

Guidelines on the handling of cases involving members and tourist guides suspected of violating TIC rules by the Mainland China Inbound Tour Compliance Committee

I. Procedures for handling members and tourist guides suspected of violating TIC rules

1. If the Executive Office of the Travel Industry Council of Hong Kong (TIC) has learnt from mainland China's group visitors or other channels about the service quality of a member and a tourist guide, it will send a letter, together with the complaint letter and the relevant materials, to the member which assigns the tourist guide concerned by fax (if a fax number has been supplied) and registered post, and request the member to provide information on the tourist guide and both of them to submit written representations within 21 days from the day following the date of the letter from the TIC Executive Office.
2. If both the member and the tourist guide are suspected of violating any TIC rules (which include any provision of the Articles of Association or the Codes of Conduct for Members, or any rule, regulation or Directive as far as the member is concerned; and which refer to the Code of Conduct for Tourist Guides as far as the tourist guide is concerned), then the TIC Executive Office will notify the member and the tourist guide in writing by fax (if a fax number has been supplied) and registered post of the rule(s) which they are suspected of violating and the fact that the case will be referred to the Mainland China Inbound Tour Compliance Committee for consideration. This document and information on the case will also be sent to the member and the tourist guide together with the notification of suspected violation, which will specify that the member may provide mitigating reasons if it admits violation or it may provide explanations if it refuses to admit violation.
3. If the incident only involves the member, which is suspected of violating TIC rules, the case will be referred to the Compliance Committee for consideration. If the incident only involves the tourist guide, who is suspected of violating TIC rules, the case will be referred to the Tourist Guide and Tour Escort Deliberation Committee for deliberation. If the incident only involves a registered shop, which is suspected of violating any pledge made under the Refund Protection Scheme (Registered Shops) for Mainland China's Inbound Tour Group Shoppers, the case will be referred to the Committee on Shopping-related Practices for consideration.
4. The member and the tourist guide shall each give a written reply to the TIC Executive Office within 14 days from the day following the date of notification of suspected violation, in order to either admit violation or dispute the violation alleged.
5. On receipt of the written replies from the member and the tourist guide that

intend to dispute the violation alleged, the TIC Executive Office will request them to clarify the discrepancies (if any) between their versions of the incident within five working days from the day following the date of notification from the TIC Executive Office requesting them to clarify the discrepancies. The TIC Executive Office may also request them to provide evidence to support their representations, and take such steps as it may deem fit to verify the truth or otherwise of the representations provided by them.

6. If, in the process of following up the case, evidence unfavourable to the member and/or the tourist guide becomes available to the TIC Executive Office, the member and/or the tourist guide will be given a chance to respond to the evidence within five working days from the day following the date of notification of unfavourable evidence issued by the TIC Executive Office.
7. Relevant information on the case collected by the TIC Executive Office will be organised and submitted to the Mainland China Inbound Tour Compliance Committee for consideration. All information regarding the identity of the member and the tourist guide is concealed in the documents submitted to the Committee in order to ensure fairness. The Committee will consider all the information and representations submitted by the member, the tourist guide and the complainant(s) when making a decision.
8. If a member or a tourist guide has committed more than one violation in one case, the decision and the penalty relating to each violation will be handled separately.
9. If the Tourist Guide Pass of the tourist guide was invalid at the time of the incident or becomes invalid while the TIC Executive Office is handling the case, the case will be handled in accordance with the above procedures as though the Pass were still valid. If the Mainland China Inbound Tour Compliance Committee decides to penalise the tourist guide, the penalty will be recorded for subsequent treatment when he/she applies for Pass renewal. The Tourist Guide and Tour Escort Deliberation Committee will then decide whether to approve the renewal application or not; and if approval is granted, the penalty previously recorded but not yet enforced will be enforced immediately after the Pass is renewed.

II. Mainland China Inbound Tour Compliance Committee

1. The majority of the members of the Mainland China Inbound Tour Compliance Committee shall be from outside the trade. Its convenor shall be an independent director and its deputy convenor a trade director.
2. The quorum for meetings of the disciplinary panel set up under the Mainland China Inbound Tour Compliance Committee for handling cases of suspected violations by members and tourist guides is, including the convenor or the deputy convenor of the Committee, five directors present, of whom independent directors shall constitute the majority. Seven members will be invited to each

panel meeting on a rotation basis. Among those present at a panel meeting, non-trade members shall constitute the majority.

3. Disciplinary panel meetings shall be chaired by the convenor of the Committee or, in his/her absence, the deputy convenor.
4. The disciplinary panel meets about once every two months, and may meet immediately if necessary.

III. Penalties imposable on members and tourist guides found to have violated TIC rules

Member

1. According to the Articles of Association of the TIC, the Mainland China Inbound Tour Compliance Committee may impose any of the following penalties on a member:
 - (1) terminating its membership; or
 - (2) suspending its membership (for not more than two years); and/or
 - (3) imposing a fine on it; and/or
 - (4) requiring it to undertake to comply with the Articles of Association and the Codes of Conduct for Members; and/or
 - (5) issuing a reprimand to it.
2. If the Mainland China Inbound Tour Compliance Committee confirms that the undertaking made in accordance with paragraph 1(4) above is breached by the member, or if the TIC Executive Office does not receive the fine within the time limit, then its membership will terminate thenceforth without further notice unless it gives notice of appeal to the TIC.
3. If a member violates any TIC rules during any two-year period, then the Mainland China Inbound Tour Compliance Committee may fine it up to:
 - (1) HK\$50,000 for its first violation,
 - (2) HK\$100,000 for its second violation, and
 - (3) HK\$200,000 for its third violation and any subsequent violations.
4. When deciding on the penalty to be imposed, the Mainland China Inbound Tour Compliance Committee will consider the following:
 - (1) the severity of the case;
 - (2) the history of violation of the member within the past two years;
 - (3) whether it was an intended violation;
 - (4) in the event the member has admitted violation, whether the member has expressed regret, or adopted remedial measures; and
 - (5) the explanations provided by the member.

The Committee may impose a fixed fine in cases of minor violations.

Tourist guide

5. Definitions: “Revocation of a Tourist Guide Pass” means cancellation of a Tourist Guide Pass before the expiry of the validity period originally granted. “Suspension of a Tourist Guide Pass” means temporary cancellation of a Tourist Guide Pass for a specific period of time before the expiry of the validity period originally granted. “Non-renewal of a Tourist Guide Pass” means (1) refusal to extend the validity period of an expired Tourist Guide Pass; or (2) refusal to extend the validity period of a valid Tourist Guide Pass in the situation where the Pass is due to expire in not more than 14 days and an immediate revocation is considered not necessary.
6. In deciding the penalty for a Tourist Guide Pass holder guilty of misconduct, the Mainland China Inbound Tour Compliance Committee should first and foremost consider whether, in its opinion, the Pass holder is a fit and proper person to be a tourist guide.
7. The Mainland China Inbound Tour Compliance Committee may revoke, suspend or refuse to renew any Tourist Guide Pass. If the Committee considers revocation, suspension or non-renewal of the Tourist Guide Pass to be an excessive penalty, it may issue a written warning to the tourist guide concerned. Repeated warnings will lead to a more severe disciplinary action such as suspension of the Pass.
8. In situations where a holder of the Tourist Guide Pass is found to have violated TIC rules but disciplinary actions are not warranted, the Mainland China Inbound Tour Compliance Committee may issue a letter of advice to the tourist guide concerned with a view to promoting good conduct and practice.
9. Where a Tourist Guide Pass has been revoked or suspended, the person concerned shall surrender the Pass to the TIC. If he/she fails to return the Pass to the TIC within seven days of its becoming invalid due to revocation, his/her future applications for the Pass may be rejected by the Tourist Guide and Tour Escort Deliberation Committee. If he/she fails to return the Pass to the TIC within seven days of its becoming invalid due to suspension, further penalties may be imposed on him/her by the Mainland China Inbound Tour Compliance Committee such as extension of the suspension period.
10. A suspended Tourist Guide Pass will resume its validity upon the expiry of the suspension period if it is still within its original validity period.
11. A person whose Tourist Guide Pass has been revoked or refused renewal by the Mainland China Inbound Tour Compliance Committee may apply for a new Pass six months after revocation or non-renewal of the old Pass.
12. The Mainland China Inbound Tour Compliance Committee may impose

appropriate penalties, including suspension, revocation or non-renewal of the Tourist Guide Pass, on any Tourist Guide Pass holder depending on the severity of the case having regard to whether the Pass holder:

- (1) has provided factually untrue information or is suspected of making any false statement, in any application for a Tourist Guide Pass;
 - (2) has been convicted of a criminal offence or has been convicted of a criminal offence but has failed to report to the TIC of the conviction and the sentence, except for those cases where a declaration of such information is not necessary as mentioned in the declaration form for the Pass;
 - (3) has in the opinion of the Tourist Guide and Tour Escort Deliberation Committee/Mainland China Inbound Tour Compliance Committee been guilty of any misconduct which renders him/her unfit to continue to be a tourist guide;
 - (4) is by other reasons unfit to be a tourist guide.
13. In cases where the holder of the Tourist Guide Pass is suspected of making any false statement or a criminal act is involved, the Mainland China Inbound Tour Compliance Committee may refer the cases to the law enforcement authorities such as the police or the Independent Commission Against Corruption for action.

IV. Notification of decisions and retention of violation records

1. If the Mainland China Inbound Tour Compliance Committee decides to penalise the member which is found to have violated any TIC rules, the TIC Executive Office will notify it in writing by fax (if a fax number has been supplied) and registered post of the Committee's decision and grounds, its right to appeal against the decision and the appeal procedures.
2. If the Mainland China Inbound Tour Compliance Committee decides to penalise the tourist guide who is found to have violated any TIC rules, the TIC Executive Office will notify him/her in writing by fax (if a fax number has been supplied) and registered post of the Committee's decision and grounds, his/her right to appeal against the decision and the appeal procedures. A copy of the notification will be sent to the member concerned.
3. All violation records will be kept in the file of the member concerned. However, when deciding on the fine to be imposed on the member, the Mainland China Inbound Tour Compliance Committee will only make reference to its violation record for two preceding years. All violation records will be kept in the personal file of the tourist guide concerned. If the tourist guide is found to have violated any TIC rules but disciplinary actions are not warranted, and he/she is only issued with a letter of advice, this kind of violation record will be kept for two years.
4. If the Mainland China Inbound Tour Compliance Committee decides that the

member or tourist guide has not violated any TIC rules, the TIC Executive Office will also notify it or him/her in writing of the decision.

V. Appeals against decisions of the Mainland China Inbound Tour Compliance Committee

1. Any member and/or tourist guide desirous of appealing against the Mainland China Inbound Tour Compliance Committee's decision shall within 14 days (from the day following the date of notification of the decision from the TIC Executive Office) give notice of appeal or apply for extending the period for lodging an appeal for an additional period of not more than 14 days in writing to the TIC. The notice of appeal shall be given with an appeal fee of HK\$1,000. Even if the notice of appeal is given by the member, the fine (if any) shall be paid within 14 days (from the date of the giving of the appeal notice). The notice of appeal or application for extension of the appeal period shall be addressed to "TIC Executive Director". The Appeal Board will decide whether the appeal fee paid by the appellant is to be forfeited, or repaid to the appellant wholly or in part.
2. Details of the appeal procedures are available from the TIC website (www.tichk.org) or the TIC Executive Office.

VI. Announcement of disciplinary actions taken against members and information about revoked or suspended Tourist Guide Passes

Member

1. Any member penalised by the Mainland China Inbound Tour Compliance Committee will have its name and the rule(s) violated posted on the TIC website and published in *The Voice of TIC*, the details of which are stipulated in paragraphs 2 to 6 below. However, the names of members having committed minor violations will not be so posted and published.
2. If the Mainland China Inbound Tour Compliance Committee decides that the membership of a member is to be terminated or suspended **immediately** (namely that it will remain invalid pending an appeal), then the disciplinary action taken against the member will be posted on the TIC website immediately. If the member files an appeal, the fact that an appeal has been filed will also be posted on the TIC website. If the membership is terminated, the disciplinary action will be posted on the TIC website for one month; if it is suspended, the disciplinary action will be posted on the TIC website until the suspension period ends.
3. If the Mainland China Inbound Tour Compliance Committee decides that the membership of a member is to be terminated or suspended (namely that it will still be valid pending an appeal), and the member does not within 14 days (from the day following the date of notification of the decision from the TIC Executive Office) give notice of appeal or apply for extending the period for

lodging an appeal for an additional period of not more than 14 days in writing to the TIC, then the disciplinary action taken against the member will be posted on the TIC website after the appeal period ends. If the member files an appeal, the disciplinary action taken against the member will be posted on the TIC website after a decision is made by the Appeal Board. If the membership is terminated, the disciplinary action will be posted on the TIC website for one month; if it is suspended, the disciplinary action will be posted on the TIC website until the suspension period ends.

4. If the Mainland China Inbound Tour Compliance Committee decides that the member is to be penalised by methods other than terminating or suspending its membership, and the member does not within 14 days (from the day following the date of notification of the decision from the TIC Executive Office) give notice of appeal or apply for extending the period for lodging an appeal for an additional period of not more than 14 days in writing to the TIC, then the disciplinary action taken against the member will be posted on the TIC website for one month after the appeal period ends. If the member files an appeal, the disciplinary action taken against the member will be posted on the TIC website for one month after a decision is made by the Appeal Board.
5. If the Mainland China Inbound Tour Compliance Committee decides that the membership of a member is to be terminated or suspended **immediately**, then the disciplinary action taken against it will be published in *The Voice of TIC*. If it files an appeal, the fact that an appeal has been filed will also be published in *The Voice of TIC*. The appeal result will be published in the next issue of *The Voice of TIC*.
6. If the Mainland China Inbound Tour Compliance Committee decides that the membership of a member is to be terminated or suspended or that a member is to be penalised by methods other than terminating or suspending its membership; and if the member does not within 14 days (from the day following the date of notification of the decision from the TIC Executive Office) give notice of appeal or apply for extending the period for lodging an appeal for an additional period of not more than 14 days in writing to the TIC, or if it files an appeal and a decision is made by the Appeal Board, then the disciplinary action taken against it will be published in *The Voice of TIC*.

Tourist guide

7. Any tourist guide who holds a valid Tourist Guide Pass and whose Pass is revoked or suspended by the Mainland China Inbound Tour Compliance Committee will have his/her name and the information about his/her Pass posted on the TIC website, the details of which are stipulated in paragraphs 8 to 10 below.
8. If the Mainland China Inbound Tour Compliance Committee decides that a Tourist Guide Pass is to be revoked or suspended **immediately** (namely that it will remain invalid pending an appeal), then the information about the Pass will

be posted on the TIC website immediately. If the tourist guide files an appeal, the fact that an appeal has been filed will also be posted on the TIC website. If the Pass is revoked, the information about the Pass will be posted on the TIC website for one month; if it is suspended, the information will be posted on the TIC website until the suspension period ends.

9. If the Mainland China Inbound Tour Compliance Committee decides that a Tourist Guide Pass is to be revoked or suspended (namely that it will still be valid pending an appeal), and the tourist guide concerned does not within 14 days (from the day following the date of notification of the decision from the TIC Executive Office) give notice of appeal or apply for extending the period for lodging an appeal for an additional period of not more than 14 days in writing to the TIC, then the information about the Pass will be posted on the TIC website after the appeal period ends. If the tourist guide files an appeal, the information about the Pass will be posted on the TIC website after a decision is made by the Appeal Board. If the Pass is revoked, the information will be posted on the TIC website for one month; if it is suspended, the information will be posted on the TIC website until the suspension period ends.
10. Any tourist guide who holds an invalid Tourist Guide Pass and whose Pass is revoked or suspended by the Mainland China Inbound Tour Compliance Committee will not have his/her name and the information about his/her Pass posted on the TIC website. If he/she later applies for Pass renewal and the application is approved by the Tourist Guide and Tour Escort Deliberation Committee, his/her name and the information about the revocation or suspension of his/her Pass will be posted on the TIC website immediately after the revocation or suspension penalty previously recorded but not yet enforced is enforced.

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