



**CODE OF CONDUCT FOR APPROVED INSPECTORS  
AND DISCIPLINARY PROCEDURES  
OF THE  
CONSTRUCTION INDUSTRY COUNCIL APPROVED INSPECTORS REGISTER**

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## **SECTION 1            DEFINITIONS**

The following expressions shall, unless the context otherwise requires, have the meanings respectively assigned to them, namely:-

**“The Act(s)”, “Regulation” and “the Regulations”** refer to the Building Act 1984 and The Building (Approved Inspectors etc.) Regulations 2010, all as currently amended.

**“Appeals Panel”** means the panel which is constituted by the Council and convened to consider an appeal by an Approved Inspector or a complainant.

**“Approved Inspector”** means any individual inspector or body corporate approved in accordance with Regulation 5 by the Council as a body designated by the Secretary of State under Regulation 4 or by the Secretary of State.

**“Board”** means the board of directors of the Council from time to time.

**“Client”** means the individual, partnership or company engaging the professional services of the Approved Inspector.

**“Code”** means the Code of Conduct as set out herein.

**“Complaint”** means an expression of dissatisfaction about the conduct of an Approved Inspector in breach of this Code or the Building Control Performance Standards published by the Department for Communities & Local Government.

**“Construction Industry Council Approved Inspectors Register” (CICAIR)** means the body which the Council has established to carry out the day to day work arising from the appointment of the Council as the designated body to approve Approved Inspectors.

**“Continuing Professional Development” (CPD)** means the systematic maintenance, improvement and broadening of knowledge and skill and the development of personal qualities necessary for the execution of professional and technical duties by Approved Inspectors.

**“Council”** means the Construction Industry Council (CIC) which has been appointed as the designated body to approve Approved Inspectors under The Building (Approved Inspectors etc) Regulations 2010.

**“Disciplinary Panel”** means the panel constituted by the Council and convened to consider complaints about the conduct of an Approved Inspector. The panel will be responsible for the rulings and sanctions on disciplinary matters set out in Section 3 Disciplinary Procedures of the Code

**“Financial or Professional Interest”** means the strict following of the Regulation 9 of the Building (Approved Inspector etc) Regulations 2010. The Council further interprets such an interest in the context of any design or

construction related work for which the Approved Inspector is undertaking Building Control duties regardless of whether it is Minor Works or otherwise.

**“Full disclosure”** means the provision of all documents relevant to a complaint, in the legal sense of the term.

**“Functions of Approved Inspectors”** are as set out in the Regulations.

**“Knowledgeable person”** means any person appointed by the Council who is knowledgeable about construction matters but not a member of the Management Board or an Approved Inspector.

**“Management Board”** is a board established by Council to oversee the work of the CICAIR.

**“Professional Consultant”** means an individual or the principal (or principals) of a body corporate who are full corporate members of one of the professional or regulatory bodies that are full members of the Council.

**“Project”** means the works for which an Approved Inspector is engaged or is intended to be engaged by the Client.

**“Qualifying Activities”** mean seminars, courses, distance learning methods, technical reading, technical meetings or other such appropriate form of learning.

**“Registrar”** means a senior administrator appointed by the Council from time to time to whom complaints about Approved Inspectors should be sent, and who will be responsible for maintaining the CICAIR’s records and register of Approved Inspectors, processing applications, and the assessment procedure.

**“Review Panel”** means the panel convened to advise the Registrar in relation to a Complaint.

**“Standards”** means the Building Control Performance Standards published by the Department of Communities & Local Government.

**“Statement of Case”** means a written proforma style report setting out the code breach to be produced by the CICAIR Secretariat supported by the Review Panel, and to be circulated to all relevant parties by the CICAIR Secretariat prior to the Disciplinary Panel hearing.

Any term not defined where appropriate shall have the meaning ascribed in the Act or the Regulations.

## **SECTION 2 CODE OF CONDUCT**

### **PREFACE**

The following Code has been drawn up by the Council in support of its function as a body designated under the Regulations and the Act, to approve Approved Inspectors, and withdraw that approval where appropriate. The Code sets out minimum standards to be kept by all Approved Inspectors.

All Approved Inspectors shall observe the Code herein insofar as it applies. Approved Inspectors in doubt as to their specific actions should refer to the CICAIR for guidance.

### **2.1 COMPLIANCE WITH LEGISLATION**

2.1.1 An Approved Inspector has a legal duty to comply with any current statutes or statutory provisions which are applicable to the functions of Approved Inspectors

### **2.2 DUTY TO DISCHARGE RESPONSIBILITIES WITH INTEGRITY**

2.2.1 Approved Inspectors shall carry out their duties with due skill care and diligence and shall act with integrity in and for the interests of the Client for whom they act, maintaining confidentiality at all times, subject to the obligations under paragraph 2.1.1 above.

2.2.2. An Approved Inspector shall act fairly and impartially at all times in performing its statutory functions, continually improving standards and maintaining the operational business plan that has been approved by the Council.

2.2.3 The CICAIR would expect any agreement entered into by an Approved Inspector for the provision of professional services to be evidenced in writing, and define the terms for the provision of such services, including, but not limited to, the allocation of responsibilities, the name of the company providing professional indemnity cover, any limitation of liability, and the level of remuneration. The Approved Inspector shall honestly and fairly carry out any obligations under such agreement.

2.2.4 An Approved Inspector shall not make payment of nor accept any trade commission, discount, allowance, indirect profit, inducement payment, perk or benefit in connection with any professional work undertaken.

2.2.5 An Approved Inspector shall not give any notice or certificate under the Regulations or the Act which contains a statement that is known to be false or misleading; or recklessly give such a notice that is false or misleading. Any Approved Inspector who gives any such certificate or notice may be guilty of an offence under Section 57 of the Act.

2.2.6 An Approved Inspector shall not allow any other person not directly employed by the Approved Inspector to sign such notices or certificates on their behalf.

2.2.7 No Approved Inspector shall act in such a way as to bring the Council into disrepute.

### **2.3. DUTY TO MAINTAIN PROFESSIONAL COMPETENCE**

2.3.1 Approved Inspectors shall demonstrate to the reasonable satisfaction of the CICAIR, that they maintain the levels of comprehensive knowledge, understanding, appreciation and awareness required to maintain a satisfactory level of professional competence.

2.3.2 Approved Inspectors and any staff assisting in carrying out approved inspector duties shall be responsible for keeping a record of their participation in Qualifying Activities, including (where relevant) the date(s), subject-matter, speakers and total time computed in accordance with paragraph 2.3.4. They must keep the record for five years after the Qualifying Activity, and send a copy to the CICAIR when so requested. Log books may be obtained from appropriate professional institutions.

2.3.3 Qualifying Activities may take place:-

- a) through the auspices of a professional body in full membership of the Construction Industry Council
- b) through any University, training organisation or relevant course provider, whose course is accredited by a professional body.
- c) through the provision of in-service training provided by appropriately qualified personnel.

2.3.4 Approved Inspectors and any professional or technical staff employed would be normally expected to complete a minimum of 100 hours of Continuing Professional Development relevant to the functions of an approved inspector in every 5 year period of approval, with not less than 10 hours in any one year.

2.3.5 Approved Inspectors shall take all reasonable steps to see that Professional Consultants where used have undertaken appropriate Qualifying Activities and CPD

### **2.4. DUTY TO WORK WITHIN THE SCOPE OF AVAILABLE COMPETENCE AND RESOURCES**

2.4.1 An Approved Inspector shall ensure, prior to entering into an agreement for the provision of professional services, that the Approved Inspector has the necessary level of competence and experience required, and that resources available are adequate to fulfil the work as specified in the agreement.

2.4.2 Where an Approved Inspector encounters situations arising from areas of work outside the competence of the Approved Inspector, the services of a Professional Consultant may be called upon. The Approved Inspector must satisfy himself that any Professional Consultant appointed has the necessary skill and competence to deal with the matter in hand. Any such appointment shall be subject to the provisions in paragraph 2.5 below

## **2.5 DUTY TO RETAIN RESPONSIBILITY FOR ANY SUB-CONTRACTED OR DELEGATED WORK**

2.5.1 An Approved Inspector shall not delegate or sub contract services unless it is to another Approved Inspector or a Professional Consultant. Any Approved Inspector or Professional Consultant to whom work is delegated or sub-contracted shall not have any Financial or Professional Interest in the Project.

2.5.2 Any Approved Inspector or Professional Consultant to whom work is delegated or sub-contracted shall not have the power to give any certificate under sections 50 and 51 of the Act, in accordance with section 49(8)(a) of the Act.

2.5.3 An Approved Inspector who sub-contracts or otherwise delegates work shall retain responsibility and liability, whether civil or criminal, for that work, in accordance with section 49(8)(b) of the Act.

2.5.4 An Approved Inspector who sub-contracts or otherwise delegates work shall maintain an approved insurance scheme for that work.

2.5.5 An Approved Inspector shall ensure that whenever work is delegated or sub-contracted, that such work is carried out in such a way that the Approved Inspector would not be in breach of any duties under the Code.

2.5.6 An Approved Inspector shall take all reasonable steps to be satisfied that Professional Consultants working under the authority of the Approved Inspector are competent to carry out the tasks assigned to them.

## **2.6 DUTY NOT TO HOLD A POSITION WHICH CONFLICTS WITH PROFESSIONAL DUTY**

2.6.1 Where an Approved Inspector is unable to act by virtue of any Financial or Professional Interest in the Project, as defined in the Regulations and the Code the Client should be informed and the Approved Inspector should not enter into any agreement for the provision of Approved Inspector services for the Project.

2.6.2 An Approved Inspector who during the Project finds any such interest set out in paragraph 2.6.1 above has been established, shall immediately notify the Client of such interest, and cease to act.

2.6.3 If the interest referred to in paragraph 2.6.1 & 2.6.2 is removed the Client may instruct the same Approved Inspector to resume acting on their behalf. However the Client may choose to enter into an agreement for the provision

of professional services with another Building Control Body. This is subject to paragraph 2.9.

## **2.7 DUTY NOT TO ATTEMPT TO INJURE THE PROFESSIONAL REPUTATION OF ANOTHER APPROVED INSPECTOR.**

2.7.1 No attempt shall be made by an Approved Inspector, whether maliciously or otherwise, to injure the professional reputation of another Approved Inspector directly or indirectly. This shall include any attempt to discredit another Approved Inspector, or mislead any potential Client with false or unfair information which, as a result, could damage the reputation of such Approved Inspector.

## **2.8 DUTY NOT TO ATTEMPT TO SUPPLANT ANOTHER INSPECTOR**

2.8.1 No Approved Inspector shall, in respect of a Project, approach a Client, directly or indirectly, for whom another Approved Inspector is known to be acting on that Project without first receiving the sanction of such Approved Inspector, and shall not in any way attempt to deprive such Approved Inspector of any emoluments in respect of work for which the Approved Inspector may already be retained, employed or engaged by such Client.

## **2.9 DUTIES OF AN INSPECTOR REGARDING THE TRANSFER OF RESPONSIBILITIES**

2.9.1 An Approved Inspector, on being approached to undertake work upon which another Approved Inspector has already been engaged shall notify the fact to such Approved Inspector and shall not undertake any engagement or issue a new initial notice until such notification has been given.

2.9.2 The Approved Inspector who gave the earlier initial notice must provide the newly appointed Approved Inspector with an undertaking to the effect that they will cancel that notice.

## **2.10 APPROVED INSURANCE SCHEMES**

2.10.1 An Approved Inspector must have insurance with the mandatory run-off cover from a scheme approved by the Secretary of State under Section 47(6) of the Act in order to serve an initial notice.

2.10.2 An Approved Inspector should include the name of the scheme providing the insurance cover in the agreement entered into with the Client for the provision of professional services, as referred to in paragraph 2.2.3.

2.10.3 It is best practice for an Approved Inspector, on ceasing to practise, to arrange run-off cover in addition to the mandatory bodily injury claims and non-injury tortious claims brought by an owner-occupier in relation to his only or main residence run-off cover already provided by the insurance scheme or schemes approved by the Secretary of State under Section 47(6) of the Act. This additional professional indemnity run-off cover should be maintained for a minimum period of 6 years from the date of cessation. Former individual

Approved Inspectors and former Directors of companies which have ceased to practise as Approved Inspectors should review the need for further cover at the end of this period and if necessary continue to maintain appropriate additional run-off cover.

### **SECTION 3      DISCIPLINARY PROCEDURES**

These disciplinary procedures shall apply to all Approved Inspectors and may be changed by the Council at its absolute discretion at any time. Such changes shall be notified by the Council to all Approved Inspectors and shall come into effect immediately and apply upon engagement for a new Project.

The Council may take such reasonable action as it deems fit, for any breach or alleged breach of the Code or Standards and any decision by the Council in relation to such disciplinary action shall be binding, subject to appeal.

The disciplinary powers of the Council shall be exercised by the Registrar, the Disciplinary Panel and the Appeals Panel, each respectively appointed and separately composed and acting according to the disciplinary procedures set out herein.

The burden of proof lies with the Approved Inspector (when elevated to the Disciplinary Panel) to demonstrate that the allegations are not correct. 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”.

Legal action involving an Approved Inspector or a complainant precludes the Council disciplinary procedures being progressed until that legal action has been concluded.

#### **The Registrar**

- 3.1 Written complaints (which accord with the definition of a Complaint) about the conduct of an Approved Inspector will be dealt with in the first instance by the Registrar. Before processing a Complaint the Registrar will ascertain that the Approved Inspector’s own complaints procedure has been exhausted by the complainant, who remains dissatisfied.
- 3.2 The Registrar will, on receipt of a written Complaint, notify the Approved Inspector concerned within 5 working days of the receipt of that Complaint and shall specify its nature, any available details, and the processes to be initially followed by the Review Panel before being escalated to the Disciplinary Panel (if appropriate) in dealing with the Complaint.
- 3.3 The Approved Inspector shall have 30 working days from receipt of the notification under paragraph 3.2 to send any written statement or evidence to the Registrar, and such statement or evidence shall be considered by the Registrar in deciding whether the complaint is founded.



## **Review Panel**

- 3.4 The Registrar will within a recommended 60 working days from receipt of the notification under paragraph 3.2 make whatever investigations are deemed necessary to establish the validity of the complaint. The Registrar may convene a Review Panel to assist with such investigations, define the complaint and advise on appropriate action.
- 3.5 If such investigations establish that the complaint is insubstantial or unfounded then the Registrar shall notify the Approved Inspector and the complainant, within a recommended 5 working days of the decision that no further action will be taken and no further correspondence or communication from either party will be considered.
- 3.6 If the Review Panel advises the Registrar that the Complaint has merit, but does not warrant a disciplinary hearing, the Review Panel may propose to the Registrar that the Approved Inspector be summoned to an interview with the Review Panel to hear their views on the case and for the Approved Inspector to make a response and if appropriate, to be admonished.
- 3.7 The Review Panel shall comprise any three members drawn from the CICAIR Management Board or its Panel of Assessors. None of the members of the Review Panel shall have any personal, professional or financial interest with the Approved Inspector, the claimant, or the Project. If the Review Panel considers that the complaint is valid and is sufficiently serious to be referred to the Disciplinary Panel, the Review Panel will assist the Registrar in preparing a Statement of Case for the Disciplinary Panel. The Statement of Case shall specify the alleged breach or breaches of the Code of Conduct and be communicated to the Approved Inspector. An update will be provided by the Registrar to the Complainant.

## **Disciplinary Panel**

- 3.8 If the Review Panel considers that the complaint is valid and is sufficiently serious to be referred to the Disciplinary Panel, the Registrar shall form a Disciplinary Panel to consider the complaint. The Disciplinary Panel shall be selected without bias by the Registrar in accordance with paragraph 3.9 below, within a recommended 5 working days of the decision that the Complaint should be referred to the Disciplinary Panel.
- 3.9 The Disciplinary Panel shall be comprised as follows:
- Three voting members to be appointed by the Council two of whom will, where reasonably practicable, be Approved Inspectors and the third to be a knowledgeable person.
  - Two non-voting advisers, to ensure consistency, one legal and one administrative, usually the Registrar, both retained by the Council.

All three voting members shall vote, and any decision shall be made on the basis of a simple majority.

None of the members of the Disciplinary Panel shall have any personal, professional or financial interest with the Approved Inspector or the Project.

- 3.10 Notification that the Disciplinary Panel is to consider the Complaint shall be given in writing to the Approved Inspector by the Registrar within a recommended 5 working days of the selection of the Disciplinary Panel. The notification will include the composition of the Disciplinary Panel and the date and venue of the hearing, which is to be no sooner than 20 working days after the date of notification but no later than 3 calendar months after such date. The representatives of the corporate body who should attend a hearing is at the discretion of the company secretary, although the Disciplinary Panel may require named individuals to attend if they deem it necessary. The Approved Inspector shall have 10 working days from receipt of the notification to submit any further statement and/or evidence that the allegations are not correct. The Registrar shall also notify the complainant that a disciplinary hearing is to take place and shall advise both parties that full disclosure will be required, to be provided within 10 working days of the notification from the Registrar. The complainant may not attend the disciplinary hearing.
- 3.11 The Disciplinary Panel may, at its absolute discretion, after consideration of the Approved Inspector's further statement and/or evidence, or at any time during the process, decide that the Complaint is unfounded, and rule that the allegation be dismissed. The Disciplinary Panel may call for further evidence from the parties. If so, the Registrar may postpone the hearing.
- 3.12 If the Approved Inspector has due cause for not being able to attend the hearing, a written request may be made within 10 working days of receipt of the notification to the Registrar for a different date to be given for the hearing. The Registrar shall consider the Approved Inspector's reasons, and make a fair decision within a recommended 5 working days of receipt of the request as to whether to change the date of the hearing. Notice of such decision, including the amended date, where relevant, shall be sent to the Approved Inspector in writing, within 5 working days of such decision. Such amended date shall be at the discretion of the Registrar but in any event shall not be later than 3 calendar months from the date of notification referred to in paragraph 3.10.
- 3.13 If the Approved Inspector is unable to attend a second hearing date, written evidence may be submitted setting out the exceptional circumstances for not attending. The Registrar shall consider the Approved Inspector's submission and shall decide within a recommended 5 working days of receipt of such evidence if the reasons are serious or not. If the Registrar decides that the Approved Inspector's reasons are serious, the Registrar may grant a third and final hearing date not later than 3 calendar months from the date of notification referred to in paragraph 3.10. If the Registrar decides that the Approved Inspector's reasons are not serious the request will not be accepted and the second hearing date will be conducted without the appearance of the Approved Inspector. Notice of the decision made by the Registrar shall be sent to the Approved Inspector, within a recommended 5 working days of such decision.

- 3.14 Failure by an Approved Inspector to attend a hearing, without due cause, will result in the Disciplinary Panel convening for consideration of the Complaint in the absence of the Approved Inspector.
- 3.15 The Approved Inspector may be accompanied at the hearing and represented at the hearing by a representative, to present any existing and relevant evidence which has previously been submitted to the Disciplinary Panel.
- 3.16 The decision of the Disciplinary Panel, in respect of a Complaint will be notified to the Approved Inspector and the complainant, within 5 working days of the hearing. The decision may contain any of the sanctions set out in section 4 of the Code. The notification will explain the reasons for the decision, the Approved Inspector's rights of appeal, to whom an appeal should be addressed, and the time limit of 10 working days' for such an appeal to be made.

### **Appeals Panel**

3.17 Appeals will be considered by an Appeals Panel which shall be selected by the Registrar within a recommended 10 working days of receipt of a request for an appeal. The composition of the Appeals panel will be as follows:

- Three voting members to be appointed by the Council, two of whom will, where reasonably practicable be Approved Inspectors and the third to be a knowledgeable person.
- Two non-voting members to be appointed by the Council, including one legal adviser and one administrator, usually the Registrar.
- One lay member.

None of the voting members of the Appeals Panel shall have been members of the Review Panel or the Disciplinary Panel, and they shall not have any personal, professional or financial interest with the Approved Inspector, the claimant, or the Project.

- 3.18 The procedure in paragraphs 3.10, 3.11, 3.12, 3.13, 3.14 and 3.15 shall also apply in relation to the Appeals Panel.
- 3.19 If the Appeals Panel finds there has been any defect in earlier stages of the Disciplinary Procedure, the Appeals Panel may use the appeals procedure to remedy such defect. Such earlier defects may be remedied by the Appeals Panel including conducting a complete rehearing of the case so that all the evidence is considered afresh.
- 3.20 Written notification of any decision made by the Appeals Panel, setting out details of the reasons for such decision, and any sanction to be imposed, shall be sent to the Approved Inspector and the complainant within 5 working days of such decision.

### **Application for Re-Approval**

3.21 An Approved Inspector who has had approval withdrawn, pursuant to a substantiated Complaint, will be eligible to apply for re-approval on the expiry of the period specified in the Disciplinary Panel's or Appeals Panel's notification of decision referred to in paragraph 3.16 or paragraph 3.20 as the case may be. The method and procedure for gaining re-approval will be advised as appropriate by the Registrar on receipt of a written application.

### **Service of Notifications**

3.22 Any notification under the Disciplinary Procedures shall be sent by recorded delivery or registered post to the individual Approved Inspector concerned or the company secretary in the case of a corporate body.

3.23 Where, in the Disciplinary Procedures, reference is made to a period measured in days, those days are to be taken as working days and no account is to be taken in calculating that period, of a Saturday, Sunday, Christmas Day, Good Friday, Bank holiday or day appointed for public thanksgiving or mourning.

## **SECTION 4 SANCTIONS**

4.1 The sanctions available to the Registrar, based upon recommendations from the Review Panel or Disciplinary Panel or Appeals Panel in dealing with complaints against Approved Inspectors are as follows:

4.1.1

<b>Decision</b>	<b>Available Action</b>
Complaint dismissed	No Action
Admonishment	<b>Admonishment</b> - Verbal warning and recorded on file
Breach – Complaint upheld	<b>1 Serious breach</b> - Reprimand in writing and recorded on file <b>2 Unacceptable breach</b> - Withdrawal of approval and removal from Register for a period to be determined by the Disciplinary or Appeals Panels

4.1.2 The Registrar, in notifying the outcome will set out the nature of the breach in the letter to the Approved Inspector, and the likely outcome of further breaches.

4.1.3 For a sanction involving withdrawal of approval the Disciplinary Panel or Appeals Panel will specify the period of withdrawal of approval.

4.1.4 All sanctions determined by the Disciplinary Panel or Appeals Panel, based upon the nature of the breach, shall be published on the CIC website for the periods listed below:

<b>Level</b>	<b>Website publication period</b>
1	Period of a minimum 12 months.
2	Period until reinstatement as an Approved Inspector.

4.1.5 Following withdrawal of approval as a sanction, reinstatement will necessitate an application for re-approval

4.1.6 A record of any sanction imposed shall be kept on the Approved Inspector's file and shall be made available to the Assessment Panel at any application for re-approval, or any subsequent Review or Disciplinary Panel for future complaints.

4.2 Where an Approved Inspector is convicted of an offence under Section 57 of the Act [false or misleading notices and certificates etc.] approval may be withdrawn. Where that approval is withdrawn pursuant to clause 6(4) of the Regulations no further approval shall be given for a period of five years beginning with the date of conviction.

4.3 If an Approved Inspector is convicted of a criminal offence, otherwise than under Section 57 of the Act the Approved Inspector is required to notify the Registrar of such conviction who will refer the matter to the Disciplinary Panel for consideration as to whether any disciplinary action should be taken.

4.4 The period of notice to apply before an Approved Inspector's approval is withdrawn will be 20 days from the date of the written notification of the decision. This period will be to allow, as appropriate, for appeals against the decision and notification to clients of withdrawal of approval. The Approved Inspector shall also notify their insurers.

4.5 Where an Approved Inspector has had approval withdrawn, the CICAIR shall amend the list of Approved Inspectors held by it under clause 7(3)(a) of the Regulations, and the Registrar shall notify the relevant local authorities as soon as reasonably practicable of the withdrawal of approval of an Approved Inspector in accordance with clause 7(3)(b) of the Regulations.