

BY-LAWS

Disciplinary regulations

By-laws of the Institute for Archaeologists
Disciplinary Regulations
Revised Edition, October 2012

The *Disciplinary Regulations* were formally adopted as a by-law of the Institute at the Annual General Meeting held on 26 September 2005, revised 3 October 2011 and 8 October 2012. The Institute for Archaeologists is a trading name of the Institute of Field Archaeologists, a company limited by guarantee. It is registered in England, no 1918782. The address of the Registered Office is

SHES
University of Reading
Whiteknights
PO Box 227
Reading
RG6 6AB



SETTING STANDARDS IN ARCHAEOLOGY

Introduction and summary

The Institute's Code of conduct promotes those standards of conduct and self-discipline required of a Corporate member (PIfA, AlfA, and MlfA) member in the interests of the public and in the pursuit of archaeological research. Disciplinary regulations safeguard that public interest by ensuring that such members are accountable for any failure to maintain those standards. In many cases the public interest is best served by identifying matters of concern and working with members to bring about improvements. However, where necessary, sanctions are available and will be imposed.

In common with many other professional institutes, the IfA in 2011 and 2012 reviewed its disciplinary procedures with a view to making them less cumbersome, making the Institute more credible as an effective regulatory body (especially to those outside archaeology), ensuring lay involvement where appropriate, emphasising redress or improvement rather than punishment except where warranted, enabling the Institute to devote its limited resources to investigating allegations of misconduct rather than mediating in contractual or professional disputes, and ensuring compliance with human rights legislation and general principles of natural justice.

These disciplinary regulations set out the procedure by which the Institute will determine whether an allegation requires formal investigation, and if it does how that investigation will be carried out. If formal disciplinary proceedings take place, each party is given an opportunity to present his/her case or to defend himself/herself against the allegation. The procedures also allow for representation and appeal against the findings and any sanctions.

The Institute's policy is to preserve confidentiality, and it requests all those involved in any proceedings to do likewise. The Institute cannot be held responsible for breaches of confidentiality by individuals involved in proceedings.

The Institute will take all reasonable steps to ensure that proceedings are completed promptly. The failure of the Institute to comply with any time limit imposed by this by-law will not invalidate any disciplinary proceedings.

Complaints against Registered Organisations are investigated in accordance with the *Guidance notes to the Registration scheme*.

These regulations set out a six-stage process comprising

- an assessment either of whether an allegation is frivolous or vexatious, is appropriate for the disciplinary procedure or if whether information that comes to the attention of the Institute might lead it to make its own allegation (clauses 1-10)
- an investigation of a formal allegation to determine the evidence for and against the allegation and make recommendations to the Executive committee (clauses 11-19)
- decision on the allegation by the Executive committee (clauses 20-24)
- determination of the sanctions to be applied by a Sanction panel (clauses 25-29),
- appeal process (clauses 30-38)

- reporting and review (clauses 39-43)

Disciplinary procedure

1. An allegation against an individual member of the Institute ('the Respondent') may be made by any person or organisation ('the Complainant') at any time about matters arising during membership or in the course of an application for membership. The allegation will be handled under the terms of these by-laws, whether that person is or is not a current member.
2. As an alternative to receiving an allegation from a third party, during Stages 1 and 2 the IFA may nominate someone to bring an allegation on its behalf.
3. The allegation must identify the person or organisation making the allegation, identify the member against whom the allegation is made, specify the conduct that has led to the allegation, and should identify the paragraphs which are alleged to have been breached in the *Code of conduct* or any other by-laws that may apply from time to time.
4. An allegation brought by a nominated person or organisation shall be handled in accordance with the same procedures that apply to any other allegation.
5. All allegations of misconduct are taken seriously. However, in many cases allegations arise from disputes which can be resolved by discussion rather than confrontation. The Institute believes that in most cases the first stage in resolving any dispute is for the person or organisation making the allegation to write to the individual concerned if the matter has not already been resolved by discussion.
6. The Institute expects every member who is the subject of an allegation or dispute to respond in writing to an allegation promptly.

Receipt of an allegation

7. All allegations shall be reported to Council.

Stage 1: Assessment

8. On receipt of an allegation, the Chief Executive or his/her nominated deputy shall have the absolute discretion to nominate an employee, or other appropriate person, to carry out an assessment. The person appointing the assessor shall make enquiries to ensure that they do not have a potentially prejudicial interest in the matter they are about to assess.
9. The assessor shall determine the following
 - a. that the allegation received should more appropriately be resolved by discussion
 - b. that the allegation received appears to be frivolous or vexatious and reject the allegation
 - c. that the Disciplinary regulations are not the appropriate process for the allegation and reject the allegation

d. that the allegation is appropriate for the Disciplinary regulations and is investigated as a formal allegation

10. In the event of a determination that the allegation is investigated as a formal allegation (clause 9d), the assessment of the formal allegation is reported to Chief Executive or nominee

Stage 2: Formal allegation is investigated

11. The Chief Executive or their nominee shall appoint a Disciplinary panel (which shall not include the person or organisation conducting the assessment) to investigate the allegation.
12. The Disciplinary panel will consist of three people two of whom shall be corporate members of IfA.
13. The person appointing the Disciplinary panel shall make enquiries to ensure that they do not have a potentially prejudicial interest in the matter they are about to assess.
14. The Institute will normally commence the investigation of all allegations made within twelve months of the last incident or last conduct that forms the basis of the allegation. The Disciplinary Panel shall have absolute discretion as to whether the Institute should process any allegation about something that happened more than twelve months before the allegation was received by the Institute.
15. The Disciplinary panel can conduct their work as they see fit providing this is consistent with the principles of natural justice and that may include written proceeding and/or a formal hearing.
16. Within 28 days of acceptance of the formal allegation by the Institute, the Institute shall send a copy of all of the information to the member against whom the allegation is made unless exceptional circumstances apply. Those exceptional circumstances are where the identity of the complainant needs to be withheld to enable the allegation to be made as identified in sections 30 and 31 of the Freedom of Information Act 2000. If those circumstances apply then the Disciplinary panel shall have the discretion as to the information disclosed.
www.opsi.gov.uk/acts/acts2000/20000036.htm
17. The member against whom the allegation is made will be invited by the Disciplinary panel to give a written response to the allegation and supply evidence. The person or organisation making the allegation will be invited to submit any further evidence. Both parties will be informed that the Disciplinary panel will make a decision on the evidence provided by both parties. The Disciplinary panel shall have the discretion to carry out any other investigations or formal hearings to assist in determining the allegation.
18. The Disciplinary panel shall recommend any one of the following for each alleged breach
 - a. that the allegation is inappropriate for the Disciplinary Regulations and should be rejected
 - b. that there is no case to answer
 - c. that there has been no breach of the Code of conduct and the allegation should be rejected
 - d. there has been no significant breach of the Code of conduct but conduct warrants an advisory recommendation

e. that there has been a significant breach of the Code of conduct

19. The Disciplinary panel will report its findings and recommendation to the Executive committee
20. The Disciplinary panel may recommend to the Executive committee to cease or suspend the investigation if it considers that it is inappropriate to continue due to anticipated or actual civil or criminal proceedings, serious illness or any other compassionate grounds
21. The Executive committee shall consider the recommendation of the Disciplinary panel at the next most suitable meeting at which at least three members of the Executive committee are present. The Executive committee shall consider a summary report from the Disciplinary panel and vote on the following to agree on one of them
 - a. whether they agree with the findings of the Disciplinary panel
 - b. whether they disagree with the findings of the Disciplinary panel as they have identified matters for further consideration.
22. If the Executive committee agrees with the findings of the Disciplinary panel either of the following actions will be taken
 - a. If the finding is to reject as inappropriate, no case to answer, or that there has been no breach no further action will be taken other than that set out in clause 23.
 - b. If the finding is no significant breach or there has been a breach of the code of conduct Executive committee will ask for a Sanctions panel to be convened to consider sanctions.

If the Executive committee disagrees with the findings of the Disciplinary panel as they have identified matters for further consideration they shall provide the Disciplinary panel with the details they wish to be considered further.

23. The Institute shall notify the complainant and the respondent of the Executive committee's findings
24. If the Executive committee finds that there are matters to be considered further they will notify the Disciplinary panel in writing of those matters that it believes should be reviewed further and the reasons why. The Disciplinary panel will consider those matters, act on the advice if it sees fit, and report back to the Executive committee.

Stage 3: Sanctions

25. The Chief Executive or their nominee will appoint a Sanctions panel of six people who will normally be IfA members.
26. The person appointing the Sanctions panel shall make enquiries of each potential member of the panel to ensure that they do not have a potentially prejudicial interest in the matter they are about to consider.

27. The Sanctions panel may make any one of the following four findings on each element of an allegation
- a. in the event that there does not appear to have been any significant breach of the *Code of Conduct*, that investigations have revealed opportunities for improvement in specified areas, whether the subject of the allegation or not. The finding shall make advisory recommendations regarding any potential for improvements or redress, eg undertaking relevant CPD, using the Institute's arbitration scheme, redoing a piece of work, apologising, or making a compensatory payment not exceeding £2000
 - b. that the Executive committee should issue a formal reprimand (normally drafted by the Sanctions panel)
 - c. that the Executive committee should suspend the member against whom the allegation is made from membership of the Institute for at least one year and no more than three years
 - d. that the Executive committee should expel the member against whom the allegation is made from membership of the Institute
28. The Sanctions panel shall report its findings/recommendations to Executive committee. The Executive committee shall impose those sanctions unless it believes that due process has not been followed, in which case it shall either redirect the Sanctions panel to consider the case or it shall instruct the Chief Executive or nominee to appoint a new Sanctions panel.
29. In the event of expulsion, in accordance with article 21 of the Articles of Association, a former member shall be entitled to reapply for membership of the Institute up to a maximum of five times. In the event of suspension membership shall not be renewed unless and until the membership application is supported by sufficient evidence to enable the Institute in its discretion to conclude the applicant has taken sufficient steps to ensure that the circumstances of the allegation, or similar instances, would be unlikely to arise again.

Stage 4: Appeal

30. The member against whom the allegation was made may appeal the finding of Executive committee and/or the sanction imposed by the Sanctions panel, provided that they remain a member throughout the disciplinary panel's investigations and the Sanctions panel's deliberations
31. 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 respondent has acquired new information, which could not have been submitted to the Disciplinary panel during the initial investigation which would have been likely to have influenced the decision of the Disciplinary panel
 - d. that the sanction imposed was excessive in the light of the determination
32. Any such notice of appeal must be made in writing to the 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 relied on in support of the appeal.

33. The members of the Executive committee shall not participate in the Council's consideration of the appeal. Therefore an acting Chair of the Council shall be elected at the first meeting, and if the acting Chair is absent at any subsequent meeting then another acting Chair shall be appointed for that meeting only.
34. The Council shall assess the merits of the appeal on the evidence provided under Clause 32
35. The Council shall determine
 - a. that the appeal is frivolous or vexatious and reject the appeal
 - b. that there is insufficient cause 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
36. The Hon Chair, or nominee shall appoint an Appeal panel consisting of six people, two members of Council, three Members, 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.
37. The appeal panel shall make determinations based on the grounds of the appeal which may include
 - a. confirm the finding of Executive committee (and therefore the subsequent sanction)
 - b. rescind the finding of Executive committee (and therefore the subsequent sanction)
 - c. to substitute the finding of Executive committee with another from Clause 18 c, d, or e,
 - d. that the new evidence was unlikely to affect the decision by Executive committee and confirm the finding of Executive committee
 - e. that the new evidence could not have been provided during the earlier investigation and was likely to affect the decision by Executive committee and that the disciplinary process (under a new Disciplinary panel) should start again from Clause 10
 - f. confirm the sanction of the Sanctions panel
 - g. to substitute the sanction of the Sanctions panel with another from Clause 27
38. Decisions made by the Appeal panel are final

Stage 5: Reporting and review

Reporting

39. An account of any and all investigations and subsequent appeals shall be published in any publications the Institute shall decide,
40. An account of the case shall not be published until the 28 days for receipt of appeal have passed. A summary of the findings only may be published if the 28 days to appeal have not yet passed.

41. In the event of a reprimand, suspension or expulsion the Institute shall include in the name of the member(s) involved and the details of the sanction decided, unless there are exceptional compassionate grounds for not doing so. The Institute may also make this information known to third parties by other means.

Annual review

42. Whatever the outcomes of any cases, the Institute will normally arrange for a review of allegations 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 reprimand, suspension or expulsion were applied.
43. 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 Council which shall have absolute discretion as to how to respond to matters identified in the review report.