

UKRIAT Public Practice Scheme Regulations

January 2017

UKRIAT Public Practice Scheme Regulations

The Chartered Governance Institute

6- 10 Saffron House ▪ Kirby Street ▪ London ▪ EC1N 8TS ▪ Phone: 020 7580 4741 ▪ Web: www.cgi.org.uk

Contents

	Page
A. Introduction	3
B. Authorities	3
C. Scheme coverage	3
D. Exemptions	4
E. The Scheme	4
F. Scheme management	5
G. Professional Indemnity Insurance	5
H. Code of professional ethics and conduct	6-8
I. Use of designation of Chartered Secretary/Chartered Governance Professional	8
J. Complaints	9
K. Complaints procedure	9-11
L. Disciplinary procedures	11
M. Anti-money laundering	11
Appendix	12

UKRIAT Public Practice Scheme Regulations

A. Introduction

The UKRIAT Public Practice Scheme aims to provide recognition and credibility for The Chartered Governance Institute's members in public practice and to incorporate a system of quality control and regulation which supports and protects members of the Scheme whilst giving assurance to clients, potential clients and the public.

B. Authorities

Pursuant to byelaw 17, the UKRIAT Committee has laid down the details of the Scheme as shown in this document as the regulations governing public practice.

Within the terms of these regulations:

1. Membership or renewal of membership of the Scheme is at the discretion of the administration acting on delegated authority received from UKRIAT Committee.
2. If membership of the Scheme is withdrawn for any reason, the practising certificate remains the property of UKRIAT Committee and must be returned to UKRIAT Committee.
3. Membership of the Scheme confers no new title on the member concerned.

C. Scheme coverage

The Scheme operates in the United Kingdom, Republic of Ireland and Associated Territories as defined by the Institute's byelaws, with recognition that differing legal environments exist in these areas.

A member of the Public Practice Scheme in the United Kingdom, Republic of Ireland and Associated Territories may practise elsewhere in the world, except in other territories where regulation by another Division or Association of The Institute is required. Separate application must be made to practise in those territories, in accordance with the regulations for the time being in force in those territories.

The Scheme will operate under the following guidelines:

- The Scheme regulates the individual not the business.
- The Scheme encompasses any chartered member (not a graduate) of The Chartered Governance Institute who advertises or carries on the business of offering services in governance, risk, compliance, company secretarial, legal (including HR) and accountancy to individual or business clients for financial gain as:
 - I. a sole principal;
 - II. a partner within a partnership, limited partnership or limited liability partnership; or
 - III. a shareholder or director who has a beneficial interest in a limited company.

UKRIAT Public Practice Scheme Regulations

Members who are employed within other organisations, particularly company secretarial, accountancy and legal practices, to provide the services set out in paragraph 2 above to clients of the organisation, may become members of the Scheme provided that their employer's Professional Indemnity Insurance (PII) cover is equivalent at least to the minimum laid down in the Scheme and that satisfactory arrangements for dealing with complaints are in place.

- For avoidance of doubt, a person will be regarded as carrying on business for the purposes of paragraph 2 if they offers services in governance, risk, compliance, company secretarial, legal (including HR) and accountancy.
- 'Financial gain' means any consideration however small.

The Scheme will apply to all areas of activity broadly equating to the general headings of The Chartered Governance Institute Qualifying Programme or equivalent professional programme, i.e.:

- Corporate governance, including governance of non-commercial organisations e.g. health service
 - Company law
 - Company compliance and administration
 - Interpreting finance and accounting information
 - Development of strategy
 - Risk management
 - Boardroom Dynamics
- Any member who engages in public practice as defined in these regulations without being a member of the Scheme is liable to disciplinary action under The Institute's byelaws.

D. Exemptions

If you are working in a voluntary role you are exempted from registering on the Scheme but you should check you have sufficient Professional Indemnity Insurance (PII).

If you do not have PII in place you are required to ensure that your clients and/or potential clients are aware that PII cover is not in place. Failure to do so may lead to action under The Institute's disciplinary procedures under byelaw 24.8(c).

All members exempt from the Scheme are, in their own interests, strongly advised to secure PII cover.

E. The Scheme

A member of the Scheme is required to:

1. apply for, and continue to hold, a valid practising certificate, renewable annually for a fee;
2. submit with their initial and annual renewal application, proof of holding PII insurance cover at a minimum level to be determined by the Membership Committee (see section G);
3. submit with their initial and annual renewal application proof they are registered with an AntiMoney Laundering supervisor or evidence that this is not required in their jurisdiction;

UKRIAT Public Practice Scheme Regulations

- submit, either using their MyCG CPD log or a duly recorded log, supporting evidence of a minimum of 35 hours Continuing Professional Development (CPD) for the previous CPD year both when initially applying to become a member of the Scheme and with the application for annual renewal of membership of the Scheme. Of the compulsory 35 hours CPD, at least 10 hours should be formal CPD and no more than 25 hours should be informal CPD. Details of activities that can count towards your CPD are provided on www.cgi.org.uk/professionaldevelopment/cpd
- have a formal complaints policy in place which is open and accessible to their clients;
- be bound by the Scheme's complaints procedure as set out in Sections K and L.
An application for membership of the Scheme must be made on an official application form accompanied by the required fee. The form may be obtained by logging into the secure MyCG area of the website. A rolling annual membership subscription fee is payable to maintain membership of the Scheme and renewal notices will be sent one month prior to renewal date.

UKRIAT shall maintain a register of members holding a current practising certificate and the register will be available online unless you opt out of the register.

A member of the Scheme may at any time be required to provide UKRIAT Committee or any of its standing committees with such details of his or her practice as may be reasonably requested.

F. Scheme management

UKRIAT Committee has overall responsibility for the content and operation of the Scheme and for agreeing the initial application and annual renewal fees.

UKRIAT Committee has delegated specific authorities to the Membership Committee which oversees and regulates the Public Practice Scheme. Membership Committee will:-

- define the minimum level of PII cover to be held by members of the Scheme;
- arrange for a PII policy to be available to members of the Scheme;
- review the CPD evidence each year and consider the subsequent development of the Scheme's CPD standards and guidelines within The Institute's CPD policy;
- satisfy itself that the Anti-Money Laundering supervisory service with which a Scheme members is registered is authorised to act as supervisor for the purposes of anti-money laundering regulation;
- oversee the auditing and quality assurance of members in the Scheme;
- agree any benefits to be included in the Scheme;

G. Professional indemnity insurance (PII)

A member of the Scheme must be in possession of PII to the satisfaction of the Membership Committee for as long as they continue to be a member of the Scheme except where exemption from joining the Scheme has been approved.

UKRIAT Public Practice Scheme Regulations

The insurance must be valid in all territories where the member wishes to practice and in respect of all activities which they are undertaking or propose to undertake.

The minimum level of cover under the PII scheme shall be determined by the Membership Committee. The current level is £100,000 or two and a half times annual gross fee income, whichever is the higher, for each and every claim.

Members of the Scheme are required to hold insurance to cover all the activities which the member is undertaking or proposes to undertake, either:

1. under UKRIAT's Scheme; or
2. under a policy which the Membership Committee considers to be equivalent to or better than the cover provided by UKRIAT's Scheme; or
3. where members are employed within other organisations providing services within the activity areas to clients of the organisation under a scheme by the employer.

Members of the Scheme are reminded that they, or their business, are liable for any excess over and above their own level of cover, in addition to the initial policy excess quoted by the insurer.

A member of the Scheme who retires or ceases trading is required to maintain PII 'run-off' cover for not less than 72 months.

H. Code of professional ethics and conduct

Definitions

'Practitioner' – any Chartered Secretary or Governance Professional in public practice who is a member of the Public Practice Scheme.

Other terms shall have the meaning(s) given by The Chartered Governance Institute's Charter and byelaws.

General principles

1. A Practitioner shall conduct themselves in a manner consistent with the good reputation of the profession of the Chartered Secretary and/or Chartered Governance Professional and of The Institute, and its Charter and byelaws, and in compliance with all statutory or other current legal requirements.
2. In accepting or continuing a professional assignment or appointment, a Practitioner shall always have regard to any factor which may reflect adversely upon their integrity and/or objectivity in relation to that assignment or appointment.
3. A Practitioner shall carry out their professional work with proper regard for the technical and professional standards expected of a Chartered Secretary and/or Chartered Governance Professional and shall not undertake or continue professional work which they are not competent to perform unless they first obtain such advice and/or assistance that will enable them competently to carry out such work.
4. A Practitioner shall conduct themselves with courtesy and consideration towards all with whom they come into contact.

UKRIAT Public Practice Scheme Regulations

Professional Independence

5. Professional independence is a concept fundamental to the profession of a Chartered Secretary and/or Chartered Governance Professional. It is essentially an attitude of mind characterised by integrity and an independent approach. Accordingly, a Practitioner shall take all reasonable steps to ensure that their professional independence is maintained so that the interests of their clients are not compromised and in particular shall inform all interested parties of any actual or potential conflict of interests that may exist or arise from time to time.

Confidentiality

6. A Practitioner receiving privileged information from a client or from any other confidential source in the course of their professional work shall not use it or appear to use it for personal advantage or for the advantage of a third party and, for so long as such information remains confidential, may not disclose it without prior consent unless there is a public duty or a legal or professional obligation or duty to disclose such information.

Description

7. A practice of which a Practitioner is either a partner or a director may not describe itself as 'Chartered Secretaries' or 'Chartered Governance Professionals' unless it is within the terms of byelaw 17.

Obtaining professional work

8. A Practitioner shall not in any circumstances obtain or seek professional work for themselves or another Practitioner in contravention of this Code.

Changes in a professional appointment

9. A Practitioner who is asked to accept an appointment, where the client has previously contracted with another Practitioner to provide the same services, shall:
 - (a) request the prospective client's permission to communicate with the previous appointee – if such permission is reasonably refused they should decline the appointment, and
 - (b) on receipt of the client's permission, request in writing of the previous appointee all information relevant to an acceptance of the appointment.
10. A previous appointee receiving such request shall;
 - (a) request permission of the client to discuss the client's affairs freely with the proposed appointee – if this request is not granted the previous appointee shall report that fact to the proposed appointee, and
 - (b) on receipt of written permission from the client they shall disclose all information relevant to the proposed appointee's acceptance of the appointment.
11. A Practitioner invited to undertake professional work additional to that already being carried out by another Practitioner who is to continue their existing duties for the client, shall as a matter of courtesy, notify in writing that other Practitioner of the work that is proposed to be undertaken. This notification need not be given if the client gives in writing a valid reason against it. The Practitioner undertaking such additional work is entitled to expect of that other Practitioner to whom they have given notice full co-operation in carrying out such additional work.

UKRIAT Public Practice Scheme Regulations

Mixed secretarial practices

12. Any Practitioner who provides services in conjunction with others not being members of The Chartered Governance Institute, whether through an incorporated body or in partnership, is thereby deemed to accept responsibility to The Institute for ensuring that in providing such services the association does not describe itself as 'Chartered Secretaries' or 'Chartered Governance Professional', unless such incorporated body or partnership falls within the scope of the Scheme (see section C of the Scheme Regulations) and conducts its business in accordance with this Code.

Multi-discipline practices

13. A Practitioner may act alone or in association with members of other professional bodies to provide professional services additional to services usually undertaken by a Practitioner so long as the Practitioner or any of his or her associates do not do anything which is or may be in breach or contravention of any legal, ethical or other requirement governing members of such professional bodies.
14. A Practitioner who is also a member of another professional body shall not, in providing services usually undertaken by a Practitioner, do anything in breach of any legal, ethical or other requirement governing members of that other professional body.

Undertakings

15. Any promise or undertaking made or given by a Practitioner in the course of their business must not, without good reason, fail to honour such promise or undertaking promptly in full, since The Institute considers that it is essential that absolute reliance can be placed on such a promise or undertaking.

Breach of the Code

16. Any breach of this Code may be deemed to be a matter for investigation under the disciplinary procedures as per byelaws 22-26.

I. Use of designation Chartered Secretary/Chartered Governance Professional

The Chartered Governance Institute members or members in public practice may use the designation 'Chartered Secretary' or 'Chartered Governance Professional' to describe their business or company subject to the following conditions:

The designation must not be used in a manner likely to misrepresent or lead to the assumption that:

- (a) directors or principals of a company or partnership who are not members of The Institute are The Institute members or subject to the provisions of byelaw 17 or any regulations made thereunder, when this is not the case;
- (b) the directors or partners of the company or partnership who are members of the Scheme shall be jointly and severally responsible to The Institute for ensuring that the company or partnership and its officers at all times observe the rules and standards of the Scheme as if the company or partnership were one in which they were the only beneficial owners;
- (c) any member is permitted to do, through the medium of a company or partnership, anything that they are not allowed to do as an individual.

UKRIAT Public Practice Scheme Regulations

J. Complaints against Scheme members

Members of the Scheme should, in the first instance, seek to resolve any complaint through the Scheme member's own complaints process. If a member of the Scheme is unable to resolve a complaint they should notify The Chartered Governance Institute as soon as possible.

The Institute's complaints procedure comes into operation when either:

1. a member of the Scheme receives a complaint, which cannot be resolved between the parties, about some aspect of the business within the Scheme (the member is required to notify the complainant of the complaints procedure in writing and retain a copy of the notification);
2. a complainant, under the same circumstances, communicates directly with The Institute and The Institute is satisfied that the complainant has first given the Scheme member adequate opportunity to consider, answer and resolve the matter under his or her own complaints procedure.

All complaints received by The Chartered Governance Institute are referred to The Institute's Investigations Group which is a disciplinary body established and operating under The Institute's disciplinary byelaws. Its function is to investigate all complaints and all circumstances relating to the byelaws and to decide whether there is a prima facie case for the member to answer. The Investigations Group will also determine whether the complaint is grave enough to bring The Institute into disrepute and if the complaint should be dealt with under The Institute's disciplinary procedures (see section L)

K. Complaints procedure

As members are not expected to keep comprehensive records of their dealings with their clients for an indefinite period, only complaints lodged with The Chartered Governance Institute within one year of the conclusion of the Scheme member's own complaints process will be considered for further action.

1. All complaints must be made in writing, either by letter or email, and sent to the Head of Membership.
2. The Head of Membership will acknowledge receipt of the complaint and notify the complainant of the procedures. The Head of Membership will notify the member of the complaint and submit copies of the relevant documentation received from the complainant.
3. All items can be emailed or posted to either the member or the complainant; posted items must be sent by recorded delivery.
4. The Scheme member will be invited to respond in writing, as soon as is practical.
5. The Head of Membership will send copies of all relevant documents to the Investigations Group who will decide whether to:
 - a) reject the complaint;
 - b) request more information;
 - c) agree there is a prima facie case for the member to answer.

At this stage no further information may be submitted unless specifically requested by the Investigation Group.

6. The decision to act upon or reject a complaint shall be in the sole discretion of the Investigations Group or the delegated committee member.

UKRIAT Public Practice Scheme Regulations

7. If the decision is that there is a prima facie case for the Scheme member to answer; the Investigation Group will endeavour to reach a reasoned decision within 28 days.
The decision will be to:-
 - a) dismiss the complaint;
 - b) uphold the complaint and determine the penalty; or
 - c) refer the complaint to the Disciplinary Tribunal.
8. The penalties may include, inter alia, an order that the Scheme member:
 - a) pay compensation to the complainant;
 - b) undertake remedial work for the complainant, at the Scheme member's expense; or
 - c) apologise to the complainant.
9. The Investigation Group has corrective powers of the nature referred to above. It shall not be entitled to exercise punitive powers over the member. However, it may remind the Scheme member of his or her obligations for the future and that another complaint, if upheld, may result in referral to The Institute's disciplinary procedures.
10. The complainant agrees by his or her participation in this complaints procedure that he or she will not have any further right of complaint or appeal beyond the decision of the Investigation Group nor will he or she have any other rights or remedies of whatsoever nature against The Institute or any employee thereof following upon or arising from his/her utilisation of the complaints procedure.
11. If the decision is to uphold or dismiss the complaint then the complainant and/or the Scheme member have the right to lodge a notice of appeal and the grounds for doing so within 28 days of the decision being made.
12. If an appeal is received then the documents will be passed to the Appeals Tribunal Committee who will endeavour to reach a decision within 28 days.
13. The decision of the Appeals Tribunal Committee is final and binding on both parties and no further communication in respect of the matter will be entered into by The Institute.
14. A Scheme member shall have no further right of appeal under the complaints procedure. The complainant agrees, by their participation in this complaints procedure, that they will not have any further right of appeal beyond the Appeals Tribunal Committee, nor will they have any rights or remedies of whatsoever nature against The Institute or any member or employee thereof following upon or arising from their utilisation of the complaints procedure. This shall not in any way be construed as limiting the complainant's right to proceed against the individual member, against whom the complaint was lodged, in any civil court.
15. Should the chairman or members of the Investigation Group, or chairman of the Appeals Tribunal Committee, while engaged in the consideration of the complaint or a notice of appeal, consider that any further investigation of any of the above may result in a claim against the member's Professional Indemnity Insurers; or be advised that the complainant has instituted civil proceedings or laid any criminal charge against a member then they shall forthwith cease to undertake any further investigation of any of the above; and shall advise both the complainant and the Scheme member that The Institute proposes not to take any steps under either its complaints or disciplinary procedure until the complainant has pursued his claim against the member to its ultimate conclusion or limitation arises in respect of the complainant's claim, whichever is the sooner and any criminal proceedings instituted against the member have been concluded.

UKRIAT Public Practice Scheme Regulations

16. Nothing in this complaints procedure shall be construed as an undertaking by The Chartered Governance Institute to pay or bear the costs of either the complainant or the member in any proceedings.

L. The Chartered Governance Institute disciplinary procedures

The Chartered Governance Institute's disciplinary procedures contend with professional misconduct and breaches of The Institute's Code of Professional Ethics and Conduct.

The Institute's Code of Professional Ethics and Conduct are available on our website:-
www.cgi.org.uk/become-a-member/code-of-ethics.

For further information on The Institute's disciplinary procedures please refer to byelaws 22 – 26.

Disciplinary investigations are treated as a confidential matter between The Chartered Governance Institute and the member apart from any publicity which may be given in accordance with the Disciplinary Tribunal's decision.

M. Anti-money laundering

Anti-money laundering regulations apply to a number of different business sectors, including trust or company service providers, financial and credit businesses, accountants and estate agents. This includes the offering of various company secretarial services including but not limited to incorporation services.

All members in Public Practice are required to satisfy the Scheme requirements insofar as they relate to compliance with anti-money laundering regulation and supervision. Prospective and existing Scheme members are assumed to be required to register with an anti-money laundering supervisor unless they can demonstrate, to the satisfaction of the Membership Committee, that they are not required by virtue of the prevailing money laundering regulations to do so.

Scheme members must also ensure that at all times their internal procedures covering risk assessment, client identification and record-keeping are sufficient to meet the requirements of the prevailing money laundering regulations that apply to their business.

Scheme members are advised to check with their jurisdiction's government and/or regulatory authority as to which anti-money laundering regulations are or may be applicable.

UKRIAT Public Practice Scheme Regulations

Appendix A

The Chartered Governance Institute byelaw 17

17 Regulations for members in public practice

17.1 Subject to bylaw 17.3, a member can only carry on public practice as a Chartered Secretary or Governance Professional, if they have a valid practising certificate issued under regulations made under bylaw 17.2 by the Council for that purpose.

17.2 The Council can in its absolute discretion from time to time make, amend, revoke or add to regulations relating to practising certificates.

17.3 A member can engage in public practice as a Chartered Secretary or Chartered Governance Professional without holding a practising certificate if they practise in a country for which the council has not for the time being made regulations governing the issue of practising certificates to members in practice as Chartered Secretaries or Chartered Governance Professionals.

17.4 If a member in public practice ceases to practise they must return their practising certificate and confirm in writing that all business stationery, websites and advertising have been altered to remove references to them being a practising member of the Institute or any implication that they are a practising member of the Institute.

17.5 Regulations under bylaw 17.2 must set out, among other things:

- a) the definition of 'public practice as a Chartered Secretary or Chartered Governance Professional';
- b) the qualification and experience required to hold a practising certificate;
- c) the professional standards and rules which must be upheld to hold a practising certificate;
- d) the fee for granting, and renewing, a practising certificate;
- e) the circumstances when a practising certificate can be withheld, withdrawn or suspended including an appeals procedure; and
- f) the procedure for dealing with complaints against members in public practice including an appeals procedure.