

The Property Institute (TPI) Company 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.

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1. Introduction

- The Service provides an independent way of considering complaints made against Associate Firms and Company Members of TPI (“the Company 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 Company Members. A Complainant can only use the Service if they have been referred to CEDR by TPI and they have met the conditions set out in the Rules.
- An adjudicator will consider the complaint and their decision will be to make one or more recommendations that TPI's Company Member Complaints Committee ("TPI's Complaints Committee") take disciplinary action in relation to the Company Member or to make no recommendation. It will be TPI's Complaints Committee that will have sole discretion whether or not to take disciplinary action.
- A 'Complainant' is:
 - a third party directly connected to the subject matter of the complaint; or
 - TPI, when TPI is alleging that a Company Member failed to comply with the Guide to Audit/Guide to Compliance Reviews and/or has brought TPI into disrepute; or
 - a member or associate of TPI, in relation to a handover dispute with a Company Member, which has been ongoing for three months or more.

2. What the Service covers

- For Complainants that are third parties, the Service **can** be used to consider complaints provided that the following conditions are satisfied:
 - The complaint is that the Company Member has committed a breach of TPI's Rules.
 - The Complainant must have complained formally to the Company Member and tried to resolve their complaint in line with [TPI's Complaints Guidance](#).
 - Any and all appropriate independent cases and investigations in respect of the complaint (whether or not initiated) must have been exhausted.
 - The Complainant must have sent an application form to CEDR that they were given by TPI, which meets the requirements of these Rules.
- For Complainants that are third parties, the Service **cannot** consider complaints, or parts of complaints, which fall into one or more of the following categories:
 - where the conditions above are not satisfied;
 - where the most recent alleged incident complained about happened more than 24 months before the Complainant applied to the Service;
 - for a Company Member that has recently been granted membership or associate status, where the most recent alleged incident complained about happened more than 12 months before the Company Member was granted membership or associate status;

- where the details of the complaint in the Application differ from the details that were provided by the Complainant when complaining to the Company Member directly;
 - where the subject matter of the complaint is not appropriate to be brought against the Company Member through the Service;
 - complaints that are frivolous and/or vexatious;
 - complaints that would seriously impair the effective operation of CEDR.
- When TPI is the Complainant, the Service **can** be used to consider complaints provided that the following conditions are satisfied:
 - The complaint is that the Company Member has failed to comply with the Guide to Audit/Guide to Compliance Reviews and/or has brought TPI into disrepute.
 - The complaint must have been formally raised to the Company Member and remains ongoing and unresolved (NB. this requirement does not apply where TPI alleges that the Company Member has brought TPI into disrepute).
 - The Complainant must have sent an application form to CEDR, which meets the requirements of these Rules.
 - When TPI is the Complainant, the Service **cannot** consider complaints, or parts of complaints, which fall into one or more of the following categories:
 - where the conditions above are not satisfied;
 - where the details of the complaint in the Application differ from the details that were provided by the Complainant when complaining to the Company Member directly;
 - complaints that are frivolous and/or vexatious;
 - complaints that would seriously impair the effective operation of CEDR.
 - For Complainants that are members or associates of TPI, the Service **can** be used to consider complaints provided that the following conditions are satisfied:
 - The complaint is that the Company Member has committed a breach of TPI's Rules in relation to a handover.
 - The complaint must have been formally raised to the Company Member and remains ongoing and unresolved for three months or more.
 - The Complainant must have sent an application form to CEDR that they were given by TPI, which meets the requirements of these Rules.
 - For Complainants that are members or associates of TPI, the Service **cannot** consider complaints, or parts of complaints, which fall into one or more of the following categories:

- where the conditions above are not satisfied;
- where the most recent alleged incident complained about happened more than 24 months before the date the Complainant applied to the Service;
- for a Company Member that has recently been granted membership or associate status, where the most recent alleged incident complained about happened more than 12 months before the Company Member was granted membership or associate status by TPI;
- where the details of the complaint in the application differ from the details that were provided by the Complainant when complaining to the Company Member directly;
- 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;
 - for Complainants that are third parties:
 - a description of the precise conduct by the Company Member that the Complainant believes to be a breach of TPI's Rules;
 - a copy of the complaint being formally made to the Company Member;
 - a copy of the decision or outcome from the appropriate body when exhausting the complaints process.
 - For TPI, when it is the complainant:
 - a description of the precise conduct by the Company Member that the Complainant believes to be a breach of TPI's Guide to Audit/Guide to Compliance Reviews and/or that has brought TPI into disrepute.
 - For Complainants that are members or associates of TPI:
 - a description of the precise conduct by the Company Member that the Complainant believes to be a breach of TPI's Rules in relation to a handover.
- The Complainant should provide with the Application any relevant documents and/or evidence that supports their complaint and that they want 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 Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 Company Member has been suspended or expelled by TPI’s Complaints Committee. The Company 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 decide whether or not the Outcome has been complied with by the Company 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 Company Member provides the Complainant with a letter of apology;
 - that the Company Member undertakes further training;
 - that the Company Member is suspended from TPI for a specified period of time;
 - that the Company Member is expelled from TPI.