

CIC Approved Inspectors Register (CICAIR) Complaints Protocol



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- 1.0 This protocol sets out how CICAIR Limited (*herein referred to as CICAIR*) will consider complaints brought against an Approved Inspector by a dissatisfied party.
- 2.0 The Construction Industry Council Approved Inspectors Register (CICAIR) complaints process enables complaints to be raised about Approved Inspectors with the objective of ensuring that professional standards are maintained and the CICAIR Code of Conduct is adhered to. The CICAIR complaints process does not provide for financial penalties against Approved Inspectors or the awarding of costs or financial redress to complainants.
- 3.0 CICAIR will only consider complaints against an alleged breach of the Code of Conduct for Approved Inspectors and cannot consider complaints based on a Building Regulation technical assessment, a misunderstanding or dissatisfaction with the minimum standard set by the Building Regulations or on criticisms of the quality of workmanship. For a complaint to be upheld it must be demonstrated that a breach of the Code of Conduct for Approved Inspectors has taken place.
- 4.0 Where an Approved Inspector, one of their directors, a staff member or others working on their behalf is convicted of a civil, criminal or regulatory offence, the Approved Inspector is required to notify CICAIR of such a conviction and the matter may be referred to the CICAIR disciplinary committee for consideration as to whether any disciplinary action should be taken.
- 5.0 The burden of proof lies with the Approved Inspector to demonstrate that the allegations are unfounded. In the case of defaults under the Building Act the burden of proof shall be “beyond reasonable doubt” and for all other non-Building Act allegations it shall be on the “balance of probabilities”.
- 6.0 Should CICAIR, at any stage during the course of a complaint investigation, identify information or circumstances relating to the same alleged breaches of the Code of Conduct for Approved Inspectors complained of, but which have not been identified by the complainant, CICAIR may notify these to the Approved Inspector in writing as additional grounds for the original complaint. In such a case, a reasonable time, being not less than the relevant timings set out in this protocol, will be given to the Approved Inspector to respond to such additional grounds for the original complaint. CICAIR may take the additional grounds for complaint and the Approved Inspector’s response to them into account when determining an outcome.
- 7.0 The CICAIR complaints committee’s operation is governed by the committee’s Terms of Reference as agreed by the CICAIR Board of Directors. Committee members may never act in a way that could infer a conflict of interest and are obliged to inform the Registrar immediately if a conflict of interest should affect their ability to carry out their role.

8.0 Further information on how CICAIR handle complaints, including the Code of Conduct for Approved Inspectors, CICAIR's definition of a complaint, and the form to lodge a complaint with CICAIR can be accessed by visiting <https://www.cicair.org.uk/complaints/>.

9.0 Complaint Handling Process

9.1 Stage One – Complaint Acceptance

9.1.1 A complaint can be accepted by CICAIR if it meets the following conditions:

- The complainant has exhausted the Approved Inspector's internal complaint procedure. The Assistant Registrar may verify this with the Approved Inspector before accepting the complaint.
- The complaint is lodged with CICAIR via email or post on the CICAIR *Complaint Form*. The complaint form must be filled out in full and the Assistant Registrar will return any incorrectly or partially completed forms.
- The complaint form is accompanied by sufficient detail or supporting evidence to demonstrate that the complaint is within the scope of the CICAIR *Definition of a Complaint* and to enable an assessment of the complaint to be made. The Assistant Registrar may require that the complainant provide further information in support of the allegations before accepting the complaint.
- If posting your complaint to CICAIR, any supporting evidence must be presented in a collated document bundle. Each item of supporting information must be clearly labelled with the clause number from the CICAIR Code of Conduct for Approved Inspectors to which it relates.
- If emailing your complaint to CICAIR, any supporting evidence must be presented in a single collated file. Each item of supporting information must be clearly labelled with the clause number from the CICAIR Code of Conduct for Approved Inspectors to which it relates. Please note that the CICAIR system only supports file sizes of up to 100MB.
- There is no legal action in process involving the Approved Inspector or complainant in relation to the dispute. Legal action, for the purposes of the CICAIR complaints handling process, relates to disputes that are subject to adjudication, arbitration, litigation or mediation proceedings. If legal action is entered into whilst a complaint is being investigated, the CICAIR complaints process will be put on hold until the conclusion of that action.

9.1.2 Should the complaint not meet one or more of the conditions outlined in section 9.1.1, the Assistant Registrar will write to the complainant explaining why the complaint cannot be accepted and will outline what is required for the complaint to be accepted. The date which CICAIR accepts the complaint and begins the investigation is the date on which the Assistant Registrar is satisfied that the above conditions have been met. This may not be the same date that the complaint was submitted to CICAIR.

9.1.3 Once a complaint has been accepted by CICAIR, the Assistant Registrar will notify the complainant and will send the complaint form and the supporting evidence in its entirety to the Approved Inspector within a recommended five working days of the acceptance.

9.2 Stage Two – Approved Inspector Response

9.2.1 The Approved Inspector shall have 30 working days from the date on the notification letter from CICAIR to formally respond to the allegations and any request for further information from CICAIR. Once a response is received, the Assistant

Registrar will forward a copy of the formal response (including any further information that was requested) to the complainant for them to review and advise, within 10 working days, if they are satisfied with the response or would like CICAIR to continue with the complaint investigation. An extension to these deadlines may be made, at the Registrar's discretion, in the event of exceptional circumstances. Any request for an extension must be made in writing with reasons and evidence.

- 9.2.2 Should the Approved Inspector fail to respond by the deadline detailed in section 9.2.1 or fail to provide an appropriate level of information the complaint will, at the Registrar's discretion, be escalated to a complaint panel (Stage Four).
- 9.2.3 Should the complainant fail to respond by the deadline detailed in section 9.2.1 the complaint will be closed and no further action would be taken and no further correspondence or communication from either party would be considered.
- 9.2.4 The Registrar may dismiss the complaint if, after considering the complaint and the Approved Inspector's response, they decide that the complaint does not warrant further investigation. This would conclude the complaint and no further action would be taken and no further correspondence or communication from either party would be considered.

9.3 Stage Three – Initial Assessment

- 9.3.1 Should the complainant notify CICAIR that they wish to proceed with the complaint investigation, the Assistant Registrar may, at their discretion, send the complaint and the Approved Inspector's response to a CICAIR complaint committee member in order to provide an initial assessment and a suggested course of action. This will be provided within a recommended 20 working days. The Registrar may appoint a Panel Secretary to support the Initial Assessor in their role. For the avoidance of doubt, the Panel Secretary understands that they must not, in any way, influence the decision-making process which remains the responsibility of the Initial Assessor. The Panel Secretary's role will be writing up the Initial Assessor's initial assessment and suggested course of action.
- 9.3.2 The complaint may be dismissed as a result of the initial assessment if the complaint committee member determines that the complaint is outside of the scope of the CICAIR *Definition of a Complaint* or does not warrant further investigation. This would conclude the complaint and no further action would be taken and no further correspondence or communication from either party would be considered.

9.4 Stage Four – Complaint Panel Review

- 9.4.1 Should the Registrar and/or the complaint committee member determine that the complaint is within scope and warrants further investigation, the Assistant Registrar will convene a three-member complaint panel from the membership of the CICAIR complaints committee to undertake a review of the complaint via post and/or email. If an initial assessment was undertaken, the complaint committee member that undertook the assessment will not be a member of the complaint panel.
- 9.4.2 CICAIR will endeavour to convene panels consisting of at least one knowledgeable person. A knowledgeable person is defined as any person who is knowledgeable about construction matters but is not a director or employee of an Approved Inspector. The Registrar may appoint a Panel Secretary to support the complaint panel in their role of reviewing the complaint and returning a decision to CICAIR under the Complaints Protocol. For the avoidance of doubt, the Panel Secretary understands that they must not, in any way, influence the decision-making

process which remains the responsibility of the complaint panel. The Panel Secretary's role will be writing up the complaint panel's decision.

9.4.3 The identities of the panel members are not disclosed to either the complainant or the Approved Inspector but CICAIR will ensure that there is no professional or financial interest between the complaint panel and the Approved Inspector, the complainant or the project.

9.4.4 The complaint panel may request that the Approved Inspector or complainant produce any further information that is required to determine an outcome. Should the Approved Inspector fail to satisfactorily provide any information requested by a complaint panel, the complaint will, at the Registrar's discretion, be escalated to an interview which would be conducted in accordance with the CICAIR *Complaint Interview Protocol*.

9.5 Stage Five – Decision

9.5.1 The complaint panel has a recommended 30 working days to return its decision to CICAIR.

9.5.2 A record of all complaint outcomes shall be kept on the Approved Inspector's file and shall be made available to any CICAIR panel.

9.5.3 The complaint panel can recommend to CICAIR that:

- the complaint be dismissed (*see section 9.5.4*); or
- the complainant and/or the Approved Inspector be called to an interview to clarify any remaining queries that the complaint panel may have (*see section 9.5.5*); or
- the complaint be upheld in full or in part (and a caution issued to the Approved Inspector) (*see section 9.5.6*); or
- the complaint be upheld in full or in part (and is valid and sufficiently serious to be referred to the CICAIR disciplinary committee) (*see section 9.5.7*).

9.5.4 Dismissal

9.5.4.1 If the investigations establish that the complaint is insubstantial or unfounded the Registrar shall notify the complainant and the Approved Inspector of the decision within a recommended 10 working days. This would conclude the complaint and no further action would be taken and no further correspondence or communication from either party would be considered.

9.5.5 Interview

9.5.5.1 If the investigations establish that additional clarification is required in order to reach a decision, the complaint panel may propose to CICAIR that the Approved Inspector, and any staff or consultants of the Approved Inspector that the complaint panel may wish to speak to, attend an interview with the complaint panel to clarify any remaining queries that the panel may have.

9.5.5.2 At the discretion of the complaint panel Chair, the complainant may be offered the opportunity to attend the interview to clarify any remaining queries that the panel may have. Should both parties be requested to attend an interview, the complaint panel Chair has full discretion as to whether the complainant and the Approved Inspector are interviewed separately or combined.

9.5.5.3 In advance of the interview the Approved Inspector and the complainant will be issued with the CICAIR *Complaint Interview Protocol* which outlines the conduct of complaint interviews.

9.5.5.4 As a result of the interview the complaint panel has the power to dismiss the complaint, uphold the complaint in full or in part and issue a caution to the Approved Inspector, or to refer the case to the CICAIR disciplinary committee.

9.5.5.5 If, as a result of the interview, the complaint panel recommends that the complaint is dismissed or that the complaint is upheld in full or in part with a caution issued to the Approved Inspector, the Registrar shall notify the complainant and the Approved Inspector of the decision within a recommended 10 working days. This would conclude the complaint and no further action would be taken and no further correspondence or communication from either party would be considered.

9.5.6 Caution

9.5.6.1 If the investigations establish that the complaint or part of the complaint is valid but is not sufficiently serious to be referred to the CICAIR disciplinary committee, the complaint panel will issue a Level 1 sanction to the Approved Inspector which is recorded indefinitely on file. Such a sanction may, in accordance with the Sanctions Guidance, include a warning, advice or requirement to produce a report to CICAIR. This would conclude the complaint and no further action would be taken and no further correspondence or communication from either party would be considered.

9.5.7 Disciplinary Committee Referral

9.5.7.1 If the investigations establish that the complaint or part of the complaint is valid and sufficiently serious, the complaint will be referred to the CICAIR disciplinary committee and the CICAIR *Disciplinary Protocol* will be enacted, a copy of which will be supplied to the complainant and the Approved Inspector. This would conclude the involvement of the CICAIR complaints committee and the complaint panel.

10.0 Right of Appeal

10.1 There is no right of appeal for either party against a decision of a CICAIR complaint panel.

11.0 Expected Timescales

11.1 CICAIR will endeavour to follow certain timescales when investigating a complaint. These timescales are not binding, however, and various factors such as the complexity of the complaint and workload demands may necessitate the allocation of further time to the investigation. In normal circumstances, complaints are generally resolved within 100 working days.

11.2 If an interview under section 9.5.5 of this protocol is convened, a complaint will require additional time to resolve.

11.3 The timescales outlined above do not include that of any disciplinary proceedings should the complaint be referred to the CICAIR disciplinary committee. Disciplinary committee timescales are outlined in the CICAIR *Disciplinary Protocol*.

12.0 Charging

12.1 Where a complaint is dismissed in full, CICAIR will bear the costs of the complaint investigation.

12.2 Where any part of a complaint is upheld, the Approved Inspector will be liable for the full costs of the investigation. Costs are payable within 14 days of the invoice for payment being received by the Approved Inspector.