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Royal Town Planning Institute

# Sanctions Guidance

## Guidance for Conduct and Discipline Panel and Appeal Committees

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### 1. Introduction

This guidance has been developed by the Royal Town Planning Institute to summarise the sanctions that can be imposed by the Conduct and Discipline Panel or a Conduct and Discipline Appeal Committee. It outlines the purpose of sanctions and the factors to be considered when deciding upon what sanctions to impose. The Sanctions Guidance is also intended to assist complainants and members understanding of the disciplinary decision making process. It will be used by the RTPI's Conduct and Discipline Panel and any Appeal Committee when deciding on any appropriate sanction where members are found to be in breach of the Code of Professional Conduct.

Each case will be judged on its own facts. This document has been produced for guidance and to aid consistency, but it is not intended in any way to fetter the discretion of the Conduct and Discipline Panel or Appeal Committee when deciding what if any sanction to impose. Members of the Panel are expected to draw their own conclusions from the information and evidence available and exercise their own judgment in making decisions. This guidance is intended to inform Conduct and Discipline Panel and Appeal Committee members and assist them in reaching fair, consistent and proportionate decisions.

### 2. The Purpose of Sanctions

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. Sanctions are not imposed solely to punish members but they may have a punitive effect. Sanctions may also act as a deterrent to members breaching the Code of Professional Conduct.

### 3. Sanctions

If a member is found to have breached the Code of Professional Conduct, the Conduct and Discipline Panel must decide what (if any) sanction should be imposed. The sanctions available, in ascending order of severity, are:

No Penalty  
Warning

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Reprimand  
Suspension  
Termination of membership

A discussion of each of these possible sanctions follows in sections 6 to 10 below.

In each instance the Conduct and Discipline Panel must also decide whether to name the member in the published report of its decision.

The Panel is not able to impose conditions in addition to a sanction, but may make recommendations to the member or to another Department within the Institute.

The Institute is not required to impose a sanction in every case where a breach of the Code is found so the Panel may choose not to penalise the member.

Should a member resign from membership whilst a complaint is under investigation, the investigation will continue and if it is concluded that the member was in breach then the sanction that would have been imposed is to be recorded and would be relevant to any application by the member to re-join.

#### 4. The Conduct and Discipline Panel's Approach

In making a decision the Panel will consider the seriousness of the misconduct and, from that, determine a fair and proportionate sanction. The sanction imposed should meet the overall purposes for the imposition of a sanction.

The Institute has had regard to case-law on the imposition of sanctions in other professions and considers that the following guidance should apply equally to its own disciplinary processes:

The case of ***Raschid v General Medical Council* [2006] EWHC 886 (Admin)** (per Collins J) sets out the approach to be taken when imposing sanctions,

*"It is necessary for a Panel, when considering the appropriate sanction, to work from the bottom up, if I may put it that way, that is to say to consider the least penalty and to ask itself whether that is sufficient, and, if not, then to go to the next one, and so on. Thus they go from taking no action and merely recording a serious professional misconduct finding through a reprimand, the imposition of conditions, suspension, and the final sanction of erasure."*

The court further elaborated on the approach to sanctions in ***Fuglers & Ors v Solicitors Regulation Authority* [2014] EWHC 179** (per Popplewell J) and stated as follows,



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*“There are three stages to the approach... The first stage is to assess the seriousness of the misconduct. The second stage is to keep in mind the purpose for which sanctions are imposed by such a tribunal. The third stage is to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.”*

## 5. Naming an Individual

Where a member is found to have breached the Code, the Conduct and Discipline Panel will also decide whether to name the member in the published report of the decision. Naming a member may be considered where one or more of the following factors are present (this list is not exhaustive):

- The severity of the breach, the sanction imposed and the normal position given in the relevant text above.
- Mitigating and Aggravating factors.
- The need to alert the public to the actions of the member.
- The need to respond to media coverage and other publicity around the complaint in order to protect the reputation of the profession.

## 6. Impose No Sanction

The Conduct and Discipline Panel may conclude, having had regard to all the circumstances, that it would be unfair or disproportionate to impose a sanction. In these circumstances the Panel may decide not to impose a sanction. The Panel may however wish to provide informal advice to the member to aid their professional practice (as indeed it may for members found not to be in breach of the Code at all).

## 7. Warning

Where the Panel decides that it is appropriate to impose a sanction in relation to a finding of a breach of the Code, a warning is the least severe sanction that can be applied. It may be used in relation to offences which fall at the lower end of the scale of seriousness, and where it would be appropriate to mark the conduct or competence of a member as being unacceptable.

This sanction may be considered where one or more of the following factors are present (this list is not exhaustive):

- Evidence that the conduct or competence has not seriously affected clients or the public, and therefore the reputation of the Institute.
- Limited or no damage to the client/others.
- Likelihood of future misconduct of a similar nature or any misconduct is very low.

A warning will remain on the member's record for a period of six years and may be taken into account in any future disciplinary proceedings during that period. As this is the least severe penalty the normal approach would not be to name the member in the published report. However if the member is named, their name will only be published on the RTPI website for one year after the date of sanction. The Panel may wish to name a member when, as an example, the breach is a minor issue, but the member has not assisted the Institute during its investigation, or will not accept that a breach has occurred.

## 8. Reprimand

A reprimand is the second level of sanction available to the Institute.

This sanction may be considered where one or more of the following factors are present (this list is not exhaustive):

- The offence is too serious to warrant a warning.
- The impact of the breach has affected clients, the public and/or the reputation of the Institute.
- Limited or lack of remorse.
- The member has benefitted financially from the offence.
- The member has displayed a lack of willingness to assist the Institute in its investigations.

A reprimand will remain on the member's record for a period of six years and will be taken into account in any future disciplinary proceedings during that period. As a further illustration of the increased severity of a reprimand compared with a warning, the usual decision would be to name the member in the published report and their name will be published on the RTPI website for two years after the date of sanction. The Panel may wish to not name the member when, for example, the breach is more serious than that appropriate for a warning, but the member has recognised their error, has shown remorse and has helped the Institute in its investigations.

## 9. Suspension

The Conduct and Discipline Panel may impose a suspension, normally for a maximum period of twelve months and exceptionally for a maximum period of three years. The member is automatically reinstated to membership at the end of the suspension period. A member who is suspended cannot use the title "Chartered Town Planner" or the post-nominals MRTPI, FRTPI, LARTPI or other designatory letters, shall be deprived of all privileges and benefits of membership, and shall not hold him or herself out in any way as being a Member of the Institute. Such a Member shall however remain bound by the provisions of the RTPI Code of Professional Conduct and shall be liable to pay

subscriptions on the normal basis. In addition to any general requirements imposed by the Conduct and Discipline Panel for the lifting of a suspension from membership, no Member shall be re-admitted to membership until any arrears of subscriptions have been paid.

This sanction may be considered where one or more of the following factors are present (this list is not exhaustive):

- An offence so serious that a warning or reprimand would be insufficient either to protect the public or the reputation of the profession but where the behaviour is not necessarily incompatible with continuing to be a member.
- There is no evidence of entrenched honesty or integrity issues.
- Lack of sufficient insight is such as to call into question the continued ability to practise appropriately.
- The Panel is satisfied that the behaviour is unlikely to be repeated.

A suspension is publicised for the duration of the suspension and two years after its expiry period. The member would normally be named in the publicity of the decision, and there would need to be exceptional circumstances not to do so.

## 10. Termination of Membership

The termination of membership of the Institute may be imposed for those offences where:

- i) the seriousness of the misconduct is at the highest level, such that a lesser sanction is inappropriate; and
- ii) the protection of the public and/or reputation of the profession requires it.

It is open to a member to apply to re-join the Institute after five years have passed following the termination of membership, and that application will be considered by the Institute. However the Panel may recommend a minimum period of time before such an application should be considered.

This sanction may be considered where one or more of the following factors are present (this list is not exhaustive):

- A serious criminal offence.
- Behaviour that is fundamentally incompatible with continuing to be a member of the Institute.
- The Panel lacks confidence that a repeat offence will not occur.
- A severe lack of honesty or integrity.



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- A persistent lack of insight into the seriousness of actions or consequences.

Any individual whose membership has been terminated is not permitted to use the title “Chartered Town Planner” in business or practice or the post-nominals MRTPI, FRTPI, LARTPI or other designatory letters, or any reference to membership or fellowship of RTPI. The termination of membership is publicised for a period of five years after the date of sanction. The member would normally be named in the publicity of the decision, and there would need to be exceptional circumstances not to do so.

## 11. Aggravating Factors

The Conduct and Discipline Panel shall take into consideration any aggravating factors on the part of the member and their conduct.

Factors that aggravate the seriousness of the member’s conduct and/or actions include (but are not limited to):

- Dishonesty, where alleged and proved.
- Misconduct involving the commission of a criminal offence.
- Conduct or action which was deliberate and/or repeated.
- Pattern of poor conduct/competence.
- Taking advantage of a vulnerable person.
- Attempts were made to conceal the breach of the Code.
- Refusal or inability to acknowledge failings.
- Substantial loss or impact to clients/others.
- Previous disciplinary matters before the Institute where allegations were found to be proved within six years of the date of the complaint.
- Failure to engage with the disciplinary process constructively.
- Member is in a position of responsibility and his/her conduct could influence the conduct of others.
- A finding of breaches of multiple clauses of the Code within the complaint.

## 12. Mitigating Factors

The Conduct and Discipline Panel shall have due regard to any evidence presented in mitigation by or on behalf of the member.

Factors which may mitigate the harm or seriousness of the conduct and/or action include (but are not limited to):

- Whether the member voluntarily notified the Institute of the facts and circumstances giving rise to misconduct.



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- The misconduct or behaviour is either a single episode, or one of very brief duration in a previously unblemished career.
- Genuine insight and/or remorse for their behaviour and/or an appropriate apology offered.
- Open and frank admissions at an early stage.
- Evidence of remedial action taken to prevent offence reoccurring or to mitigate the consequences of the breach.
- Corrective steps taken.
- Evidence that the member acted under duress or deception from other party (including client).
- Severe personal or health problems which impact substantially on the member.
- Member has made a positive contribution to the profession in the past.

These factors are not determinative of the seriousness of the conduct and/or competence itself. They are there to assist considerations of fairness and proportionality when determining the appropriate sanction.

Also, testimonials and references should be weighed appropriately against the nature of the offence.

### **13. Criminal Convictions**

Where a complaint is received which relates to a member having been found guilty of a criminal offense, the complaint will be reviewed in the normal way under the Complaints Procedure. If the Panel receives a signed certificate of a conviction or determination, from a criminal court in the United Kingdom or a foreign court for an offence, which, if committed in England and Wales, would constitute a criminal offence, it must accept the certificate as conclusive evidence that the offence was committed, or that the facts are as found by the determination.

In these instances the member can make submissions as to why no further action or a more lenient sanction should be made by the Conduct and Discipline Panel.

The purpose of a decision in relation to a conviction is not to punish the member a second time for the same offence, but to protect the public and maintain the collective reputation and integrity of the profession.

### **14. Publicity**

All decisions of the Conduct and Discipline Panel and Appeal Committees where a breach has been found may be publicised within the Institute's journal *The Planner* and on the Institute's website. The purpose of publicising the Conduct



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and Discipline decisions is to inform members and the wider public of breaches of the Code, and action taken to protect the reputation of the profession and the public.

The timings for retaining the articles where a member is named on the RTPI website are:

Warning: one year

Reprimand: two years

Suspension: the period of suspension plus two years

Termination: 5 years

Where a member is not named there is no prescribed period for the retention of material.

It is not Institute policy to disclose any information concerning complaints about members to enquirers although some information may be obtained from the website.

### Examples of Sanctions Awarded

It is not possible to give a range of sanctions available for each clause of the Code that has been breached as many clauses of the Code give broad requirements of behaviour. For example, Clause 4 of the Code requires Members to act with honesty and integrity throughout their career and sanctions imposed would depend upon the severity and impact of the breach. Below is an example of how a member's actions might result in different sanctions imposed.

Sanction	Warning	Reprimand	Suspension	Termination
Nature of the breach	Document produced by member doesn't include the whole truth and therefore lacks integrity. There has been no deliberate dishonesty.	Member knowingly includes false information in statements, but this is an individual circumstance with limited impact on the public or Institute.	Member deliberately lies, repeatedly, but there is limited impact on the public or Institute.	Member deliberately lies, repeatedly, for their own personal gain, and impact is widely felt by the public and profession.
Whether to name the member in publicity	It would not be usual to name a member receiving a warning.	This will depend on the aggravating or mitigating factors of the situation.	It would be normal to name a member receiving a suspension.	There would need to be very exceptional circumstances not to name someone whose membership is terminated.



## Established Outcomes for Specific Breaches of the Code

These sanctions have been consistently applied to cases where these breaches have been found:

Nature of the breach of the Code	Usual Sanction Applied
Failure to respond to Institute requests for details of Professional Indemnity Insurance and Continuing Professional Development activities and plan	Suspension for a period of 6 months, with a requirement to comply with the request for the information during that period. If the member fails to comply then the membership will be terminated.
Plagiarism within an Assessment of Professional Competence submission	Reprimand with a recommendation to the Membership Team to not consider a further submission for a period of one year after the decision, and any new submission should be completely fresh with different case studies being presented.

## Examples of Specific Sanctions

### Warning

1. A consultant member was found to have plagiarised someone else's work within a planning statement submitted with a planning application. The member failed to take due care to ensure that they had the consent of the author. The member was warned as to their future conduct.

2. A consultant member failed to provide the client with clear written terms of engagement for one element of a development scheme, failed to honour the terms of engagement for another element of the scheme, and failed to discharge their duty to the clients with due care and diligence. These amounted to breaches of clauses 14, 15 and 16 of the Code of Professional Conduct. The Panel agreed to warn the Member as to their future conduct.

The members were not named in either of these examples.

### Reprimand

1. The complaint alleged that the member had inflated the hours shown on their timesheets and therefore the invoices for work carried out for a company who had employed them as a planning consultant. The Panel noted that there was a lack of contemporaneous evidence to support the hours claimed. There was also sufficient evidence provided by the complainant that the hours were inflated. The member was reprimanded and named in the published report.

2. The member was found to have used inappropriate and unprofessional language concerning another member of the Institute. The Panel agreed that the offensive comments made were sufficient to cause prejudice to the member's professional status

and to the reputation of the Institute. The Panel agreed to reprimand the Member for their actions, but not to name them in the published report.

### **Suspension**

The Panel had found the member to have seriously breached the Code of Professional Conduct and suspended their membership for 6 months. The member failed to act on their client's instructions by failing to submit planning applications that they had been appointed to submit and lied to their clients providing fabricated reasons for a lack of progress. They also failed to assist the Institute in its investigation. As a result the Panel found that they had not acted with honesty and integrity or discharged their duty to the clients with due care and diligence. The member therefore had breached clauses 4, 14, 23 and 27 of the Code.

### **Termination of membership**

The complaint was against a local authority Member who had been convicted of fraud by abuse of their position at their place of work. The member had transferred funds paid to the local authority to their private bank account. The Panel found the member to be in breach of the Code and agreed to terminate their membership forthwith.

It should however be noted that there may be mitigating or aggravating factors which might result in a different sanction being applied in any individual case.



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