recommendation or condition
  - d. that there may have been a breach of the ClfA *Code of conduct* and/ or other regulations and/or a serious failure to follow standards and guidance, and the matter should be referred to the Standards Compliance Manager as a potentially disciplinary matter
20. The Registered Organisation complaints panel will consist of three people nominated by the Chair of the Registration Committee (Organisations) and will normally consist of a member of the Registration Committee (Organisations) or of ClfA Advisory Council, a Member of ClfA (MCIfA), and one other person, normally a solicitor.
21. No person who has a prejudicial interest may participate in a Registered Organisation complaints panel
22. The Institute will normally commence the investigation of all complaints made within twelve months of the last incident or last conduct that forms the basis of the allegation. The panel shall have absolute discretion as to whether the Institute should process any

complaint about something that happened more than twelve months before the complaint was received by the Institute.

23. The Registered Organisation complaints panel may agree administrative and procedural matters as seem appropriate by telephone, e-mail or correspondence.
24. The panel will contact the organisation against whom the allegation is made within 28 days of appointment unless exceptional circumstances apply.
25. The role of the panel is to contact all parties it considers relevant to collate all evidence, statements, and the findings of any inspection visit concerning the complaint and make a recommendation on this evidence. The recommendation will be made on the basis of the evidence presented and whether the organisation has submitted a reply or not.
26. The Registered Organisation complaints panel may at any stage decide to cease or suspend their work due to anticipated or actual civil or criminal proceedings, serious illness, or any other compassionate grounds and report to Registration Committee (Organisations).
27. If the Registered Organisation complaints panel determines 19c (that practice has been below standard or does not constitute good practice, and warrants an advisory recommendation or condition) then they shall propose advisory recommendations or conditions to the Registration Committee (Organisations).

The Registered Organisation complaints panel may recommend

- a. to identify (and document) issues which will be reviewed at future applications for Registration
- b. to continue registration with imposed recommendations for improvement to be implemented or considered
- c. to continue registration on condition that specified actions are undertaken

### **Stage 3: Agreement of sanctions**

28. The Registration Committee (Organisations) shall be able to act in this matter if they are quorate, and shall be provided with the panel's summary report, and recommendations.
29. The Registration Committee (Organisations) shall consider the recommendation of the Registered Organisation complaints panel at the next most suitable meeting. The Registration Committee (Organisations) shall consider the summary report from the Registered Organisation complaints panel and vote on the following to agree on one of them
  - a. whether they agree with the findings of the Registered Organisation complaints panel
  - b. whether they disagree with the findings of the Registered Organisation complaints panel as they have identified matters for further consideration.

30. If the Registration Committee (Organisations) agrees with the findings of the Registered Organisation complaints panel the decision is final.
31. If the Registration Committee (Organisations) disagrees with the findings of the Registered Organisation complaints panel as they have identified matters for further consideration they shall provide the Registered Organisation complaints panel with the details they wish to be considered further. The Registered Organisation complaints panel will consider those matters, act on the advice if it sees fit, and report back to the Registration Committee (Organisations).
32. The decision of the Registered Organisations' committee is final.
33. The Registration Committee (Organisations) will notify all parties of the outcome of the complaint within 28 days of the meeting at which the recommendation from the Registered Organisation complaints panel is considered

#### **Stage 4: Complaints appeal**

34. The Registered Organisation against whom the allegation is made may appeal the finding and/or the sanction imposed by the Registration Committee (Organisations)

The grounds on which an appeal may be made are that

- a. the determination is flawed because the defined process for considering a complaint was not followed
  - b. that the determination was wrong in that insufficient weight was given, or incorrect conclusions were made from the evidence provided
  - c. that the sanction imposed was excessive in the light of the determination
35. Any such notice of appeal must be made in writing to Council within 28 days of the date of the relevant decision, and must state the grounds for the appeal and state the facts or matters or notification relied on in support of the appeal.
  36. Advisory Council shall assess the merits of the appeal on the evidence provided under section 35
  37. Advisory Council shall determine
    - a. if it is frivolous or vexatious and reject the appeal
    - b. that there is insufficient evidence given in the appeal to take the matter further and reject the appeal
    - c. that there is sufficient cause to set up an Appeal panel
  38. In the case of 38c the Hon Chair, or nominee shall appoint a Complaint Appeal panel consisting of 5 people, 2 members of Advisory Council, 2 Members of ClfA who are not members of Advisory Council or Registration Committee (Organisations), and the remaining appeal panel member may or may not be an archaeologist and/or a member of the Institute. The person appointing the appeal panel shall make enquiries of each

potential member of the appeal panel to ensure that they do not have a potentially prejudicial interest in the matter they are about to consider. The quorum for the panel should be three.

39. The Complaint Appeal panel shall make determinations based on the grounds of the appeal which may include:
- *“that the decision of the Registration complaints panel as endorsed by the Registration Committee (Organisations) is flawed because the defined process for assessing the complaint was not followed”*
  - *“that the determination on the investigation was wrong in that insufficient weight was given, or incorrect conclusions were made from the evidence provided”*
40. The Complaint Appeal panel will assess whether due process was followed review the evidence provided and the conclusions of the Registration complaints panel as endorsed by the Registration Committee (Organisations) and shall determine one of the following:
- a. that due process was followed and reject the appeal
  - b. that the decision of the Registration complaints panel as endorsed by the Registration Committee (Organisations) was correct based on the evidence provided and reject the appeal
  - c. that the decision of the Registration complaints panel as endorsed by the Registration Committee (Organisations) was not concordant with the evidence provided
  - d. that the imposition of a particular recommendation for improvement or condition is unreasonable

If the conclusion is c. the Complaint appeal panel will instruct the Chair of the Registration Committee (Organisations) to appoint a new Registered Organisation complaints panel.

If the conclusion is d. the Complaint appeal panel will notify the Registration Committee (Organisations) that the recommendation for improvement or condition should be amended or removed.

41. Decisions made by the Complaint Appeal panel are final, and are reported to Registration Committee (Organisations) and Advisory Council.

## **Stage 5: Reporting and review**

### **Reporting**

42. In order to ensure that the profession benefits from lessons learned CifA may publish or otherwise communicate summary information about complaints and their outcomes.
43. A summary of the findings only may be published if the 28 days to appeal have passed.



44. Any account of the case may include the name of the organisation involved and the details of the decision if it was conditional registration or removal from the register.
45. If the decision was removal from the register the Institute may also make this information known to third parties by other means.
46. The scheme works by offering positive encouragement and constructive advice to the organisation. To avoid unwarranted damage to the reputation of the organisation, ClfA will take all reasonable care consistent with the effective conduct of the investigation to maintain confidentiality, and expects its members to do likewise.

#### **Annual review**

47. Whatever the outcomes of any cases, the Institute will normally arrange for a review of complaints annually and publish an account of the number and nature of cases but will not name the parties to cases that have not reached a conclusion, where the allegation was not upheld, or where lesser sanctions than conditional registration or removal from register applied.
48. The review will be undertaken by a lay person (who is not a member of the Institute) who will review the papers from all of the proceedings in the period of the review. The review report will be presented to the next meeting of the Board of Directors which shall have absolute discretion as to how to respond to matters identified in the review report.