

Disciplinary Regulations

Definitions

In this Appendix, words defined in the Articles or the Regulations have the meanings ascribed to them there and:

“Complainant” means a person or body lodging a complaint of alleged misconduct against a Member, and may include the Institute;

“Laws of the Institute” means the Articles, the Regulations, the Code of Conduct and all other regulatory instruments of the Institute for the time being in force;

“Misconduct” means failure to comply with the Laws of the Institute or a conviction, finding or sanction of any competent court, tribunal or authority, which is considered by the Institute to be relevant to membership;

“Respondent” means a Member against whom a complaint has been made.

Appointment of Screener and Committees and Panels

- 1.1 The Board shall appoint the Head of Membership and IT or another person, who shall not be a member of the Board, to undertake the preliminary investigation of complaints (“the preliminary screener”); and shall appoint a Disciplinary Committee and an Appeals Committee. The Committees shall each consist of up to twelve members and shall include persons who are not Members of the Institute. The Appeals Committee shall include at least one person having a legal qualification satisfactory to the Board. Any member of the Disciplinary or Appeals Committees shall be eligible for re-appointment, subject to a maximum of [nine] years’ consecutive service. Casual vacancies may be filled at the Board’s discretion for any period of less than one year ending at the next meeting at which appointments or re-appointments fall to be made.
- 1.2 The preliminary screener shall empanel members of the Committees to form hearing Panels as necessary. A person appointed to a Panel may not sit as a member of that Panel in any case where he has participated previously in its consideration (unless sitting as a member of the Disciplinary Panel reconvened following a direction from an Appeal Panel to hear new evidence), or where he has a personal connection with the respondent or complainant.

Quorum and Chairmanship

- 1.3 The quorum for a hearing by a Disciplinary or Appeal Panel shall be three, including, at least one member who is not a Member of the Institute, and, in the case of the Appeal Panel, a member who is legally qualified. The Board may appoint, or may provide for the appointment of, the Chairman of each Committee who shall (unless absent) chair hearings of the respective Panels.

Procedure

2. A complaint (whether raised by a third party or by the Institute) against a Member shall be referred to the preliminary screener who shall consider it and, having made such further enquiries as he or she shall see fit, shall reach one of the following findings:
- (a) that the complaint has not been made in good faith (i.e. it is vexatious, frivolous, spurious, untruthful etc.) when the complaint shall be rejected; or
 - (b) that there is no prima facie case to answer when the complaint shall be rejected; or
 - (c) that there is a prima facie case to answer but the complaint is, or appears to be, the subject of, or substantially related to, current or probable proceedings before the courts or before any other professional, regulatory or other tribunal when the complaint shall be 'stayed' until such proceedings have been concluded;
 - (d) that there is a prima facie case to answer and the complaint be referred to a Disciplinary Panel.
3. A complaint referred to the Disciplinary Panel shall be heard as soon as practicable. The complainant and respondent (with at least 14 days notice) shall be advised of the date and place of any proposed hearing, and the respondent shall in addition be advised of the complaint that has been made against him and that he is entitled to attend the hearing, to speak and give evidence on his own behalf or to be represented, and to call and cross examine witnesses; and that if he does not attend the hearing the matter may be determined in his absence. Subject to the Laws of the Institute, the Disciplinary Panel may decide its own procedure and the Chairman may decide in any particular case whether the proceedings shall be open, in whole or in part, to the public, who may be excluded at any time at his discretion. The Board may approve, or may empower the Panel to make, consistent with the Regulations, rules relating to any aspect of such procedure.
4. The Disciplinary Panel shall decide, having heard the case, whether the complaint is upheld, whether wholly or in part. If so upheld, the Panel shall direct that any one or more of the following sanctions be imposed:
- (a) the respondent be admonished;

- (b) the respondent be reprimanded;
- (c) all or any of the respondent's privileges of membership be withdrawn for a specified period of time;
- (d) the respondent be fined an amount not exceeding a maximum determined from time to time by the Board;
- (e) the respondent be suspended from membership for a specified period;
- (f) the respondent be expelled from membership of the Institute;
- (g) the respondent's membership be made subject to conditions; or
- (h) if the respondent is a participant in the AAP, the SPS of the respondent be withdrawn.

Appeal

5. A respondent may appeal in writing, within 14 days of receipt of notification of the Disciplinary Panel's findings, to an Appeal Panel against the upholding of a complaint by the Disciplinary Panel or against the sanction imposed. An appeal against the upholding of a complaint or against a sanction may also include an appeal against an order for costs. The Appeal panel shall not hear evidence, but shall consider whether the complaint has been properly heard under the Laws of the Institute, whether the rules of natural justice and any relevant principles of human rights have been satisfactorily observed, and whether the Disciplinary Panel has reached a reasonable decision in the circumstances. If the Appeal Panel concludes that the handling of the complaint has been unsatisfactory in terms of this paragraph, it may overturn the finding of the Disciplinary Panel or remove the sanction imposed on the respondent or substitute a different sanction from amongst those available to the Disciplinary Panel.
6. If new evidence is put before the Appeal Panel and that Panel is satisfied that that evidence could not reasonably have been made available to the Disciplinary Panel at the relevant hearing, then the Appeal Panel may direct that the Disciplinary Panel reconvene to hear the new evidence. The rights of appeal of the respondent under this Regulation shall apply equally to the outcome of a reconvened hearing of the Disciplinary Panel.
7. Subject to the Laws of the Institute, the Appeal Panel may decide its own procedure, and the Chairman may decide in any particular case whether the proceedings shall be open, in full or in part, to the public, who may be excluded at any time at his discretion.

Notification and Publication of Decisions

- 8.** Decisions of the Disciplinary Panel and Appeal Panel shall be notified to the respondent and complainant in writing. The Disciplinary Panel and the Appeal Panel shall keep records of their proceedings, and their decisions shall be published in accordance with the following paragraph.
- 9.** Details of disciplinary cases dealt with by the Institute, where a complaint is upheld wholly or in part, may be published in such of the Institute's publications whether printed or electronic as the Disciplinary Committee may determine, provided that a Disciplinary Panel may in exceptional circumstances recommend that publication is inappropriate.
- 10.** The details to be published may not extend beyond the name of the respondent, the misconduct alleged and the outcome and sanction (if any) in any case. Such details may also be provided to other regulatory authorities, consistent with the obligations of the Institute but subject to such data protection legislation as may from time to time apply to records held by the Institute and to the terms of section 165 of the Financial Services and Markets Act 2000.

Costs

- 11.** If a Disciplinary Panel finds misconduct or an Appeals Panel dismisses an appeal, the Panel concerned may order the respondent to pay to the Institute such costs as it may in its absolute discretion determine. Costs so ordered must be paid within 28 days of the date of the Disciplinary or Appeals Panel's order (or such longer period as the Panel determines in any particular case). An Appeal Panel may cancel or modify an order for costs imposed by a Disciplinary Panel.

If a Member who has lodged an appeal fails to pay costs as ordered by the Disciplinary Panel, the Appeals Panel may (whether or not the order to pay costs is subject to appeal) dismiss the appeal.

Rules

- 12.** Any matter of disciplinary procedure may be further prescribed by rules made by the Disciplinary Committee or Appeal Committee as appropriate or, during any hearing, by direction of the Panel chairman, provided that no such prescription or direction shall be of effect if it is inconsistent with the Articles of Association or Regulations of the Institute or this Appendix.