

The Property Institute (TPI) Individual Member

Independent Adjudication Service

Summary of Service Rules

This Summary has been created to provide a quick reference guide for users of the Service. It summarises the key rules in respect of the process and the scope of the Service, giving a simple overview of the core principles.

However, whilst this Summary is based upon the Service Rules, it is intended to act as guidance only. It is the Service Rules that apply to cases. In the event of a conflict of information between the Service Rules and this Summary, the Service Rules will prevail.

Contents

1. Introduction	1
2. What the Service covers	2
3. Applying to use the Service	2
4. The Adjudication process	3
➤ The Application	3
➤ Objections	3
➤ The Response	3
➤ The Outcome	4
5. Powers of the adjudicator	4

1. Introduction

- The Service provides an independent way of considering complaints made against Individual Members of TPI (“the Individual Member”) by a Complainant. This is done by way of an adjudication process.
- The Service is free of charge to the Parties. Use of the Service is mandatory for Individual Members. A Complainant can only use the Service if they have been referred to CEDR by TPI.

- An adjudicator will consider the complaint and their decision will be to make one or more recommendations that TPI's Individual Member Complaints Committee ("TPI's Complaints Committee") take regulatory action in relation to the Individual Member or to make no recommendation. It will be TPI's Complaints Committee that will have sole discretion whether or not to take regulatory action.
- A 'Complainant' is:
 - A third party directly connected to the subject matter of the complaint; or
 - TPI; or
 - A member or associate of TPI directly connected to the subject matter of the complaint.

2. What the Service covers

- The Service can be used to consider complaints where the Complainant is arguing that the Individual Member has breached, or is in breach of, TPI's Code of Conduct ("the Code"). The Individual Member must be directly connected to the events that form the subject matter of the complaint.
- The Service cannot consider complaints, or parts of complaints, which fall into one or more of the following categories:
 - complaints that are about something the Service does not cover;
 - applications made by someone who is not a 'Complainant';
 - where the most recent alleged incident the complaint is about happened more than 24 months before the date the Complainant applied to the Service (except if the complaint is about a criminal offence);
 - for a Individual Member that has recently been granted membership or associate status, where the most recent alleged incident the complaint is about happened more than 12 months before the Individual Member was granted membership or associate status by TPI (except if the complaint is about a criminal offence);
 - where the subject matter of the complaint is not appropriate to be brought against the Individual Member through the Service;
 - complaints that are frivolous and/or vexatious;
 - complaints that would seriously impair the effective operation of CEDR.

3. Applying to use the Service

- The Complainant must send CEDR a completed application form displaying their Referral Code, given to them by TPI.

- In their application, the Complainant must provide the following:
 - a description of the precise issues that form the complaint;
 - a description of the precise conduct of the Individual Member that the Complainant believes to be a breach of the Code;
 - any supporting documents and/or evidence that they wish to rely on.

4. The Adjudication process

➤ The Application

- CEDR will make an initial assessment within five working days as to whether or not an application meets the requirements of the Service.
- Once accepted, the Individual Member has 15 working days to take one of the following actions:
 - object to the complaint being considered, as it is outside the scope of the Service; or
 - submit its response to the complaint.

➤ Objections

- The Individual Member can object to the complaint being considered to fall within the scope of the Service.
- An adjudicator will decide whether or not they agree that the Individual Member has shown that part or all of the complaint falls outside the scope of the Service.
- If an adjudicator does not agree that the Individual Member has shown that any part of the complaint falls outside the scope of the Service, the objection will be rejected and the complaint will remain active.
- If an adjudicator agrees that the Individual Member has shown that part or all of the complaint falls outside the scope of the Service, the objection will be upheld. If the objection is upheld, the Complainant will be given 10 working days to provide reasons and/or further evidence as to why part or all of the complaint falls within the scope of the Service. An adjudicator will then consider this and make a final decision if the complaint can continue or not (NB. the adjudicator may agree to only part of the complaint continuing).
- The decision to withdraw the complaint from the Service is final and cannot be reviewed or appealed.

➤ The Response

- When CEDR receives the Response, a copy of it will be sent to the Complainant.

- If the Individual Member does not submit a Response, the adjudicator will have the power to make a decision considering only the information provided by the Complainant.
- The Complainant has five working days from the date on which the Response is sent to them to provide any comments. The Complainant does not have to provide comments. If the Complainant does provide comments, those comments can only relate to points raised in the Response and must not introduce any new matters.
- CEDR will then appoint the adjudicator to consider the complaint.

➤ **The Outcome**

- The adjudicator will produce a “Decision” that sets out the reasons for any recommendations made or why no recommendations have been made. The Decision will generally be issued within 20 working days of the complete case papers being received.
- The Decision will be sent to TPI’s Complaints Committee. The Decision will not be sent to the Parties.
- TPI’s Complaints Committee will consider the Decision and will decide whether or not to action any of the recommendations made (“the Outcome”).
- TPI’s Complaints Committee will then provide a summary of the Outcome to CEDR, which will be sent to the Parties simultaneously.
- The implementation of any recommendations made by the Adjudicator in the Decision will be at the sole discretion of TPI’s Complaints Committee.
- The Outcome cannot be reviewed or appealed. The only exception to this is if the Individual Member has been suspended or expelled by TPI’s Complaints Committee. The Individual Member is then able to formally appeal the Outcome using The Property Institute (TPI) Outcome Appeals Independent Adjudication Service.
- CEDR is unable to enforce compliance with the Outcome. TPI’s Complaints Committee retains sole discretion to determine whether or not the Outcome has been complied with by the Individual Member.

5. Powers of the adjudicator

- An adjudicator has the power to do any of the following:
 - change any of the process time limits;
 - request further comments and/or evidence from the parties;
 - proceed with the Adjudication even if either of the parties does not keep to the rules;
 - consult any relevant evidence not provided by either of the parties;

- take into account any evidence provided by either of the parties that they consider relevant;
 - withdraw a complaint if the entirety of the complaint falls outside the scope of the Service.
- In the Decision, the adjudicator can recommend one or more of the following:
 - that the Individual Member provides the Complainant with a letter of apology;
 - that the Individual Member undertakes further training;
 - that the Individual Member is suspended from TPI for a specified period of time;
 - that the Individual Member is expelled from TPI.

