

# CIC Approved Inspectors Register (CICAIR)

## Indicative Sanctions Guidance



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### 1 Introduction

- 1.1 This Indicative Sanctions Guidance (“Guidance”) specifies the matters to which CICAIR panels must have regard when they are considering what sanction to impose following a finding from a CICAIR Panel that an Approved Inspector has breached the CICAIR Code of Conduct for Approved Inspectors (“Code of Conduct”), in force at the time of the conduct which forms the subject of the allegation(s).
- 1.2 The aims of the Guidance are to:
  - 1.2.1 deliver a robust and transparent approach to decision making;
  - 1.2.2 aid CICAIR Panels in reaching a proportionate and consistent approach to sanctions;
  - 1.2.3 provide clarity to Approved Inspectors, and other interested parties, about the types of sanctions which may be imposed when breaches of the Code of Conduct have been found.
- 1.3 Panels should, unless there is good reason not to do so, follow this Guidance. Where a Panel deviates from the Guidance it must explain why in the reasons underpinning its decision.

### 2 CICAIR’s approach to regulation

- 2.1 The fundamental purpose of professional regulation is to maintain the reputation of the profession as one which can be trusted. A profession’s most valuable asset is this trust, its collective reputation and the confidence which that inspires. It is integral that the profession maintains, among members of the public, a well-founded confidence that any Approved Inspector with whom they interact will be of unquestionable integrity, probity and trustworthiness.
- 2.2 Approved Inspectors must make sure that their conduct is commensurate with the trust being placed in them and the public’s trust in the profession. A CICAIR panel should make sure that any sanction it imposes is appropriate and proportionate, bearing in mind that the reputation of the profession is more important than the fortunes of any Approved Inspector. Approval to act as an Approved Inspector brings many benefits, but with these benefits comes a responsibility to act in an appropriate manner.
- 2.3 CICAIR operates its regulatory activities with three guiding principles in mind:
  - 2.3.1 to undertake the approval and termination of approval of Approved Inspectors, overseeing the Approved Inspector industry through proportionate, targeted and effective regulatory activity;
  - 2.3.2 to develop a more effective Approved Inspector industry by promoting the continuous improvement in the quality and standards of Approved Inspectors; and

- 2.3.3 to use available resources efficiently and effectively, while adapting and responding to changes in the external business and legislative environment.
- 2.4 CICAIR's approach to sanctions reflects the guiding principles of its regulatory responsibilities and its disciplinary process, namely to:
  - 2.4.1 protect the public;
  - 2.4.2 maintain public confidence in the building control profession;
  - 2.4.3 uphold high standards of professional conduct;
  - 2.4.4 ensure that CICAIR's disciplinary processes are effective in dealing with complaints of professional misconduct in the interests of the public and all stakeholders; and
  - 2.4.5 deter Approved Inspectors from future non-compliance with the Code of Conduct.

### **3 Overarching considerations**

#### **3.1 General decision making**

- 3.1.1 CICAIR Panels must first consider the extent to which the Approved Inspector has departed from the standards outlined by the Code of Conduct and any guidance issued to Approved Inspectors in relation to the Code of Conduct.
- 3.1.2 Each case will be judged on its own facts and merits. A Panel must remain free to exercise their judgement on each individual case, and they should articulate their reasons for reaching a particular decision and for imposing a particular sanction.
- 3.1.3 Prior conduct and the complaint or disciplinary history of an Approved Inspector can assist a Panel in determining a fair sanction and ensuring proportionality and consistency of decision making. However:
  - 3.1.3.1 the previous complaint or disciplinary history of an Approved Inspector will only be made available to a Panel once it has determined whether or not the Approved Inspector has breached the Code of Conduct; and
  - 3.1.3.2 the previous complaint or disciplinary history of an Approved Inspector are not to be taken into account by a Panel when determining whether a breach or breaches of the Code of Conduct have occurred in relation to any specific allegation under consideration.

#### **3.2 Sanctions – overarching principles**

- 3.2.1 Proportionality – the sanction must be proportionate to the breach(es) and all the circumstances including aggravating and mitigating factors.
- 3.2.2 Public interest – the need to demonstrate to the public that CICAIR takes action in the public interest, to protect the public and to promote regulatory compliance.
- 3.2.3 Public protection – the need to ensure the public is protected from Approved Inspectors who do not meet CICAIR's standards and expectations of the profession.
- 3.2.4 Deterrence – deterring the Approved Inspector who is the subject of the allegations and other Approved Inspectors from future non-compliance.

### 3.3 Proportionality

- 3.3.1 Panels must ensure that any sanction imposed is proportionate to the conduct and the breach(es) and weighed against the public interest and the interests of the Approved Inspector.
- 3.3.2 Where a Panel determines that it is necessary to impose a sanction in order to protect the public, to maintain confidence in the profession or to uphold proper standards of conduct, it must ensure the sanction it imposes is fair, proportionate and which best reflects the level of seriousness of the conduct. Any sanction that impacts the Approved Inspector's ability to operate must be no more restrictive than is necessary to satisfy CICAIR's regulatory responsibilities and to prevent a recurrence of the issue(s) that resulted in the sanction.
- 3.3.3 Once a Panel has determined that a certain sanction is necessary, having regard to the overarching principles set out above at 2.4, that sanction must be imposed even where there is an argument that this may lead to difficulties for an Approved Inspector in terms of their ability to operate.

### 3.4 Aggravating and mitigating factors

- 3.4.1 Any mitigating factors must be considered against the fundamental purpose of sanctions:
  - 3.4.1.1 public protection;
  - 3.4.1.2 upholding the professional standards of conduct; and
  - 3.4.1.3 maintaining public confidence in the building control profession and in CICAIR as the regulator, exercising its functions in the public interest.
- 3.4.2 A Panel must consider and balance mitigating and aggravating factors put forward by the Approved Inspector and CICAIR throughout the complaints procedure and any ensuing disciplinary proceedings. Mitigating factors are less persuasive where the findings are serious or relate to public safety.
- 3.4.3 When considering mitigating factors, Panels should consider whether these are genuine and supported by evidence. Personal mitigation such as ill health or family issues may be taken into consideration but, where an Approved Inspector is a corporate body, personal mitigation should be given less weight.
- 3.4.4 The presence of aggravating factors will normally warrant a more severe sanction and may demonstrate that the Approved Inspector's behaviour is incompatible with the fundamental principles of integrity and/or professional ethics with which all Approved Inspectors must comply.
- 3.4.5 Aggravating and mitigating factors include, but are not limited to:
  - 3.4.5.1 whether or not the Approved Inspector was dishonest
  - 3.4.5.2 whether or not the breach was deliberate or intentional
  - 3.4.5.3 whether or not the breach involved wrongdoing, blame or recklessness

- 3.4.5.4 whether or not the Approved Inspector facilitated wrongdoing by a client or other person
  - 3.4.5.5 whether or not the breach involved a vulnerable person or persons
  - 3.4.5.6 whether or not there had been any relevant court or tribunal findings against the Approved Inspector
  - 3.4.5.7 whether the breach was an isolated failure or a repeated or ongoing issue
  - 3.4.5.8 whether or not the Approved Inspector sought to conceal the breach(es)
  - 3.4.5.9 whether or not previous guidance, advice or warnings about risks, conduct or practice has been ignored
  - 3.4.5.10 whether or not the Approved Inspector has shown insight and taken responsibility for any failings
  - 3.4.5.11 whether or not any steps have been taken by the Approved Inspector to put things right with the aggrieved party or to apologise for their conduct
  - 3.4.5.12 whether or not the Approved Inspector notified CICAIR of the alleged breach
  - 3.4.5.13 the extent of the departure from the functions of Approved Inspectors as conferred by regulation 8(1) of the Building (Approved Inspectors etc.) Regulations 2010
  - 3.4.5.14 the extent to which the Approved Inspector has co-operated with CICAIR's investigation, or an investigation carried out by any law enforcement agency or any other regulatory body
  - 3.4.5.15 whether or not, and if so, the extent to which the Approved Inspector benefited or stood to benefit from the conduct leading to the breach(es)
  - 3.4.5.16 the risk and impact of harm, or potential harm, to the users of buildings
  - 3.4.5.17 the level of experience of the Approved Inspector or the Approved Inspector's staff
  - 3.4.5.18 the length of time over which the conduct leading to the breach(es) occurred
  - 3.4.5.19 the number or frequency of the act(s) or conduct leading to the breach(es)
  - 3.4.5.20 any prior findings of a CICAIR Panel or by any other regulatory body
  - 3.4.5.21 any ill health or other personal circumstances.
- 3.4.6 Insight
- 3.4.6.1 Panels should take into account evidence of insight and steps taken to remediate failings.

- 3.4.6.2 Evidence of insight and remediation should be examined carefully to determine whether or not the Approved Inspector has reflected fully on the failings and taken steps to ensure those failings do not happen again.
- 3.4.6.3 Such evidence may include recognition and understanding of how a failing occurred and may include an apology to the complainant.

#### **4 Decision making and reasons**

4.1 When deciding to impose a sanction, a Panel must:

- Step 1* Consider mitigating and aggravating factors and the weight to attach to each, thereby determining the seriousness of the conduct;
- Step 2* Consider each of the available penalties in ascending order of severity and consider proportionality and seriousness;
- Step 3* Decide which sanction(s) to impose giving reasons for the decision reached.

4.2 A Panel must ensure their written reasons for their decision set out the reasons for imposing a sanction, having regard to the steps above.

4.3 Step 2 above requires the Panel to:

- 4.3.1 consider all the sanctions available to them in ascending order of seriousness;
- 4.3.2 start with the least restrictive sanction, until finding the level that it determines is sufficient to deal with the factors that resulted in the breach or breaches;
- 4.3.3 satisfy itself that the sanction that it has chosen is proportionate and otherwise appropriate having regard to all relevant factors. The Panel should also consider the next most severe sanction available and explain why it is not necessary to impose that sanction.

4.4 A table of available sanctions is set out at **Appendix 2**.

#### **5 The sanctions**

5.1 Complaint Panels

- 5.1.1 A Complaint Panel may impose a Level 1 sanction where, having regard to this Guidance, the Panel considers this the most appropriate sanction.

5.2 Disciplinary and Appeal Panels

- 5.2.1 A Disciplinary or Appeal Panel may impose a Level 1, Level 2, Level 3 or Level 4 sanction where, having regard to the matters set out in this Guidance, the Panel determines this is the most appropriate sanction.

<i>Level 1 Sanction – Minor Breach of the Code of Conduct</i>
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5.3 A Level 1 sanction is the least restrictive sanction that can be applied where a Panel has concluded that an Approved Inspector has committed a minor breach of the Code of Conduct. It does not restrict the Approved Inspector's ability to operate but may require them to

undertake remedial actions. Such a sanction is recorded on the Approved Inspector's file indefinitely and published on the CICAIR website for a minimum period of six months.

- 5.4 Panels must consider the matters set out in Appendix 1 when considering the appropriateness of a Level 1 sanction.
- 5.5 Where a Level 1 sanction is considered appropriate, it may lead a Panel to do one or more of the following:
  - 5.5.1 issue a letter of warning – for example, this may be a warning about a current system or process that if not remedied or brought up to standard, could result in a Level 2 or higher level sanction being imposed;
  - 5.5.2 issue a letter of advice or make (a) recommendation(s) (e.g. as to future conduct). For example, a letter of advice or a recommendation could set out that the Panel advises or recommends that the Approved Inspector takes steps to change systems or processes to alleviate concerns, or to employ more staff to ensure sufficient resourcing for projects;
  - 5.5.3 require the Approved Inspector to provide CICAIR with a report within a specified period of time, outlining the demonstrable remedial actions undertaken by the Approved Inspector, in response to the complaint. For example, this may be suitable where there are concerns about systems or processes and the Panel has assurances from the Approved Inspector that they will fix or have fixed the issues which were the subject of the complaint; and
  - 5.5.4 require an Approved Inspector to apologise personally or publicly to specified individuals.
- 5.6 A Level 1 sanction will be recorded on the Approved Inspector's CICAIR file along with the relevant Panel's written decision and terms of the requirement(s) imposed, and made available to any future Panel which upholds a complaint or allegation against an Approved Inspector, prior to the delivery of a sanction.
- 5.7 A Level 1 sanction will also be published on the CICAIR website for a period determined by the CICAIR Panel, being no less than six months.
- 5.8 Non-compliance with any requirements imposed may lead to further disciplinary action.

<i>Level 2 Sanction – Moderate Breach of the Code of Conduct</i>
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- 5.9 A Level 2 sanction may be appropriate in a case where a Panel has concluded that an Approved Inspector has committed a more significant breach of the Code of Conduct and the issue(s) that resulted in the breach(es) of the Code of Conduct were therefore more significant or systemic.
- 5.10 Panels must consider the matters set out in Appendix 1 when considering the appropriateness of a Level 2 sanction.
- 5.11 Where a Level 2 sanction is considered appropriate, it may lead a Panel to do one or more of the following:
  - 5.11.1 impose any of the actions available under Level 1 sanctions at [5.5] above; and / or

- 5.11.2 require specific training (Approved Inspector entity wide or specific individual(s) within the entity) to be undertaken – for example, if it is identified that a particular employee does not have sufficient skills in accordance with the CICAIR Knowledge Base, the Panel may direct that the individual undertakes training. Similarly, if this is an entity wide issue, the Panel may direct that the entity collectively undertakes training;
  - 5.11.3 require a specific individual(s) to be supervised while undertaking specific work and / or prohibited from undertaking specific work entirely, or until further training is completed and evidenced to CICAIR, and CICAIR is satisfied the individual is competent to be unsupervised in their role – for example, if it is identified that a particular employee is not competent and the concerns investigated by CICAIR are significant , it may be appropriate that the scope of their practice is limited until they are considered competent to carry out their role; and
  - 5.11.4 require an audit of the Approved Inspector to be undertaken within a specified period of time – for example, this may be where the Panel has concerns that more than one project has issues and the Panel considers an audit (targeted to a specific issue or practice wide) is appropriate to ensure that no other issues are identified.
- 5.12 A Level 2 sanction will be recorded on the Approved Inspector’s CICAIR file along with the relevant Panel’s written decision and terms of the requirement(s) imposed, and made available to any future Panel which upholds a complaint or allegation against an Approved Inspector, prior to the delivery of a sanction.
- 5.13 A Level 2 sanction will also be published on the CICAIR website for a period determined by the CICAIR Panel, being no less than twelve months.
- 5.14 Non-compliance with any requirements imposed may lead to further disciplinary action.

<i>Level 3 Sanction – Serious Breach of the Code of Conduct</i>
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- 5.15 A Level 3 sanction may be appropriate in a case where a Panel has concluded that:
- 5.15.1 an Approved Inspector has breached the Code of Conduct and the issue(s) that resulted in the breach(es) of the Code of Conduct were:
    - 5.15.1.1 serious or systemic; and/or
    - 5.15.1.2 the safety of a building user has or may have been compromised; and/or
    - 5.15.1.3 there is an ongoing risk to the safety of building users if the Approved Inspector is allowed to continue to operate without conditions; or
  - 5.15.2 there have been repeated failings by an Approved Inspector;
  - 5.15.3 previous sanctions have not had a sufficient deterrent effect on the Approved Inspector who has not demonstrably improved; and / or
  - 5.15.4 the Approved Inspector has not demonstrated insight into the seriousness and / or consequences of its failings.
- 5.16 A Panel may determine a Level 3 sanction for a breach or breaches which are serious but which do not warrant withdrawal from the Register.

- 5.17 Panels must consider the matters set out in Appendix 1 when considering the appropriateness of a Level 3 sanction.
- 5.18 Where a Level 3 sanction is considered appropriate, it may lead a Panel to do one or more of the following:
- 5.18.1 Impose any of the actions available under Level 1 at [5.5] and/or Level 2 at [5.11]; and / or
  - 5.18.2 Impose a restriction on the Approved Inspector's approval including, the nature, location, volume and/or type of new projects the Approved Inspector can undertake for a specified period, with the Approved Inspector required to periodically report to CICAIR on improvements made during the specified period to satisfy CICAIR it is acting in accordance with the CICAIR Code of Conduct for Approved Inspectors.
- 5.19 Restrictions on an Approved Inspector's approval
- 5.19.1 The purpose of restricting the Approved Inspector's approval is to:
    - 5.19.1.1 convey a clear message to the Approved Inspector, the public and other Approved Inspectors of the importance of maintaining the fundamental standards of professional conduct; and
    - 5.19.1.2 ensure that the Approved Inspector satisfies CICAIR that it is operating to the expected standard and has put in place measures to resolve the issue(s) that resulted in the Code of Conduct breach(es). The timeframe for demonstrating compliance will form part of the sanction decision.
  - 5.19.2 If restrictions are imposed on an Approved Inspector's approval, the Approved Inspector must within the period of time specified in relation to the restriction, satisfy CICAIR that they are operating to the expected standard and have put in place measures to resolve the issue(s) that resulted in the Code of Conduct breach(es) and that they are fit and proper to operate as an Approved Inspector. The timeframe of the approval limitation and for demonstrating compliance will form part of the sanction decision.
  - 5.19.3 Examples of restrictions include preventing an Approved Inspector from undertaking building control work in accordance with Part II of the Building Act 1984 and the Building (Approved Inspectors etc.) Regulations 2010 on:
    - 5.19.3.1 any new projects for a specified period of time but allowing them to service existing projects covered by the scope of the Notice of Approval; or
    - 5.19.3.2 any new projects of a specified kind (such as commercial, or domestic new builds) but allowing them to service existing projects covered by the scope of the Notice of Approval.
- 5.20 Where restrictions on an Approved Inspector's approval are necessary, they must be imposed for the shortest possible period of time, ensuring the Approved Inspector has sufficient time to resolve the issue(s) identified through the complaint and disciplinary process.



- 5.21 If the Approved Inspector demonstrates to CICAIR's satisfaction that it has remedied the issue(s), a Panel, constituted in accordance with the requirements of the Disciplinary Protocol, may, at its discretion, lift the restriction imposed.
- 5.22 If the Approved Inspector is unable or unwilling to remedy the issue(s) to CICAIR's satisfaction, the Panel may, at its discretion, extend the restriction period for a further specified time, or take any other action it considers necessary.
- 5.23 A Level 3 sanction will be recorded on the Approved Inspector's CICAIR file along with the relevant Panel's written decision and must also record the terms of any restriction(s) imposed, and will be made available to any future Panel which upholds a complaint or allegation against an Approved Inspector, prior to the delivery of a sanction.
- 5.24 A Level 3 sanction will also be published on the CICAIR website for a period determined by the CICAIR Panel, being no less than 24 months.
- 5.25 Non-compliance with any restrictions imposed as part of the sanction may lead to further disciplinary action.

<i>Level 4 Sanction – Unacceptable Breach of the Code of Conduct</i>
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- 5.26 A Level 4 sanction is the most severe sanction available to a CICAIR Panel and results in the withdrawal of an Approved Inspector from the Register.
- 5.27 Building (Approved Inspectors etc.) Regulations 2010
  - 5.27.1 Regulation 6(2) permits CICAIR to withdraw the approval of an Approved Inspector for such a period to be determined by the relevant CICAIR Panel.
  - 5.27.2 Regulation 6(4) gives CICAIR the discretion to withdraw the approval of an Approved Inspector where it has been convicted of an offence under section 57 of the Building Act 1984. Withdrawal under regulation 6(4) is for a period of five years, beginning with the date of conviction.
- 5.28 At the end of the period of withdrawal, an Approved Inspector may apply for restoration to the Register. A new Approved Inspector application must be lodged with CICAIR and an application for restoration will not be granted unless CICAIR is reasonably satisfied that the applicant meets the requirements for admission to the Register and is fit and proper to operate as an Approved Inspector.
- 5.29 A Level 4 sanction may also be imposed where a breach or breaches of the Code of Conduct are so unacceptable that only withdrawal from the Register will protect the public and/or the reputation of the profession. This includes where the Approved Inspector has been convicted of offences other than under section 57 of the Building Act 1984.
- 5.30 When considering whether to impose a Level 4 sanction the Panel should consider whether:
  - 5.30.1 The seriousness of the case is incompatible with ongoing registration;
  - 5.30.2 Withdrawing approval is the only sanction which will be sufficient to protect the public interest;

- 5.30.3 Withdrawing approval is the only sanction which will be sufficient to protect public confidence in the profession and in CICAIR as the regulator.
- 5.31 Factors specific to section 57 of the Building Act 1984:
- 5.31.1 Whether the conviction resulted from the actions of an apparently qualified person to whom tasks had been delegated and the Approved Inspector has taken steps to reduce the possibility of similar errors occurring in the future;
  - 5.31.2 Where the conviction resulted from the actions of an individual who has been dismissed and steps have been taken by the Approved Inspector to reduce the possibility of similar events occurring in the future; and
  - 5.31.3 Whether the offence is considered insufficiently serious to warrant withdrawal taking into account the specifics of the offence and the extent to which the relevant statement was false or misleading in one or more material particulars.
- 5.32 Panels should refer to Appendix 1 for considerations that should be taken into account when considering the appropriateness of and justification for a Level 4 sanction.
- 5.33 Where a Panel determines that an Approved Inspector's approval should be withdrawn, it must specify the date upon which the withdrawal takes effect, being no less than 30 working days from the date of the written notice of the decision to withdraw approval of the Approved Inspector. In deciding the date on which the withdrawal takes effect, the Panel should have regard to:
- 5.33.1 the size and market positioning of the Approved Inspector's business;
  - 5.33.2 the anticipated time required to transfer work in accordance with the process outlined in the Building (Approved Inspectors etc.) Regulations 2010 and/or the mechanism in the Building Control Alliance policy note for transfer of an on-going project from an Approved Inspector to another building control body; and
  - 5.33.3 any other relevant factors.
- 5.34 A Level 4 sanction results in the Approved Inspector's approval being withdrawn. The withdrawal will be recorded on file.
- 5.35 A Level 4 sanction will also be published on the CICAIR website for the entire duration of the withdrawal.

## **6 Convictions**

- 6.1 Notwithstanding Regulation 6(4) of the Building (Approved Inspectors etc.) Regulations 2010, CICAIR may, in its absolute discretion, bring disciplinary proceedings against an Approved Inspector where the Approved Inspector has been convicted of an offence under section 57 of the Building Act 1984.
- 6.2 Approved Inspectors may be subject to disciplinary proceedings when it, a director, a staff member or others working on its behalf have been convicted of a civil, criminal or regulatory offence.

- 6.3 In such circumstances, the Disciplinary Panel considering the conviction, will not look behind the conviction, but may hear submissions from the Approved Inspector, and from CICAIR, as to why no further sanction or a more lenient sanction should be imposed by a CICAIR Panel.
- 6.4 The purpose of a hearing in relation to a conviction is not to punish the Approved Inspector a second time for the same offence, but to protect the public and maintain the collective reputation and integrity of the profession.

## **7 Sanction recording, notification and publication**

- 7.1 All sanctions will be notified to the Department of Housing, Levelling Up and Communities, the Welsh Government, the Association of Consultant Approved Inspectors (ACAI), any relevant insurance provider and any relevant professional or regulatory bodies. Sanctions that may have an impact on a local authority in discharging its duties, i.e. accepting or rejecting statutory documentation, are notified to Local Authority Building Control Body.
- 7.2 All sanctions and interventions will be published on the CICAIR website and the sanction will be added to the Approved Inspector's entry on the Register.
- 7.3 Where an Approved Inspector's Notice of Approval is withdrawn, CICAIR will amend the Register of Approved Inspector's held in accordance with regulation 7(3)(a) of the Building (Approved Inspectors etc.) Regulations 2010 and inform the Approved Inspector of the date on which a new application for approval can be made.
- 7.4 All sanctions will remain permanently on an Approved Inspector's record but will only be publicly available for the period that a CICAIR panel determines in accordance with the guidelines outlined in accordance with this Guidance. All sanctions will be made available to any future Panel which upholds a complaint or allegation against an Approved Inspector, prior to the delivery of any sanction.

## **8 Appeals**

- 8.1 Appeals from a Level 1 sanction imposed by a Complaint or Disciplinary Panel may not be appealed.
- 8.2 Subject to 8.1 above, an Approved Inspector may appeal any sanction imposed by a Disciplinary Panel. Appeals will be considered in accordance with the CICAIR *Disciplinary Appeals Protocol* or the CICAIR *Approval Withdrawal Appeals Protocol*.

## APPENDIX 1 – Sanction Considerations

The following considerations may be taken into account by a CICAIR panel when considering the appropriate level of sanction to apply. The below table is not exhaustive and not all considerations need to apply or be present for a particular sanction to be determined.

	<b>Level 1 (Minor Breach)</b>	<b>Level 2 (Moderate Breach)</b>	<b>Level 3 (Serious Breach)</b>	<b>Level 4 (Unacceptable Breach)</b>
Departure from professional standards	There is a departure from the professional standards set out in the Code of Conduct and a Level 1 sanction would be sufficient to protect the public or the reputation of the profession and/or CICAIR.	There is a departure from the professional standards set out in the Code of Conduct and a Level 1 sanction would be insufficient to protect the public or the reputation of the profession and/or CICAIR.	There is a departure from the professional standards set out in the Code of Conduct and a Level 1 or Level 2 sanction would be insufficient to protect the public or the reputation of the profession and/or CICAIR.	There is a departure from the professional standards set out in the Code of Conduct and a Level 1, Level 2 or Level 3 sanction would be insufficient to protect the public or the reputation of the profession and/or CICAIR.
Likelihood of recurrence	There is no evidence of a risk of recurrence	There is some evidence of a low risk of recurrence.	There is evidence of a risk of recurrence which is more likely than not.	There is evidence that the Approved Inspector will repeat the conduct.
Prior disciplinary history	There is no prior disciplinary history.	There is a prior disciplinary history of unrelated matters.	There is a prior relevant disciplinary history of related matter(s) and prior sanction(s) and the conduct of the Approved Inspector has not demonstrably improved.	There is a prior history of multiple related or unrelated disciplinary matters and sanctions and the conduct of the Approved Inspector has not demonstrably improved.
Insight	There is genuine insight into the failings.	There is limited insight into the failings.	There is minimal insight into the seriousness of the failings and the consequences.	There is a persistent lack of insight into the seriousness of the failings or the consequences of conduct.

	<b>Level 1 (Minor Breach)</b>	<b>Level 2 (Moderate Breach)</b>	<b>Level 3 (Serious Breach)</b>	<b>Level 4 (Unacceptable Breach)</b>
Contrition or remorse	There is genuine contrition or remorse.	There is limited contrition or remorse.	There is no genuine contrition or remorse.	There is a persistent lack of genuine contrition or remorse into the seriousness of the failings or consequences of conduct.
Remedial action	Meaningful and effective corrective steps have been taken.	Limited meaningful and effective corrective steps have been taken.	No meaningful or effective corrective steps have been taken.	No meaningful or effective corrective steps have been taken.
Financial benefit	The Approved Inspector did not intentionally benefit financially from the events.	The Approved Inspector intentionally benefited financially from the events.	The Approved Inspector intentionally benefited financially from the events.	The Approved Inspector intentionally benefited financially from the events.
Cooperation with CICAIR	There are no negative or obstructive attitudinal problems.	There are negative or obstructive attitudinal problems.	There are negative or obstructive attitudinal problems and the Approved Inspector displayed open belligerence towards the complainant and/or CICAIR.	There are negative or obstructive attitudinal problems and the Approved Inspector displayed open belligerence towards the complainant and/or CICAIR.
Willingness to change	There is a genuine willingness to respond positively to procedural changes and/or retraining.	There is a reluctance to respond positively to procedural changes and/or retraining.	There is obstinacy or no willingness to respond positively to procedural changes and/or retraining.	There is obstinacy or no willingness to respond positively to procedural changes and/or retraining.
Conduct capable of rectification	The conduct is capable of being rectified and the behaviour is unlikely to be repeated following rectification.	The conduct is capable of being rectified but the behaviour may be repeated following rectification.	The conduct is capable of being rectified but the behaviour is likely to be repeated following rectification.	The Approved Inspector is unlikely to be able to rectify the conduct and the behaviour is likely to be repeated.

	<b>Level 1 (Minor Breach)</b>	<b>Level 2 (Moderate Breach)</b>	<b>Level 3 (Serious Breach)</b>	<b>Level 4 (Unacceptable Breach)</b>
Relationship to competence or resources	The matter did not result from the Approved Inspector working outside of its resourcing or competence.	The Approved Inspector is/was working outside of its resourcing or competence but there is no evidence of general or gross incompetence is/was identified.	The Approved Inspector is/was working outside of its resourcing or competence and/or evidence of general or gross incompetence has been identified.	The Approved Inspector is/was working outside of its resourcing or competence limitations and evidence of general or gross incompetence has been identified.
Safety of building users	The safety of a building user was not compromised as a result of the failings.	The safety of a building user could have been compromised as a result of the failing but was not. The Panel should consider the seriousness of the potential harm in coming to its decision.	The safety of a building user was compromised as a result of the failings. The Panel should consider the seriousness of the actual harm in coming to its decision.	The Approved Inspector's failing(s) resulted in harm to a building user. Harm may include physical or emotional harm. The Panel should consider the seriousness of the harm caused in coming to its decision.
On-going risk	There is no on-going risk to the safety of building users if the Approved Inspector is allowed to continue to operate.	There is some evidence of an ongoing risk to the safety of building users should the Approved Inspector be allowed to continue to operate without requirements to change existing practices.	There is an ongoing risk to the safety of building users if the Approved Inspector is allowed to continue to operate without restrictions being placed on its approval.	There is an ongoing risk to the safety of building users if the Approved Inspector is allowed to continue to operate.
Conviction	There has been a conviction of a civil, criminal or regulatory offence by an Approved Inspector, a director, a staff member or others working on their behalf but the offence	There has been a conviction of a civil, criminal or regulatory offence by an Approved Inspector, a director, a staff member or others working on their behalf.	There has been a conviction under section 57 of the Building Act 1984, but there is evidence to demonstrate the conduct is not systemic and / or there has been a conviction of a civil, criminal or regulatory offence	The Approved Inspector has received a conviction under section 57 of the Building Act 1984 and there is evidence to demonstrate the conduct is systemic and/or there has been a conviction of any other

	<b>Level 1 (Minor Breach)</b>	<b>Level 2 (Moderate Breach)</b>	<b>Level 3 (Serious Breach)</b>	<b>Level 4 (Unacceptable Breach)</b>
	was minor.		by an Approved Inspector, a director, a staff member or others working on their behalf.	serious civil, criminal or regulatory offence committed by an Approved Inspector, a director, a staff member or others working on their behalf.
Compatibility with continuing in the role of Approved Inspector	The breach is not fundamentally incompatible with continuing to be an Approved Inspector in that the public interest can be reasonably satisfied by a Level 1 sanction.	The breach is not fundamentally incompatible with continuing to be an Approved Inspector in that the public interest can be reasonably satisfied by a Level 2 sanction.	The breach is not fundamentally incompatible with continuing to be an Approved Inspector in that the public interest can be reasonably satisfied by a Level 3 sanction.	The breach is fundamentally incompatible with continuing to be an Approved Inspector and the public interest can only be reasonably satisfied by permanent removal from the Register.
Dishonesty or lack of integrity	The Approved Inspector has not been dishonest or lacks integrity.	The Approved Inspector may have been dishonest or shown a lack of integrity.	The Approved Inspector has demonstrated dishonesty or a lack of integrity.	The Approved Inspector has committed fraud or demonstrated dishonesty or a lack of integrity, especially where persistent or covered up.
Intention of the Approved Inspector	The Approved Inspector did not act deliberately, recklessly, negligently or through incompetence.	The Approved Inspector may have acted deliberately, recklessly, negligently or through incompetence.	The Approved Inspector has acted deliberately, recklessly, negligently or through incompetence.	The Approved Inspector has acted deliberately, recklessly, negligently or through incompetence, particularly where there is a continuing risk to building users.
Personal conduct matters	There was no inappropriate personal conduct (racism, sexism, harassment, violence etc.) by a representative of the	There was or may have been inappropriate personal conduct (racism, sexism, harassment, violence etc.) by a	There was inappropriate personal conduct (racism, sexism, harassment, violence etc.) by a representative of the	There was inappropriate personal conduct (racism, sexism, harassment, violence etc.) by a representative of the

	<b>Level 1 (Minor Breach)</b>	<b>Level 2 (Moderate Breach)</b>	<b>Level 3 (Serious Breach)</b>	<b>Level 4 (Unacceptable Breach)</b>
	Approved Inspector towards members of the public or others.	representative of the Approved Inspector towards members of the public or others, but where the conduct was such or the public interest can be reasonably satisfied by a Level 2 sanction. The Panel should consider the seriousness of the conduct in coming to its decision and the actions, if any, taken by the Approved Inspector in responding to the conduct should be taken into account.	Approved Inspector towards members of the public or others, but where the conduct was such or the public interest can be reasonably satisfied by a Level 3 sanction. The Panel should consider the seriousness of the conduct in coming to its decision and the actions, if any, taken by the Approved Inspector in responding to the conduct should be taken into account.	Approved Inspector towards members of the public or others, and where the conduct is such that the public interest can only be reasonably satisfied by the withdrawal of approval. The Panel should consider the seriousness of the conduct in coming to its decision and the actions, if any, taken by the Approved Inspector in responding to the conduct should be taken into account.



## Appendix 2 – Range of available sanctions

Level	What the sanction might comprise <sup>1</sup>
Level 1 – Minor Breach	<ul style="list-style-type: none"> <li>• A letter of warning to the Approved Inspector about their conduct</li> <li>• A letter of advice / recommendation(s) (e.g. as to future conduct) to the Approved Inspector about their conduct</li> <li>• A requirement that the Approved Inspector reports on process improvements to CICAIR within a specified time period</li> <li>• An apology, public or private, to a specified person or persons</li> </ul>
Level 2 – Moderate Breach	<ul style="list-style-type: none"> <li>• Any of those set out at Level 1, plus any of the following:</li> <li>• A requirement to undertake specific training (Approved Inspector entity wide or specific individual(s) within the entity)</li> <li>• A requirement that specific individual(s) within the Approved Inspector entity be supervised while undertaking specific work and / or prohibited from undertaking specific work entirely, or until further training is completed and evidenced to CICAIR and CICAIR is satisfied the individual is competent to be unsupervised in their role</li> <li>• A requirement that an audit of the Approved Inspector be undertaken within a specified period of time</li> <li>• A requirement that the Approved Inspector engages with an external expert such as on operations, business management, Approved Inspector functions etc. and provides a report to CICAIR on improvements made within a specified period of time</li> </ul>
Level 3 – Serious Breach	<ul style="list-style-type: none"> <li>• Any of those set out at Level 1 and/or 2, plus any of the following:</li> <li>• One or more restrictions imposed on the Approved Inspector’s approval including, the nature, location and/or type of new projects the Approved Inspector can undertake for a specified period with the Approved Inspector required to periodically report to CICAIR on improvements made during the specified period to satisfy CICAIR it is acting in accordance with the CICAIR Code of Conduct for Approved Inspectors</li> </ul>
Level 4 – Unacceptable breach	<ul style="list-style-type: none"> <li>• Withdrawal from the Approved Inspector Register for a specified period up to a maximum of five years</li> </ul>

<sup>1</sup> A sanction may comprise one or more of the items listed in column2 (“What the sanction might comprise”)