



Chartered
Institute of
Arbitrators

CIArb

HOW CIArb INVESTIGATES COMPLAINTS OF MISCONDUCT AGAINST ITS MEMBERS

Who can make a complaint?

Anyone can make a complaint; parties who have been involved in an arbitration where a CI Arb member has acted as arbitrator; other professional bodies, CI Arb members, members of the public and CI Arb itself.

Does CI Arb have the power to change an Award of an Arbitrator?

The award of an arbitrator is final and binding upon the parties unless and until it is set aside or varied by a court of law of competent jurisdiction. In England and Wales and Northern Ireland, the powers of the court in relation to arbitral awards are set out in the Arbitration Act 1996. If a party wishes to consider such a remedy, then it should seek legal advice as soon as possible since there is a 28 day time limit, from the date of the award, for making applications to the court to set aside or appeal the award.

CI Arb has no power to review, revise or otherwise interfere with the award of an arbitrator. There is no right of appeal to CI Arb.

What are the grounds of complaint that CI Arb will consider?

CI Arb has jurisdiction to consider any allegation of misconduct made against any member of CI Arb, whether acting as an arbitrator, adjudicator, mediator or in any other capacity. Misconduct is defined in section 15.2 of the Bye-laws of CI Arb and shall mean one or more of the following:

- (1) Conduct which is injurious to the good name of CI Arb, renders a person unfit to be a member of CI Arb or is likely to bring CI Arb into disrepute.
- (2) A significant breach of professional or ethical conduct which shall include a breach of the Code of Professional and Ethical Conduct or other similar document published from time to time by CI Arb;
- (3) Falling significantly below the standards expected of a competent Practitioner¹ or a competent professional person acting in the field of private dispute resolution;
- (4) A failure without reasonable excuse, to comply with a direction and/or a recommendation of a Peer Review Panel constituted under Bye-law 15.1;

¹ "Practitioner" means any member of CI Arb holding a Panel Appointment Certificate

- (5) A significant breach of any of the Articles of CI Arb or of these Bye-laws (or any Regulation or rule published thereunder from time to time).
Refer to CI Arb's Charter and Bye-laws and Code of Ethics.

What to do to lodge a complaint against a CI Arb member

A person who wishes to lodge a complaint against a member of CI Arb should submit their complaint, together with any relevant information and documentation, upon which they wish to rely. A covering letter should accompany the complaint setting out in full detail the allegation being made, the relevance of any accompanying documents and the reasons why the complainant believes the member's behaviour or actions are considered to constitute misconduct. The complaint should be sent by first class post or by email to **The Director of Governance and Legal services at Chartered Institute of Arbitrators, 12 Bloomsbury Square, London WC1A 2LP, email: complaints@ciarb.org.**

What happens to a complaint once it is submitted?

Once a complaint has been received, a copy of the complaint together with all enclosures will be sent to the member who will be asked to reply/comment within 28 days.

A copy of the member's reply/comments will then be sent back to the complainant, for their comments, which should be sent to CI Arb (at the address and by the means set out above) within 14 days.

Once the complainant's comments are submitted, they will be forwarded to the member for information only, unless there have been any new points raised upon which the member wishes to comment. In these circumstances the member will be given a further 14 days in which to submit any comments that he/she may have.

Once the process is concluded the papers will be reviewed by CI Arb's Professional Conduct Committee (PCC) which is an independent committee set up to investigate all complaints received. The membership of the PCC is made up of seven members of CI Arb, together with at least one, but no more than five, lay-members appointed by the Committee from the panel of lay-members pursuant to Bye-law 15.1(3). At least two of the CI Arb members shall be lawyers, and one shall hold or have held judicial office. Lay-members shall have full voting rights.

What happens if the Professional Conduct Committee find that there is no evidence of prima facie misconduct?

- No further action will usually be taken, and the complainant and the member will be notified accordingly.
- The Secretary of the PCC or the Director of Legal Services will write to the complainant and member informing them of its decision with brief reasons for it.

What happens if the Professional Conduct Committee finds that there is prima facie evidence of misconduct?

If the PCC finds that there is prima facie evidence of Misconduct then the complaint will either:

- be referred to a Peer Review Panel, which is set up by CI Arb, and whose members consist of experienced and qualified members of CI Arb, *for further guidance refer to paragraph 7 of the Schedule to the Bye-laws*; or
- be referred to a Disciplinary Tribunal to hear a charge of misconduct against the member.

The Disciplinary Tribunal

The Disciplinary Tribunal shall consist of not fewer than three persons; a Chairperson, a lay person and a member who is experienced in the same discipline as the member who is under investigation. The Chairperson must be either a person who holds or has held judicial office under the Crown, or the equivalent in other jurisdictions, or is a qualified and practising lawyer with a minimum of 10 years post qualification experience.

What sanctions can be imposed by the Disciplinary Tribunal if the Tribunal finds that the charge is proved?

The Disciplinary Tribunal may impose one of the following sanctions:

- (1) reprimand or warn the member as to their future conduct;
- (2) suspend the member from membership of CI Arb for a period not exceeding twelve months;
- (3) in the case of a member having chartered status, to withdraw that status without limit of time or for a specific period;
- (4) expel the member from CI Arb;
- (5) make an appropriate order for costs (the order will be made in accordance with paragraph 8.6 of CI Arb's Schedule to the Bye-laws).

What happens if the Disciplinary Tribunal dismisses the case?

If this happens then the matter is closed unless CI Arb decides to appeal.

The Appeals Tribunal

Either CI Arb, or the member, as the case may be, shall be entitled to seek permission to appeal the decision of the Disciplinary Tribunal.

The members of the Appeals Tribunal shall be drawn from the same panels as those for the Disciplinary Tribunal, but no member of the Appeals Tribunal will have had a previous involvement in the case.

The appellant shall serve on the Director of Legal Services a Notice of Appeal within **28 days** of the date on which the decision of the Disciplinary Tribunal was notified to it or him. The Notice should set out with sufficient particulars the grounds of the appeal (which are limited to errors of law or facts), and state why the Disciplinary Tribunal decision was wrong on the law or on the facts.

The Appeals Tribunal shall give permission to appeal if it is of the opinion that the appeal has a reasonable prospect of success.

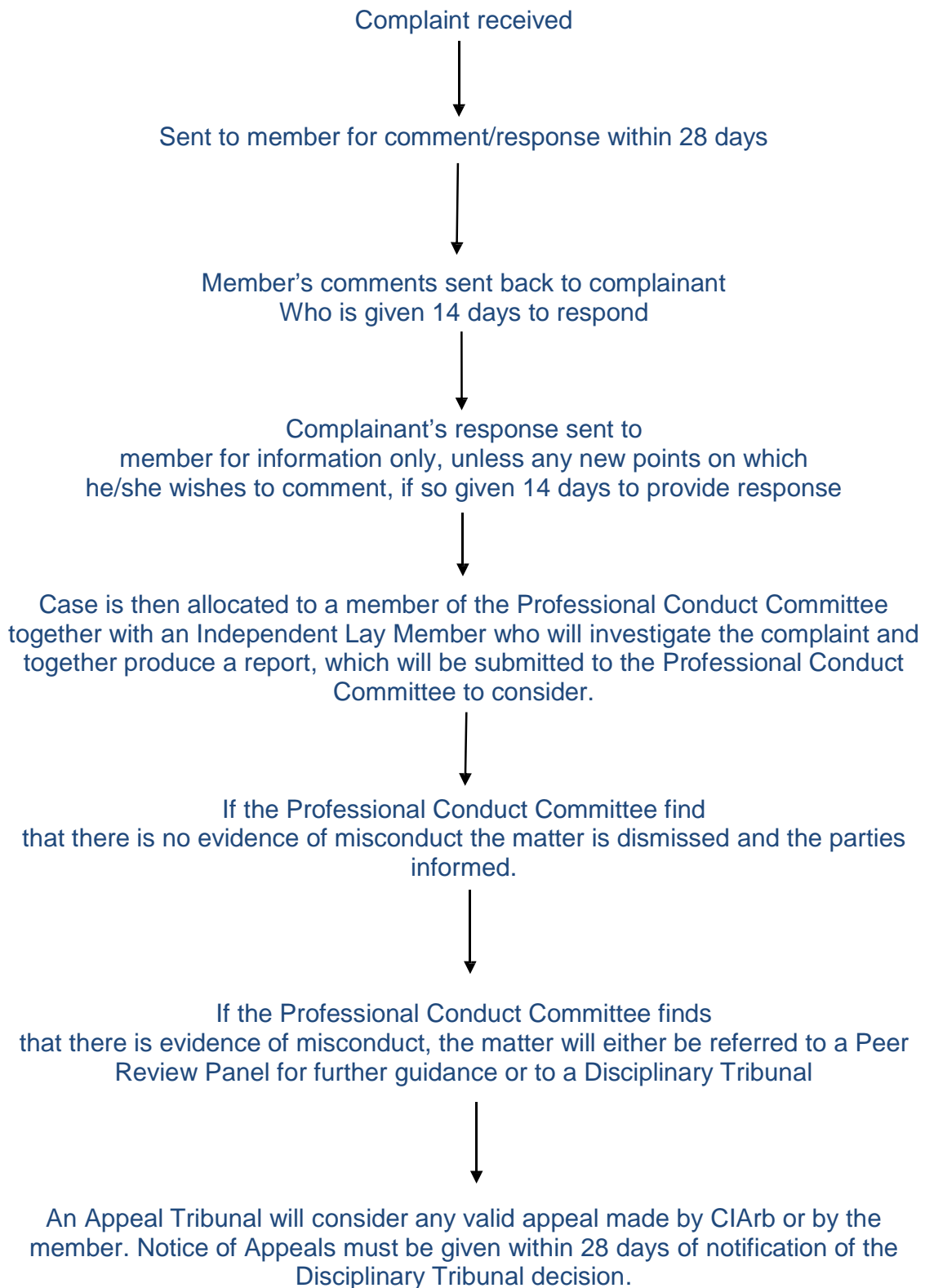
If the Appeals Tribunal refuses permission to appeal, its reasons will be notified in writing to the appellant, normally within two months.

The decision of the Appeals Tribunal shall be final and binding on the appellant and there will be no order for costs arising out of the appeal.

Publication of Disciplinary Proceedings

CI Arb's Board of Trustees shall decide whether or not to publish a report of any proceedings taken by CI Arb against or in connection with a Member, including the result of any appeal. Such a report may or may not (at the discretion of CI Arb's Board of Trustees) contain information which identifies those persons taking part in any such proceedings.

Summary Flow chart of how CI Arb handles complaints



Mission Statement: To promote and facilitate worldwide the determination of disputes by arbitration and alternative means of private dispute resolution other than resolution by the court (collectively called “private dispute resolution”)

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