

THE CHARTERED BANKER INSTITUTE
DISCIPLINARY REGULATIONS

1 Definitions

(a) In these Disciplinary Regulations:-

"**Alleged Breach**" means the Disciplinary Breach (or alleged Disciplinary Breach) in respect of which a Relevant Complaint is made, and where a Relevant Complaint is made in respect of more than one Disciplinary Breach (or more than one alleged Disciplinary Breach) those Disciplinary Breaches (or those alleged Disciplinary Breaches) are referred to as "**Alleged Breaches**";

"**Appeals Committee**" means an Appeals Committee established pursuant to Regulation 15;

"**Chief Executive**" means the Chief Executive from time to time and for the time being of the Institute;

"**Complainant**" means in respect of a Relevant Complaint the person by whom that Relevant Complaint has been made;

"**Board**" means the Board of Trustees of the Institute;

"**Code of Professional Conduct**" means the Code of Professional Conduct of the Institute from time to time and for the time being (a) approved by the Board and (b) posted on the website of the Institute;

"**Declined Complaint**" means a Relevant Complaint in respect of which a determination is made by an Investigating Officer pursuant to either paragraph (c) or paragraph (d) of Regulation 3;

"**Disciplinary Breach**" has the meaning ascribed to it in paragraph (b) of Regulation 2;

"**Disciplinary Committee**" means a Disciplinary Committee established pursuant to Regulation 8;

"**Disciplinary Committee Nomination Committee**" means a committee whose members are (a) the Chief Executive, (b) the Disciplinary Committee Panel Chairman and (c) such other person or persons (or the holder of such office or position or the holders of such offices or positions) as the Board shall nominate to be a member, or members, of that committee;

"**Disciplinary Committee Panel**" has the meaning ascribed to it in paragraph (a) of Regulation 6;

"**Disciplinary Committee Panel Chairman**" means the member of the Disciplinary Committee Panel who is the Chairman of the Disciplinary Committee Panel;

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"Institute" means Chartered Banker Institute;

"Institute's Nomination Committee" means the nomination committee of the Institute, appointed by Board;

"Investigating Officer" means (i) the Chief Executive or (ii) any other person (whether or not being an employee of the Institute) nominated by the Chief Executive to investigate and assess (and if appropriate to prosecute) Relevant Complaints or to investigate and assess (and if appropriate to prosecute) any specific Relevant Complaint;

"Legal Professional" means someone who is or has been a solicitor, advocate or barrister;

"member" means (unless otherwise stated) a member of the Institute;

"President" means the President from time to time and for the time being of the Institute;

"Relevant Complaint" means a complaint or allegation that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member; and

"Vice President" means a Vice President from time to time and for the time being of the Institute.

- (b) A reference in these Disciplinary Regulations to a Regulation is, unless otherwise stated in the reference, a reference to a Regulation in these Disciplinary Regulations.

2 Introduction

(a) All members are bound by the Code of Professional Conduct.

(b) A Disciplinary Breach by or in respect of a member occurs when:-

- (i) criminal sanctions have been imposed on the member; or
- (ii) sanctions have been imposed on the member by a regulator or other competent body; or
- (iii) the member is lawfully dismissed by the member's employer for misconduct; or
- (iv) the member breaches, or does not comply with, the Institute's continuing professional development (CPD) requirements; or
- (v) the member acts in breach of the Institute's course rules and regulations, including providing false information with respect to existing qualifications, plagiarism and/or collusion in respect of course assignments and breaching examination conditions; or
- (vi) the member brings the Institute into disrepute (there must be a clear and direct relationship between the member's actions and the reputation of the Institute); or

- (vii) the member is in breach of one or more provisions of the Code of Professional Conduct.
- (c) Disciplinary proceedings may be begun against a member under these Disciplinary Regulations if and when a Relevant Complaint is made in respect of that member.
- (d) Sanctions may be imposed on a member pursuant to these Disciplinary Regulations if:-
 - (i) the member admits that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member; or
 - (ii) it is found pursuant to these Disciplinary Regulations that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member.
- (e) A Relevant Complaint, other than a Relevant Complaint by or on behalf of the Institute, shall be made in writing to the Institute.
- (f) A Relevant Complaint by or on behalf of the Institute shall be made in writing to the Chief Executive or to the President or to a Vice President.

3 Investigation and assessment of Relevant Complaints

- (a) Any Relevant Complaint made pursuant to paragraph (e) or paragraph (f) of Regulation 2 shall be investigated and assessed (and if appropriate prosecuted) by an Investigating Officer, and an Investigating Officer shall determine whether:-
 - (i) dealing with the Relevant Complaint falls within the jurisdiction and competence of the Institute and should be dealt with by the Institute;
 - (ii) the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made is or are being, or is or are likely to be, considered by a court of law or any regulatory tribunal, professional body or similar with prior or superior jurisdiction to the jurisdiction of the Institute;
 - (iii) the Relevant Complaint, or the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made, should be dealt with not by the Institute but by the employer of the member in respect of whom the Relevant Complaint has been made;
 - (iv) the Relevant Complaint is of a vexatious or frivolous nature and/or unworthy of further investigation by the Institute;
 - (v) there is no substance in, or no justification for, the Relevant Complaint;

- (vi) the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made would, if proven, not be a material Disciplinary Breach or would not be material Disciplinary Breaches; and
 - (vii) the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made would, if proven, be a material Disciplinary Breach or would be material Disciplinary Breaches.
- (b) If an Investigating Officer determines that dealing with the Relevant Complaint falls outwith the jurisdiction and competence of the Institute, an Investigating Officer shall advise the Complainant of that determination within 30 days of the determination being made.
- (c) If an Investigating Officer determines that the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made is or are being, or is or are likely to be, considered by a court of law or any regulatory tribunal, professional body or similar with prior or superior jurisdiction to the jurisdiction of the Institute, an Investigating Officer shall advise the Complainant of that determination within 30 days of the determination being made.
- (d) If an Investigating Officer determines that the Relevant Complaint, or the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made, should be dealt with by the employer of the member in respect of whom the Relevant Complaint has been made (and not by the Institute), an Investigating Officer shall advise the Complainant of that determination within 30 days of the determination being made.
- (e) Any determination in respect of a Relevant Complaint pursuant to paragraph (c) or pursuant to paragraph (d) of this Regulation 3 shall not prejudice the right of the Complainant, or the Institute, to make a further or subsequent Relevant Complaint pursuant to paragraph (e) or paragraph (f) of Regulation 2 in respect of the same member and on the same grounds as the member in respect of whom and the grounds on which that Declined Complaint was made.
- (f) If an Investigating Officer determines that the Relevant Complaint is of a vexatious or frivolous nature and/or unworthy of further investigation by the Institute, an Investigating Officer shall advise the Complainant of that determination within 30 days of the determination being made.
- (g) If an Investigating Officer determines that there is no substance in, or no justification for, the Relevant Complaint, an Investigating Officer shall advise the Complainant of that determination within 30 days of the determination being made.
- (h) If an Investigating Officer determines that:-
- (i) dealing with the Relevant Complaint falls outwith the jurisdiction and competence of the Institute; or

- (ii) the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made is or are being, or is or are likely to be, considered by a court of law or any regulatory tribunal, professional body or similar with prior or superior jurisdiction to the jurisdiction of the Institute; or
- (iii) the Relevant Complaint, or the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made, should be dealt with by the member's employer and not by the Institute; or
- (iv) the Relevant Complaint is of a vexatious or frivolous nature and/or unworthy of further investigation by the Institute; or
- (v) there is no substance in, or no justification for, the Relevant Complaint

and that the Relevant Complaint should accordingly not be dealt with by the Institute, then an Investigating Officer may, at his or her discretion, advise the member in respect of whom the Relevant Complaint was made:-

- (i) that the Relevant Complaint has been made;
- (ii) of the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made; and
- (iii) of the determination by an Investigating Officer in respect of the Relevant Complaint

and if an Investigating Officer does so advise the member the Investigating Officer may at his or her discretion, but need not, also advise the member of who has made the Relevant Complaint.

- (i) An Investigating Officer shall when investigating and assessing a Relevant Complaint pursuant to this Regulation 3 and when investigating and assessing any evidence supporting that Relevant Complaint be entitled to have regard to and to take into account such evidence, representations, statements and submissions, and to undertake such investigations and to make such enquiries, as the Investigating Officer sees fit.
- (j) A Relevant Complaint in respect of which a determination is made by an Investigating Officer pursuant to any of paragraphs (b), (c), (d), (f) or (g) of this Regulation 3 shall be deemed (subject always to the provisions of paragraph (e) of this Regulation 3) to have been declined.

4. Dealing with Non-Material Breaches

- (a) If an Investigating Officer determines that the Alleged Breach or Alleged Breaches in respect of which a Relevant Complaint has been made:- (i) falls or fall within the jurisdiction and competence of the Institute;
- (ii) should be dealt with by the Institute; and

- (iii) would, if proven, not be a material Disciplinary Breach or would not be material Disciplinary Breaches

then an Investigating Officer shall within 30 days of the determination being made:-

- (i) notify the Complainant of that determination; and
- (ii) notify the member against whom the Relevant Complaint has been made (1) that the Relevant Complaint has been made, (2) of the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made and (3) that dealing with the Relevant Complaint falls within the jurisdiction and competence of the Institute and that the Relevant Complaint is to be dealt with by the Institute

and an Investigating Officer shall when notifying the member (1) that the Relevant Complaint has been made, (2) of the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made and (3) that dealing with the Relevant Complaint falls within the jurisdiction and competence of the Institute and that the Relevant Complaint is to be dealt with by the Institute also:-

- (i) notify the member that an Investigating Officer has determined that the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made would if proven not be a material Disciplinary Breach or would not be material Disciplinary Breaches;
- (ii) at the discretion of the Investigating Officer, notify the member of who has made the Relevant Complaint;
- (iii) give the member such details and information regarding the Relevant Complaint as it is reasonable for the Investigating Officer to do;
- (iv) ask the member to reply in writing to an Investigating Officer, within 30 days (or any longer period allowed by an Investigating Officer) of the receipt by the member of the notice given by an Investigating Officer to the member pursuant to this paragraph (a), advising an Investigating Officer whether the member:-
 - (a) admits that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint; or
 - (b) denies that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint;
- (v) notify the member that if the member does not notify an Investigating Officer, within the period of 30 days (or any longer

period allowed by an Investigating Officer) referred to in subparagraph (iv) of this paragraph (a), that the member admits or denies that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint the member shall be deemed to have denied that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint; and

- (vi) advise the member that if the member denies (or is deemed to have denied) that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint then an Investigating Officer shall, unless an Investigating Officer accepts the member's denial, refer the Relevant Complaint to a Disciplinary Committee for assessment and determination.
- (b) If the member in respect of whom a Relevant Complaint has been made notifies an Investigating Officer, in response to the notice given by an Investigating Officer to that member pursuant to paragraph (a) of this Regulation 4, that the member admits that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in that Relevant Complaint, then an Investigating Officer may admonish the member in respect of the Disciplinary Breach or Disciplinary Breaches by the member.
- (c) An Investigating Officer may, in admonishing a member pursuant to paragraph (b) of this Regulation 4, warn the member regarding the future conduct of the member and of the importance of the member complying with the Code of Professional Conduct, and an Investigating Officer may make the admonition by an Investigating Officer of the member pursuant to paragraph (b) of this Regulation 4 conditional on the member giving to the Institute such undertaking or undertakings as to the member's future conduct and compliance with the Code of Professional Conduct as an Investigating Officer requires (such undertaking or undertakings to be given by the member to the Institute within 30 days, or any longer period allowed by an Investigating Officer, of the receipt by the member of an Investigating Officer's request for the undertaking or undertakings).
- (d) If an admonition does not become unconditional in accordance with paragraph (c) of this Regulation 4, the admonition shall be deemed not to have been given and the Relevant Complaint shall be referred by an Investigating Officer to a Disciplinary Committee for assessment and determination.
- (e) The admonition pursuant to paragraph (b) of this Regulation 4 of a member in respect of whom a Relevant Complaint has been made may include one or more of the following penalties:-
 - (i) the reduction of any mark awarded by the Institute to the member;

- (ii) the requirement that the member resubmits or resits any assessment; and/or
 - (iii) the requirement that the member undertakes a new assessment.
- (f) If within 45 days of the receipt by the member of the notice of the penalty imposed on the member pursuant to paragraph (e) of this Regulation 4 the member notifies an Investigating Officer that the member objects to that penalty:-
- (i) an Investigating Officer may accept that objection and, in place of and in substitution for the penalty to which the member has objected, impose a lower, reduced or different penalty on the member (provided always that the member has agreed to the lower, reduced or different penalty); or
 - (ii) refer the Relevant Complaint against the member to a Disciplinary Committee for assessment and determination.
- (g) If the admonition of a member by an Investigating Officer is unconditional, an Investigating Officer shall within 30 days of an Investigating Officer notifying that member that the member has been admonished, notify the Complainant who had made the Relevant Complaint against the member that the member has been admonished.
- (h) If the admonition of a member by an Investigating Officer becomes unconditional in accordance with paragraph (c) of this Regulation 4, an Investigating Officer shall within 30 days of that admonition becoming unconditional in accordance with paragraph (c) of this Regulation 4 notify the Complainant who had made the Relevant Complaint against the member that the member has been admonished.
- (i) If the member in respect of whom a Relevant Complaint has been made, in response to the notice given by an Investigating Officer to that member pursuant to paragraph (b) of this Regulation 4, advises an Investigating Officer that the member denies that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, as claimed or alleged in that Relevant Complaint then an Investigating Officer may:-
- (i) accept the member's denial; or
 - (ii) refer the Relevant Complaint to a Disciplinary Committee for assessment and determination.
- (j) If the member in respect of whom a Relevant Complaint has been made is deemed to have denied that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, as claimed or alleged in that Relevant Complaint, then an Investigating Officer may refer the Relevant Complaint to a Disciplinary Committee for assessment and determination.
- (k) An Investigating Officer shall, within 30 days of an Investigating Officer's decision pursuant to paragraph (i) of this Regulation 4 to accept a member's denial or to refer a Relevant Complaint against a member to a Disciplinary

Committee for assessment and determination, notify that decision to both the Complainant who had made that Relevant Complaint and that member.

- (l) An Investigating Officer shall, within 30 days of an Investigating Officer's decision pursuant to paragraph (j) of this Regulation 4 to refer a Relevant Complaint against a member to a Disciplinary Committee for assessment and determination, notify the Investigating Officer's decision to both the Complainant who had made that Relevant Complaint and that member.
- (m) Any referral pursuant to this Regulation 4 by an Investigating Officer of a Relevant Complaint to a Disciplinary Committee for assessment and determination shall be made by that Investigating Officer (or by another Investigating Officer) within six months of the referral falling to be made in terms of this Regulation 4, and the referral pursuant to this Regulation 4 of a Relevant Complaint to a Disciplinary Committee for assessment and determination shall fall to be made in terms of these Disciplinary Regulations:-
 - (i) upon an Investigating Officer deciding pursuant to paragraph (i) or paragraph (j) of this Regulation 4 to refer the Relevant Complaint to a Disciplinary Committee for assessment and determination; or
 - (ii) where a Relevant Complaint falls pursuant to paragraph (d) of this Regulation 4 to be referred to a Disciplinary Committee for assessment and determination, on that Relevant Complaint so falling to be referred to a Disciplinary Committee.
- (n) An Investigating Officer may when communicating with a member pursuant to this Regulation 4, communicate with that member through the Secretary of the Disciplinary Committee Panel.

5. Dealing with Material Breaches

If an Investigating Officer determines that the Alleged Breach or Alleged Breaches in respect of which a Relevant Complaint has been made:- (i) falls or fall within the jurisdiction and competence of the Institute;

- (ii) should be dealt with by the Institute; and
- (iii) would, if proven, be a material Disciplinary Breach or would be material Disciplinary Breaches

then an Investigating Officer shall within 30 days of the determination being made:-

- (i) notify the Complainant of that determination; and
- (ii) notify the member against whom the Relevant Complaint has been made (1) that the Relevant Complaint has been made, (2) of the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made and (3) that dealing with the Relevant Complaint falls within the jurisdiction and competence of the Institute and that the Relevant Complaint is to be dealt with by the Institute

and an Investigating Officer shall when advising the member (1) that the Relevant Complaint has been made, (2) of the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made and (3) that dealing with the Relevant Complaint falls within the jurisdiction and competence of the Institute and that the Relevant Complaint is to be dealt with by the Institute also:-

- (i) notify the member that an Investigating Officer has determined that the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made would if proven be a material Disciplinary Breach or be material Disciplinary Breaches;
- (ii) at the discretion of the Investigating Officer, notify the member of who has made the Relevant Complaint;
- (iii) give the member such details and information regarding the Relevant Complaint as it is reasonable for the Investigating Officer to do; and
- (iv) ask the member to reply in writing to an Investigating Officer, within 30 days (or any longer period allowed by an Investigating Officer) of the receipt by the member of the notice given by an Investigating Officer to the member pursuant to this paragraph (a), advising an Investigating Officer whether the member:-
 - (a) admits that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint; or
 - (b) denies that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint;
- (v) notify the member that if the member does not notify an Investigating Officer, within the period of 30 days (or any longer period allowed by an Investigating Officer) referred to in subparagraph (iv) of this paragraph (a), that the member admits or denies that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint the member shall be deemed to have denied that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint;
- (vi) advise the member that the Relevant Complaint is to be referred to a Disciplinary Committee for assessment and determination;
- (vii) advise the member that the member is entitled to require that the members of the Disciplinary Committee which is to assess and determine the Relevant Complaint include a member of the Disciplinary Committee Panel who is a Legal Professional;

- (viii) advise the member that the Disciplinary Committee assessing and determining the Relevant Complaint against the member may order the member to pay all or any of the costs and expenses of the Institute (including any professional fees incurred by the Institute and the fees for being a member of the Disciplinary Committee assessing and determining the Relevant Complaint of any Legal Professional who is a member of that Disciplinary Committee) in the assessment and determination by that Disciplinary Committee of the Relevant Complaint; and
- (ix) advise the member that the Institute is entitled to recover, and may therefore recover, from the member any costs, expenses and professional fees ordered by a Disciplinary Committee to be paid by the member in connection with the assessment and determination by that Disciplinary Committee of the Relevant Complaint against the member.

6. Disciplinary Committee Panel

- (a) The panel from which the members of a Disciplinary Committee shall be appointed shall be known as the Disciplinary Committee Panel.
- (b) There shall be such number of members of the Disciplinary Committee Panel as the Board from time to time determines.
- (c) Unless and until otherwise determined by the Board, there shall be not less than 10 members of the Disciplinary Committee Panel. The members of the Disciplinary Committee Panel shall, subject to paragraphs (d), (e), (f) and (g) of this Regulations **6**, be appointed by the Disciplinary Committee Nomination Committee.
- (d) A member of the Disciplinary Committee Panel shall, other than a member of the Disciplinary Committee Panel who is a Legal Professional, be a member of the Institute.
- (e) A member of the Board may not, for so long as he or she in a member of the Board, be a member of the Disciplinary Committee Panel.
- (f) There shall at any one time be at least one member of the Disciplinary Committee Panel who is a Legal Professional.
- (g) The Disciplinary Committee Nomination Committee may appoint any Legal Professional as a member of the Disciplinary Committee Panel, provided always that the Disciplinary Committee Nomination Committee shall not appoint any Legal Professional as a member of the Disciplinary Committee Panel unless the Disciplinary Committee Nomination Committee is satisfied that that Legal Professional has appropriate experience and skills to be a member of the Disciplinary Committee Panel.
- (h) The Disciplinary Committee Nomination Committee shall fix or agree the terms on which any Legal Professional is appointed as a member of the Disciplinary Committee Panel.

- (i) Any casual vacancy in the membership of the Disciplinary Committee Panel may, subject to paragraphs (d), (e), (f) and (g) of this Regulation 6, be filled by the Disciplinary Committee Nomination Committee appointing a new member of the Disciplinary Committee Panel.
- (j) A member of the Disciplinary Committee Panel (including a Legal Professional who is a member of the Disciplinary Committee Panel) may resign as a member of the Disciplinary Committee Panel by notice in writing to the Disciplinary Committee Panel Chairman or to the Chief Executive, and the resignation of a member of the Disciplinary Committee Panel as a member of the Disciplinary Committee Panel shall take effect as from the time that the resignation is delivered to the Disciplinary Committee Panel Chairman or to the Chief Executive (as the case may be) or with effect from such later time as shall be specified in the notice of resignation.
- (k) The Disciplinary Committee Nomination Committee may remove any member of the Disciplinary Committee Panel (including any Legal Professional who is a member of the Disciplinary Committee Panel) from the Disciplinary Committee Panel by giving notice in writing to that member of the Disciplinary Committee Panel, and the removal by the Disciplinary Committee Nomination Committee of any member of the Disciplinary Committee Panel shall take effect as from the time that the notice of removal is delivered to that member of the Disciplinary Committee Panel or with effect from such later time as shall be specified in the notice of removal.
- (l) A member of the Disciplinary Committee Panel shall, subject to the policy (and at such rate or scale and subject to such maximum, if any) from time to time determined by the Board for the reimbursement of expenses to members of the Disciplinary Committee Panel, be entitled to payment of all travelling, hotel and other expenses reasonably and properly incurred by that member of the Disciplinary Committee Panel in travelling to and from and attending meetings of the Disciplinary Committee Panel and/or of any Disciplinary Committee or otherwise in connection with the fulfilment and performance of the duties of that member of the Disciplinary Committee Panel as a member of the Disciplinary Committee Panel and/or as a member of any Disciplinary Committee and/or as a member of any Appeals Committee.
- (m) The Chief Executive, or a person nominated by the Chief Executive, shall act as Secretary of the Disciplinary Committee Panel.

7. Chairman of the Disciplinary Committee Panel

- (a) The Institute's Nomination Committee shall appoint one of the members of the Disciplinary Committee Panel as the Disciplinary Committee Panel Chairman.
- (b) The Disciplinary Committee Panel Chairman shall cease to be the Disciplinary Committee Panel Chairman upon he or she ceasing to be a member of the Disciplinary Committee Panel.

(c) The Institute's Nomination Committee may at any time terminate the appointment of any member of the Disciplinary Committee Panel as the Disciplinary Committee Panel Chairman. The termination by the Institute's Nomination Committee of the appointment of any member of the Disciplinary Committee Panel as the Disciplinary Committee Panel Chairman shall take effect as from the time that the notice of the termination of the appointment of that member of the Disciplinary Committee Panel as the Disciplinary Committee Panel Chairman is given to that member of the Disciplinary Committee Panel or with effect from such later time as shall be specified in the notice of termination.

(d) The Disciplinary Committee Panel Chairman may resign as the Disciplinary Committee Panel Chairman by notice in writing to the President or to the Chief Executive, and the resignation of the Disciplinary Committee Panel Chairman shall take effect as from the time that his or her resignation as the Disciplinary Committee Panel Chairman is received by the President or, as the case may be, the Chief Executive or with effect from such later time as shall be specified in the notice of resignation.

(e) The Institute's Nomination Committee may appoint another member of the Disciplinary Committee Panel to be the Disciplinary Committee Panel Chairman in place of any Disciplinary Committee Panel Chairman whose appointment as the Disciplinary Committee Panel Chairman is terminated by the Institute's Nomination Committee or who resigns as or who otherwise ceases to be the Disciplinary Committee Panel Chairman.

(f) The Disciplinary Committee Panel Chairman may not be a member of a Disciplinary Committee, but may be a member of an Appeals Committee.

8 Disciplinary Committee

(a) A Relevant Complaint shall be referred to a Disciplinary Committee for assessment and determination by an Investigating Officer notifying the Secretary of the Disciplinary Committee Panel that the Relevant Complaint has been referred to the Disciplinary Committee.

(b) If a Relevant Complaint is referred to a Disciplinary Committee for assessment and determination, the Disciplinary Committee Panel Chairman shall within 30 days of the referral of that Relevant Complaint to a Disciplinary Committee:-

(i) nominate from amongst the members of the Disciplinary Committee Panel, subject always to paragraphs (d), (e) and (f) of this Regulation 8, the members of that Disciplinary Committee; and

(ii) nominate one of those members of the Disciplinary Committee Panel as the Chairman of that Disciplinary Committee.

(c) There shall be not less than three members of the Disciplinary Committee which is to assess and determine any Relevant Complaint.

(d) If an Investigating Officer has determined that the Alleged Breach or Alleged Breaches in respect of which a Relevant Complaint has been made would if proven be a material Disciplinary Breach, or would be material

Disciplinary Breaches, then the member in respect of whom the Relevant Complaint was made is entitled to require that a member of the Disciplinary Committee to assess and determine that Relevant Complaint is a member of the Disciplinary Committee Panel who is a Legal Professional.

- (e) An Investigating Officer is entitled, if an Investigating Officer has determined that the Alleged Breach or Alleged Breaches in respect of which that Relevant Complaint has been made would if proven be a material Disciplinary Breach or would be material Disciplinary Breaches, to require that a member of that Disciplinary Committee is a member of the Disciplinary Committee Panel who is a Legal Professional.
- (f) If:-
 - (i) the member in respect of whom a Relevant Complaint referred to a Disciplinary Committee for assessment and determination was made requires (pursuant to paragraph (d) of this Regulation 8) that a member of that Disciplinary Committee is a Legal Professional; or
 - (ii) an Investigating Officer requires (pursuant to paragraph (e) of this Regulation 8) that a member of that Disciplinary Committee is a Legal Professional

then the Disciplinary Committee Panel Chairman shall, either on the nomination pursuant to paragraph (b) of this Regulation 8 of the members of that Disciplinary Committee or subsequent to that nomination, nominate a member of the Disciplinary Committee Panel who is a Legal Professional to be a member of that Disciplinary Committee.

- (g) Any Legal Professional who is nominated pursuant paragraph (f) of this Regulation 8 to be member of the Disciplinary Committee to assess and determine any Relevant Complaint may be one of, or be in addition to, the minimum of three members of that Disciplinary Committee nominated pursuant to paragraph (b) of this Regulation 8.
- (h) Any member of a Disciplinary Committee shall cease to be a member of that Disciplinary Committee on that member ceasing to be a member of the Disciplinary Committee Panel.
- (i) Any casual vacancy in the membership of a Disciplinary Committee (including any vacancy caused by the resignation or removal of a member of that Disciplinary Committee as a member of the Disciplinary Committee Panel) may be filled by the Disciplinary Committee Panel Chairman appointing a new member of that Disciplinary Committee.
- (j) A Disciplinary Committee shall when assessing a Relevant Complaint be entitled to have regard to and to take into account such evidence, representations, statements and submissions, and to undertake such investigations and to make such enquiries, as that Disciplinary Committee sees fit.
- (k) The proceedings of the Disciplinary Committee assessing and determining any Relevant Complaint shall, subject to those proceedings being in

compliance with these Disciplinary Regulations, be determined by the Chairman of that Disciplinary Committee.

- (l) The Disciplinary Committee to assess and determine any Relevant Complaint shall be deemed to have been established on the nomination of the members of that Disciplinary Committee pursuant to paragraph (b) of this Regulation 8.

- (m) The Chief Executive, or a person nominated by the Chief Executive, shall act as Secretary of any Disciplinary Committee.

9 Disciplinary Committee - Overriding Principle

The overriding principle of any hearing of a Disciplinary Committee is that the assessment and determination of any Relevant Complaint by that Disciplinary Committee should be fair and that the member in respect of whom that Relevant Complaint has been made shall:-

- (a) be informed promptly and fairly of the nature and cause of the accusation against the member;
- (b) have adequate time and facilities for the preparation of the member's defence;
- (c) have the right to defend himself or herself in person or through representation by a third party whether or not any third party representing the member is legally qualified or is himself or herself a member; and
- (d) have the right to examine or have examined witnesses against the member and to obtain the attendance and examination of witnesses on the member's behalf under the same conditions as witnesses against the member.

10 Disciplinary Committee – Procedure in Advance of Hearings

- (a) Within 30 days of the establishment of the Disciplinary Committee to assess and determine any Relevant Complaint, the member against whom the Relevant Complaint has been made shall be notified in writing by the Secretary of the Disciplinary Committee of (1) the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made and (2) the member's rights:-
 - (i) to appear and be represented at the hearing of the Disciplinary Committee;
 - (ii) to speak at that hearing either personally or through a representative;
 - (iii) to call and cross-examine witnesses;
 - (iv) to submit evidence; and
 - (v) to submit details of mitigating circumstances which the member wishes the Disciplinary Committee to consider

at the hearing of the Disciplinary Committee convened to assess and determine the Relevant Complaint, and that member shall within those 30 days be provided by the Secretary of the Disciplinary Committee with:-

- (i) a copy of the Institute's Rules and Regulations (including the Rules and Regulations pertinent to disciplinary proceedings); and
 - (ii) a copy of the Code of Professional Conduct in force at the time the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made is or are claimed or alleged in the Relevant Complaint to have occurred.
- (b) No later than 30 days before the hearing of a Disciplinary Committee to assess and determine a Relevant Complaint, the member against whom the Relevant Complaint has been made (or a representative of that member) shall (1) be notified in writing by the Secretary of that Disciplinary Committee of the time, date and place of that hearing and (2) be provided by the Secretary of that Disciplinary Committee with:-
- (i) a summary of the Relevant Complaint;
 - (ii) a copy of any witness statements and any other written evidence pertinent to the Relevant Complaint which the Secretary of the Disciplinary Committee then has for consideration by the Disciplinary Committee; and
 - (iii) the assessment of, and report on, the Relevant Complaint by an Investigating Officer

and the Secretary of the Disciplinary Committee shall in such notification ask the member (or a representative of that member) to confirm in writing to the Secretary of the Disciplinary Committee whether the member intends to appear in person and/or to be represented at the hearing of the Disciplinary Committee.

- (c) The period of 30 days referred to in paragraph (b) of this Regulation **10** may be extended to such longer period as the Chairman of the Disciplinary Committee determines on the request of the member against whom the Relevant Complaint has been made or on the request of a representative of that member.
- (d) The Secretary of a Disciplinary Committee shall not less than seven days prior to the hearing of that Disciplinary Committee to assess and determine a Relevant Complaint advise:-
- (i) the members of that Disciplinary Committee; and
 - (ii) an Investigating Officer of the time,
- date and place of that hearing.

- (e) The member in respect of whom the Relevant Complaint has been made (or a representative of that member) shall no later than 14 days before the hearing of the Disciplinary Committee which is to assess and determine that Relevant Complaint (1) confirm in writing to the Secretary of that Disciplinary Committee whether the member intends to appear in person and/or to be represented at that hearing and (2) provide the Secretary of that Disciplinary Committee with:-
- (i) details of any witnesses the member proposes to call at that hearing of the Disciplinary Committee;
 - (ii) a copy of any witness statements and any other written evidence on which the member proposes to rely at that hearing of the Disciplinary Committee; and
 - (iii) details of any mitigating circumstances which the member wishes the Disciplinary Committee to consider.
- (f) The Secretary of a Disciplinary Committee which is to assess and determine any Relevant Complaint shall not less than seven days before the hearing of that Disciplinary Committee to assess and determine that Relevant Complaint provide each member of that Disciplinary Committee with:-
- (i) a copy of the Institute's Rules and Regulations (including the Rules and Regulations pertinent to disciplinary proceedings);
 - (ii) a copy of the Code of Professional Conduct in force at the time the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made is or are claimed or alleged in the Relevant Complaint to have occurred;
 - (iii) a summary of the Relevant Complaint;
 - (iv) a copy of any witness statements and other written evidence pertinent to the Relevant Complaint which the Secretary of the Disciplinary Committee then has for consideration by the Disciplinary Committee;
 - (v) the assessment of, and report on, the Relevant Complaint by an Investigating Officer; and
 - (vi) details of any mitigating circumstances which the member in respect of whom the Relevant Complaint has been made (or any representative of that member) has provided to the Secretary of that Disciplinary Committee for consideration by that Disciplinary Committee

and shall provide an Investigating Officer with:-

- (i) a copy of any witness statements or other written evidence pertinent to the Relevant Complaint provided to the Secretary of that

Disciplinary Committee by the member (or by any representative of the member) in respect of whom the Relevant Complaint has been made; and

- (ii) details of any mitigating circumstances which that member (or any representative of that member) has provided to the Secretary of that Disciplinary Committee for consideration by that Disciplinary Committee.

11 Disciplinary Committee – Hearings

- (a) Any Relevant Complaint referred to a Disciplinary Committee shall be the subject of a public hearing except where the Chairman of that Disciplinary Committee decides otherwise. Both the member against whom the Relevant Complaint to be assessed and determined by a Disciplinary Committee has been made (or a representative of that member) and an Investigating Officer shall be entitled to make representations to the Chairman of that Disciplinary Committee on why the hearing of that Disciplinary Committee should not be held in public. The Chairman of a Disciplinary Committee may exclude any person from a hearing of that Disciplinary Committee if in the opinion of the Chairman the exclusion of that person from the hearing would be in the interests of justice. A hearing of a Disciplinary Committee may be adjourned.
- (b) A hearing of the Disciplinary Committee may, at the discretion of the Chairman of that Disciplinary Committee, proceed in the absence of the member in respect of whom the Relevant Complaint to be assessed and determined by the Disciplinary Committee was made or in the absence of any representative of that member or in the absence of any witness or witnesses. Arrangements may be made, where practicable and at the discretion of the Chairman of the Disciplinary Committee, for the member, any representative of the member and any witness to participate in a hearing of the Disciplinary Committee via teleconference.
- (c) At the commencement of the hearing of a Disciplinary Committee the Chairman of the Disciplinary Committee shall:-
 - (i) introduce the members of the Disciplinary Committee;
 - (ii) ensure that the member (or a representative of the member) against whom the Relevant Complaint to be assessed and determined by the Disciplinary Committee has been made has received a copy of:-
 - (1) the Institute's Rules and Regulations (including the Rules and Regulations pertinent to disciplinary proceedings);
 - (2) the Code of Professional Conduct in force at the time the Alleged Breach or Alleged Breaches in respect of which the Relevant Complaint has been made is or are claimed or alleged in the Relevant Complaint to have occurred;
 - (3) a summary of the Relevant Complaint; and

- (4) any witness statements and any other written evidence pertinent to the Relevant Complaint to be produced to that hearing of the Disciplinary Committee by the Investigating Officer in respect of that Relevant Complaint; and
- (iii) state and explain the procedure to be followed by the Disciplinary Committee.
- (d) The Chairman of a Disciplinary Committee shall state at the commencement of the hearing of the Disciplinary Committee that minutes of the Disciplinary Committee's hearing will be taken and that a summary of those minutes (in the form of the Disciplinary Committee's findings and decisions) shall be made available to the member (or to a representative of the member) against whom the Relevant Complaint being assessed and determined by the Disciplinary Committee has been made.
- (e) The Chairman of the Disciplinary Committee shall then invite an Investigating Officer to set out the nature of the Relevant Complaint against the member and the evidence on which the Relevant Complaint is based. The Chairman of the Disciplinary Committee and other members of the Disciplinary Committee may question that Investigating Officer on the nature of the Relevant Complaint and on the evidence on which the Relevant Complaint is based.
- (f) The Chairman of the Disciplinary Committee shall then invite the member against whom the Relevant Complaint has been made (or the member's representative) to respond to the Relevant Complaint and the evidence on which the Relevant Complaint is based, and the member (or the member's representative) shall be given the opportunity to question the Investigating Officer on the nature of the Relevant Complaint and on the evidence on which the Relevant Complaint is based.
- (g) The member may choose to admit that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint or to admit some Disciplinary Breach or Disciplinary Breaches by or in respect of the member as claimed or alleged in the Relevant Complaint or to deny that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member as claimed or alleged in the Relevant Complaint.
- (h) The Chairman of the Disciplinary Committee, other members of the Disciplinary Committee and an Investigating Officer may question the member against whom the Relevant Complaint has been made (or the member's representative) regarding the Relevant Complaint and the member's response to the evidence submitted.
- (i) The Chairman of the Disciplinary Committee shall then call witnesses, if available, to give evidence. No witness may be called unless:-
 - (i) a witness statement signed by the witness has been provided either:-

- (a) pursuant to sub-paragraph (ii) of paragraph (b) of Regulation **10** by the Secretary of the Disciplinary Committee to the member (or to a representative of the member) in respect of whom the Relevant Complaint has been made; or
 - (b) pursuant to sub-paragraph (ii) of paragraph (e) of Regulation **10** by that member (or by a representative of that member) to the Secretary of the Disciplinary Committee.
- (ii) the Chairman of the Disciplinary Committee, at his or her discretion, considers that it is in the interests of justice for the witness to be called and heard without a statement having been so provided.
- (j) The Chairman of the Disciplinary Committee, other members of the Disciplinary Committee, the Investigating Officer and the member against whom the Relevant Complaint has been made (or any representative of that member) may put questions to and cross-examine witnesses.
- (k) Once satisfied that all relevant evidence has been heard and cross-examined, the Chairman of the Disciplinary Committee shall invite the Investigating Officer and then the member against whom the Relevant Complaint has been made (or any representative of that member) to make a closing statement, if wished.
- (l) The Disciplinary Committee shall then retire to assess the evidence presented to the Disciplinary Committee (including witness statements) and to consider whether there has on the balance of probabilities, in the Disciplinary Committee's assessment, been a Disciplinary Breach or have been Disciplinary Breaches by or in respect of the member as claimed or alleged in the Relevant Complaint made against the member.
- (m) In most cases, it is anticipated that a Disciplinary Committee will reach a decision via consensus on whether or not there has been a Disciplinary Breach or have been Disciplinary Breaches by or in respect of a member as claimed or alleged in a Relevant Complaint, although the Chairman of a Disciplinary Committee may choose to call a vote if consensus is not reached. All members of a Disciplinary Committee shall be entitled to vote and shall have one vote each, with, in the case of a tied vote, the Chairman of a Disciplinary Committee having a second or casting vote.
- (n) Once a decision has been reached by a Disciplinary Committee on whether or not there has been a Disciplinary Breach or have been Disciplinary Breaches by or in respect of a member as claimed or alleged in the Relevant Complaint against the member, the Disciplinary Committee shall reconvene to announce the decision of the Disciplinary Committee.
- (o) If the Disciplinary Committee decides that there has not been any Disciplinary Breach by or in respect of a member as claimed or alleged in

the Relevant Complaint made against the member, that member will be acquitted in respect of that Relevant Complaint.

- (p) Where any part of the Relevant Complaint against a member has been found by a Disciplinary Committee to have been proven then the Disciplinary Committee will consider the imposition on that member of one or more sanctions as set out in Regulation **12**, and the extent of any publicity as set out in Regulation **13**.
- (q) Before a Disciplinary Committee considers what, if any, sanctions to impose on a member, the Chairman of the Disciplinary Committee shall ask the member (or the member's representative) for details of any mitigating circumstances which the member, or the member's representative, wishes the Disciplinary Committee to take into account and shall give the member (or the member's representative) and an Investigating Officer the opportunity of addressing the Disciplinary Committee on sanctions and publicity.
- (r) In most cases, it is anticipated that a Disciplinary Committee will reach a decision via consensus on sanctions and publicity, although the Chairman of a Disciplinary Committee may choose to call a vote if consensus is not reached. All members of a Disciplinary Committee shall be entitled to vote and shall have one vote each, with the Chairman of the Disciplinary Committee having a second or casting vote.
- (s) Once a decision on sanctions and publicity has been reached by a Disciplinary Committee, the Disciplinary Committee shall reconvene to announce the sanctions to be imposed and the extent of any publicity.
- (t) A written record of a Disciplinary Committee's decision and of any sanction imposed on a member by the Disciplinary Committee at a hearing of the Disciplinary Committee shall, within 14 days of that hearing, be communicated by the Secretary of that Disciplinary Committee to each of:
 - (i) the member (or a representative of that member) in respect of whom the decision of the Disciplinary Committee has been made;
 - (ii) an Investigating Officer; and
 - (iii) the Chief Executive (if the Chief Executive is not the Secretary of the Disciplinary Committee).
- (u) If the Disciplinary Committee finds that there has been a Disciplinary Breach or have been Disciplinary Breaches by or in respect of a member as claimed or alleged in the Relevant Complaint made against the member, the Chairman of that Disciplinary Committee shall remind the member (or a representative of that member) in respect of whom the decision of the Disciplinary Committee has been made of the member's right to appeal in accordance with Regulation **14** against the decision of the Disciplinary Committee and/or against any sanction imposed on the member by the Disciplinary Committee.
- (v) If the Disciplinary Committee decides that there has been a Disciplinary Breach or Disciplinary Breaches by or in respect of a member, then the

Secretary of that Disciplinary Committee shall notify the Board, if and when the time has expired within which the member may (pursuant to paragraph (a) of Regulation 14) appeal against the decision of the Disciplinary Committee without an appeal against that decision having been made by that member, of:-

- (i) the identity of that member;
 - (ii) the Disciplinary Breach or Disciplinary Breaches by or in respect of that member found to have been proven by that Disciplinary Committee; and
 - (iii) any sanction or sanctions imposed on that member by the Disciplinary Committee and the extent of any publicity decided on by the Disciplinary Committee.
- (w) The Institute may appoint a solicitor, advocate or barrister to represent the Institute before a hearing of a Disciplinary Committee, and if a solicitor, advocate or barrister is appointed by the Institute to represent the Institute before a hearing of a Disciplinary Committee then the references to an Investigating Officer in paragraphs (a), (e), (j), (k) and (q) of this Regulation 11 and in paragraph (d) of Regulation 12 shall be deemed to be references to that solicitor, advocate or barrister.

12 Sanctions

- (a) Where a Disciplinary Committee finds that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member, the Disciplinary Committee may impose on that member one or more of the following sanctions:-
- (i) the member may be admonished by the Disciplinary Committee (the Disciplinary Committee shall determine the content and format of any admonition of the member);
 - (ii) a record of the member's breach of the Code of Professional Conduct may be noted for a specified period on the member's record of membership of the Institute;
 - (iii) all or any of the member's benefits and privileges of membership of the Institute may be withdrawn for a specified period;
 - (iv) the member may be required at the member's own expense to attend such additional training or to complete such additional tests, examinations or assessments as directed by the Disciplinary Committee;
 - (v) any passes by the member in current or previous diets of examinations or assessments of the Institute may be cancelled;
 - (vi) the member may be required to resit one or more examinations or assessments of the Institute at the member's own expense;

- (vii) the member may be suspended from membership of the Institute for a specified period during which the benefits of membership of the Institute, including the use of professional titles and designatory letters, shall be withdrawn from the member;
- (viii) the member may be expelled from membership of the Institute (the Disciplinary Committee shall determine whether the member may be permitted to re-apply for membership of the Institute at some future date and, if so, what if any conditions should apply to the member's application for re-admission as a member of the Institute); and/or
- (ix) such other sanction that the Disciplinary Committee considers reasonable, proportionate and appropriate may be imposed on the member.

A member whose membership of the Institute is suspended by a Disciplinary Committee or a member whose is expelled from membership of the Institute by a Disciplinary Committee shall not be entitled to any reduction, rebate or repayment of the subscription payable by that member to the Institute for membership of the Institute.

- (b) A Disciplinary Committee may set one or more conditions for the lifting of any suspension of a member from membership of the Institute and may set a procedure for checking whether any such condition has been satisfied.
- (c) A sanction imposed on a member by a Disciplinary Committee shall not take effect until the appeals procedure in Regulations **14**, **15**, **17** and **18** in respect of that sanction has been exhausted or the time within which the member may make an appeal against that sanction pursuant to paragraph (a) of Regulation **14** has expired without an appeal against that sanction having been made by that member.
- (d) If the Disciplinary Committee finds that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member, the Disciplinary Committee may (after hearing and taking into account any submissions made to the Disciplinary Committee on the question of costs and expenses by the member (or a representative of the member) against whom the Relevant Complaint assessed and determined by the Disciplinary Committee was made and/or by an Investigating Officer) order the member to pay all or any of the costs and expenses of the Institute (including any professional fees incurred by the Institute and the fees for being a member of the Disciplinary Committee of any Legal Professional who is a member of that Disciplinary Committee) in the assessment and determination by the Disciplinary Committee of the Relevant Complaint made against the member, and the Institute shall be entitled to recover from that member any costs, expenses and professional fees of the Institute which are so ordered by the Disciplinary Committee to be paid by that member.

13 Disciplinary Committee - Publicity

- (a) Details of the decision of a Disciplinary Committee on whether or not there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member and details of any sanction or sanctions imposed on a member by a Disciplinary Committee:-
- (i) shall be shared by the Institute with regulators and other professional bodies as may be required, consistent with the obligations of the Institute; and
 - (ii) may also be shared by the Institute with the member's employer, at the discretion of the Disciplinary Committee.
- (b) A summary of a Disciplinary Committee's decision on whether or not there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member and of any sanction or sanctions imposed on a member by a Disciplinary Committee shall be made publicly available, at the discretion of the Disciplinary Committee. Any information published shall include:-
- (i) the name of the member;
 - (ii) the nature of the Relevant Complaint made against the member;
 - (iii) the Disciplinary Committee's decision in respect of the member;
 - (iv) the sanctions (if any) imposed by the Disciplinary Committee on the member; and
 - (v) such other information and details as the Disciplinary Committee determines.
- (c) Details of a Disciplinary Committee's decision on whether or not there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member and of any sanction or sanctions imposed on a member by a Disciplinary Committee shall not be publicized until the appeals procedure in Regulations **14**, **15**, **17** and **18** in respect of that decision has been exhausted or the time within which the member may make an appeal against that decision pursuant to paragraph (a) of Regulation **14** has expired without an appeal against that decision having been made by that member.

14 Appeals Procedure

- (a) A member may, subject always to paragraph (d) of this Regulation **14**, appeal against the decision of a Disciplinary Committee that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member and/or against any sanction imposed on the member by a Disciplinary Committee, by notice in writing given to the Secretary of the Disciplinary Committee Panel within 30 days of the receipt by the member (or by a representative of the member) of the notification given to that member (or to a representative of that member) pursuant to paragraph (t) of Regulation **11** of that decision and/or of that

sanction. The notice of appeal shall state both that the appeal is being made and the grounds of the appeal.

- (b) The only permitted grounds of an appeal by a member against the decision of a Disciplinary Committee that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member and/or against any sanction imposed on the member by a Disciplinary Committee is that the decision of the Disciplinary Committee and/or any sanction imposed by the Disciplinary Committee was:-
- (i) based on an error of law;
 - (ii) unjust because of a serious procedural error or irregularity; or
 - (iii) in the case of any sanction imposed, disproportionate to the Disciplinary Breach or Disciplinary Breaches admitted by the member or which the Disciplinary Committee found to have been proven

or that there is relevant evidence which could not reasonably have been presented to the Disciplinary Committee.

- (c) The Secretary of the Disciplinary Committee Panel shall, on receiving a notice of appeal pursuant to paragraph (a) of this Regulation **14**, give a copy of that notice of appeal to the Disciplinary Committee Panel Chairman.
- (d) If the Disciplinary Committee Panel Chairman considers that there is no substantive ground for an appeal by a member against the decision of a Disciplinary Committee that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member and/or against any sanction imposed on the member by a Disciplinary Committee then (1) the Disciplinary Committee Panel Chairman shall, within 14 days of the Disciplinary Committee Panel Chairman reaching his or her decision, notify the Secretary of the Disciplinary Committee Panel of the Disciplinary Committee Panel Chairman's decision and (2) the appeal may not proceed and will not be heard or assessed by an Appeals Committee, and within 14 days of being notified of the Disciplinary Committee Panel Chairman's decision the Secretary of the Disciplinary Committee Panel shall notify in writing:-
- (i) the member (or a representative of the member); and
 - (ii) an Investigating Officer

of the decision of the Disciplinary Committee Panel Chairman that there is no substantive ground for the appeal and that, accordingly, the appeal will not proceed and will not be heard or assessed by an Appeals Committee, and the appeal shall be deemed for the purposes of paragraph (v) of Regulation **11**, paragraph (c) of Regulation **12** and paragraph (d) of Regulation **13** not to have been made.

- (e) If an appeal to an Appeals Committee is withdrawn before the appeal is heard by an Appeals Committee, the appeal shall be deemed for the

purposes of paragraph (v) of Regulation **11**, paragraph (c) of Regulation **12** and paragraph (d) of Regulation **13** not to have been made.

15. Appeals Committee

(a) If the Disciplinary Committee Panel Chairman considers that there is any substantive ground for an appeal by a member against the decision of a Disciplinary Committee that there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of the member and/or against any sanction imposed on the member by a Disciplinary Committee then the Disciplinary Committee Panel Chairman shall, within 14 days of the Disciplinary Committee Panel Chairman reaching his or her decision, notify the Secretary of the Disciplinary Committee Panel of the Disciplinary Committee Panel Chairman's decision, and within 14 days of being notified of the Disciplinary Committee Panel Chairman's decision the Secretary of the Disciplinary Committee Panel shall notify in writing:-

- (i) the member (or a representative of the member); and
- (ii) an Investigating Officer

of the decision of the Disciplinary Committee Panel Chairman that there is a substantive ground for the appeal, and the Disciplinary Committee Panel Chairman shall within 30 days of his or her decision being made that there is a substantive ground for the appeal:-

- (i) nominate from amongst the members of the Disciplinary Committee Panel, subject always to paragraphs (b) and (c) of this Regulation **15**, the members of the Appeals Committee to assess and determine the appeal; and
 - (ii) nominate one of those members of the Disciplinary Committee Panel as the Chairman of that Appeals Committee.
- (b) There shall not be less than three members of an Appeals Committee which is to assess and determine any appeal against a decision of a Disciplinary Committee or against any sanction imposed by a Disciplinary Committee.
- (c) No member of an Appeals Committee shall have been a member of the Disciplinary Committee which made any decision or which imposed any sanction against which the appeal to be assessed and determined by the Appeals Committee is made.
- (d) The Disciplinary Committee Panel Chairman may, but need not, nominate a member of the Disciplinary Committee Panel who is a Legal Professional to be a member of an Appeals Committee.
- (e) Any member of an Appeals Committee shall cease to be a member of that Appeals Committee on that member ceasing to be a member of the Disciplinary Committee Panel.
- (f) Any casual vacancy in the membership of an Appeals Committee (including any vacancy caused by the resignation or removal of a member

of that Appeals Committee as a member of the Disciplinary Committee Panel) may be filled by the Disciplinary Committee Panel Chairman appointing a new member of that Appeals Committee.

- (g) An Appeals Committee shall when assessing and determining any appeal against the decision of a Disciplinary Committee or against any sanction imposed by a Disciplinary Committee be entitled to have regard to and take into account such representations, statements and submissions, and to make such investigations and to make such enquiries, as that Appeals Committee sees fit.
- (h) The proceedings of an Appeals Committee assessing and determining any appeal against a decision of a Disciplinary Committee or against any sanction imposed by a Disciplinary Committee shall, subject to those proceedings being in compliance with these Disciplinary Regulations, be determined by the Chairman of that Appeals Committee.
- (i) The Appeals Committee to assess and determine any appeal against a decision of a Disciplinary Committee or against any sanction imposed by a Disciplinary Committee shall be deemed to have been established on the nomination of the members of that Appeals Committee pursuant to paragraph (a) of this Regulation **15**.
- (j) The Chief Executive, or a person nominated by the Chief Executive, shall act as Secretary of any Appeals Committee.

16. Appeals Committee - Overriding Principle

The overriding principle of any hearing of an Appeals Committee is that the assessment and determination of an appeal by that Appeals Committee should be fair and that the member by or in respect of whom the appeal is made shall:-

- (i) have adequate time and facilities for the preparation of the member's appeal; and
- (ii) have the right to be represented at the hearing of the appeal either by himself or herself in person or by a third party whether or not any third party representing the member is legally qualified or is himself or herself a member.

17. Appeals Committee - Procedure in Advance of Hearings

- (a) Within 30 days of the establishment of the Appeals Committee to assess and determine any appeal against a decision of a Disciplinary Committee or against any sanction imposed by a Disciplinary Committee:- (i) the member by or in respect of whom the appeal is made;
- (ii) any representative of that member; and
- (iii) an Investigating Officer

shall be notified in writing by the Secretary of the Appeals Committee that the Appeals Committee has been established, and the Secretary of the Appeals Committee shall when notifying that member (and any representative of that member) that the Appeals Committee has been established also notify that member (and any representative of that member) in writing of the member's rights:-

- (i) to appear and be represented at the hearing of the Appeals Committee;
 - (ii) to speak at that hearing either personally or through a representative; and
 - (iii) to submit details of mitigating circumstances which the member wishes the Appeals Committee to consider.
- (b) No later than 30 days before the hearing of an Appeals Committee to assess and determine the appeal against any decision of a Disciplinary Committee or against any sanction imposed by a Disciplinary Committee:-
- (i) the members of that Appeals Committee;
 - (ii) the member by or in respect of whom the appeal is made;
 - (iii) any representative of that member; and
 - (iv) an Investigating Officer

shall be notified in writing by the Secretary of that Appeals Committee of the time, date and place of that hearing, and shall be provided by the Secretary of that Appeals Committee with a copy of:-

- (i) the minutes of the decision of the Disciplinary Committee against which the appeal is made;
 - (ii) the notification of the appeal pursuant to paragraph (a) of Regulation **14**; and
 - (iii) any written statement in support of, or against, the appeal by then received by the Secretary of the Appeals Committee.
- (c) The member by or in respect of whom the appeal is made (or a representative of that member) shall no later than 14 days before the hearing of the Appeals Committee which is to assess and determine the appeal (1) confirm in writing to the Secretary of the Appeals Committee whether the member intends to appear in person and/or be represented at that hearing of the Appeals Committee and (2) provide the Secretary of that Appeals Committee with details of any mitigating circumstances which the member wishes the Appeals Committee to consider.
- (d) The Secretary of the Appeals Committee shall no later than seven days before the hearing of the Appeals Committee which is to assess and determine the appeal provide:-

- (i) the members of the Appeals Committee; and
- (ii) an Investigating Officer

with the details of any mitigating circumstances submitted to the Secretary of that Appeals Committee for consideration by the Appeals Committee.

18 Appeals Committee – Hearings

- (a) The hearing of an appeal by an Appeals Committee shall be public except where the Chairman of that Appeals Committee decides otherwise. Both the member who has made the appeal to be assessed and determined by the Appeals Committee (or a representative of that member) and an Investigating Officer shall be entitled to make representations to the Chairman of that Appeals Committee on why the hearing of that Appeals Committee should not be held in public. A hearing of an Appeals Committee may be adjourned.
- (b) A hearing of an Appeals Committee may, in the discretion of the Chairman of that Appeals Committee, proceed in the absence of the member by whom or in respect of whom the appeal has been made or in the absence of any representative of that member. Arrangements may be made, where practicable and at the discretion of the Chairman of the Appeals Committee, for the member and any representative of the member to participate in a hearing of the Appeals Committee via teleconference. The Chairman of an Appeals Committee may exclude any person from a hearing of that Appeals Committee if in the opinion of

the Chairman the exclusion of that person from the hearing would be in the interests of justice.
- (c) At the commencement of the hearing of an Appeals Committee the Chairman of the Appeals Committee shall:-
 - (i) introduce the members of the Appeals Committee; and
 - (ii) state and explain the procedure to be followed by the Appeals Committee.
- (d) The Chairman of the Appeals Committee shall state at the commencement of the hearing of the Appeals Committee that minutes of the Appeal Committee's hearing will be taken and that a summary of those minutes (in the form of the Appeal Committee's findings and decision) shall be made available to the member (or to a representative of the member) by whom or in respect of whom the appeal being assessed and determined by the Appeals Committee has been made.
- (e) The Chairman of the Appeals Committee shall then invite the member by whom the appeal is made, or a representative of that member, to set out the grounds of the appeal.
- (f) The Chairman of the Appeals Committee shall invite an Investigating Officer to respond to the appeal and to question the member and/or any representative of the member on the appeal.

- (g) The Chairman of the Appeals Committee and other members of the Appeals Committee may question:-
- (i) the member (or a representative of the member); and
 - (ii) an Investigating Officer
- on the grounds of the appeal and why the appeal should be allowed or should be dismissed.
- (h) Once satisfied that the member, any representative of the member and an Investigating Officer have been given the opportunity to speak, respond and ask questions, the Chairman of the Appeals Committee shall invite an Investigating Officer and then the member (or any representative of the member) to make a closing statement, if wished. The Chairman of the Appeals Committee shall also invite the member (or any representative of the member) to address the Appeals Committee on any mitigating circumstances which the member, or the member's representative, wishes the Appeals Committee to take into account and shall give the member (or a representative of the member) and an Investigating Officer the opportunity of addressing the Disciplinary Committee on sanctions, costs and publicity.
- (i) The Appeals Committee shall then retire to consider the Appeals Committee's decision on whether to allow or to dismiss the appeal.
- (j) An Appeals Committee may uphold or overturn any decision of a Disciplinary Committee that there has been a Disciplinary Breach by or in respect of a member and may uphold, vary or revoke any sanction imposed on a member by a Disciplinary Committee.
- (k) In most cases, it is anticipated that an Appeals Committee will reach a decision via consensus on whether to uphold or to overturn a decision of a Disciplinary Committee that there has been a Disciplinary Breach by or in respect of a member and/or to uphold, vary or revoke any sanction imposed on a member by a Disciplinary Committee, although the Chairman of an Appeals Committee may choose to call a vote if consensus is not reached. All members of an Appeals Committee shall be entitled to vote and shall have one vote each, with, in the case of a tied vote, the Chairman of an Appeals Committee having a second or casting vote.
- (l) Once a decision has been reached by an Appeals Committee in respect of any appeal, the Appeals Committee shall reconvene to announce the decision of the Appeals Committee.
- (m) If the Appeals Committee overturns the decision of a Disciplinary Committee that there has been a Disciplinary Breach by or in respect of a member as claimed or alleged in a Relevant Complaint made against the member, that member will be acquitted in respect of that Relevant Complaint.
- (n) An Appeals Committee shall decide the extent of any publicity as set out in Regulation 19.

- (o) A written record of an Appeals Committee's decision and of any sanction upheld or imposed by an Appeals Committee at a hearing of the Appeals Committee shall, within 14 days of that hearing, be communicated by the Secretary of that Appeals Committee to each of:-
- (i) the member (or to a representative of the member) in respect of whom the decision of the Appeals Committee has been made;
 - (ii) an Investigating Officer; and
 - (iii) the Chief Executive (if the Chief Executive is not the Secretary of the Disciplinary Committee).
- (p) If the Appeals Committee upholds the decision of a Disciplinary Committee that there has been a Disciplinary Breach by or in respect of a member, then the Secretary of that Appeals Committee shall notify the Board of:-
- (i) the identity of that member;
 - (ii) the Disciplinary Breach or Disciplinary Breaches by or in respect of that member found to have been proven by that Disciplinary Committee and upheld by that Appeals Committee; and
 - (iii) any sanction or sanctions imposed on that member by that Disciplinary Committee which is or are upheld by that Appeals Committee or which is or are imposed by that Appeals Committee.
- (q) The Institute may appoint a solicitor, advocate or barrister to represent the Institute before a hearing of an Appeals Committee, and if a solicitor, advocate or barrister is appointed by the Institute to represent the Institute before a hearing of an Appeals Committee then the references in paragraphs (a), (f), (g) and (h) of this Regulation **18** shall be deemed to be references to that solicitor, advocate or barrister.
- (r) If an Appeals Committee dismisses an appeal against the decision of a Disciplinary Committee or against any sanction imposed by a Disciplinary Committee, the Appeals Committee may (after hearing and taking into account any submissions made to the Appeals Committee on the question of costs and expenses by the member (or a representative of the member) by whom the appeal was made or by an Investigating Officer) order the member to pay all or any of the costs and expenses of the Institute (including any professional fees incurred by the Institute and the fees for being a member of the Appeals Committee of any Legal Professional who is a member of that Appeals Committee) in the assessment and determination by the Appeals Committee of the appeal made by the member, and the Institute shall be entitled to recover from that member any costs, expenses and professional fees of the Institute which are so ordered by the Appeals Committee to be paid by that member (including legal representation expenses).

19 Appeals Committee – Publicity

- (a) Details of the decision of an Appeals Committee on whether or not there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member and details of any sanction or sanctions on a member which is or are upheld by an Appeals Committee or which is or are imposed on a member by an Appeals Committee:-
- (i) shall be shared by the Institute with regulators and other professional bodies as may be required, consistent with the obligations of the Institute; and
 - (ii) may also be shared by the Institute with the member's employer, at the discretion of the Appeals Committee.
- (b) A summary of an Appeals Committee's decision on whether or not there is or has been a Disciplinary Breach, or that there are or have been Disciplinary Breaches, by or in respect of a member and of any sanction or sanctions on a member which is or are upheld by an Appeals Committee or which is or are imposed on a member by an Appeals Committee shall be made publicly available, at the discretion of the Appeals Committee. Any information published shall include:-
- (i) the name of the member;
 - (ii) the nature of the Relevant Complaint made against the member;
 - (iii) the Appeal Committee's decision in respect of the member;
 - (iv) the sanction or sanctions imposed by the Disciplinary Committee which is or are upheld by the Appeals Committee or which is or are imposed by the Appeals Committee on the member; and
 - (v) such other information and details as the Appeals Committee determines.
- (c) Details of an Appeals Committee's decision may be made together with, or combined together with, details given pursuant to Regulation 13 of the Disciplinary Committee's decision and/or any sanction or sanctions imposed by the Disciplinary Committee against which the appeal to the Appeals Committee was made.

20 Notices

Any notice given pursuant to these Disciplinary Regulations by post shall be deemed, unless the contrary is proved, to have been received two days after the notice was posted.

21 Alterations

The Board may alter or vary these Disciplinary Regulations, or adopt new Regulations in place of and in substitution for these Disciplinary Regulations, as, and with effect from such date as, the Board sees fit, provided that no alteration or variation of these Disciplinary Regulations, and no adoption of

new Regulations in place of and in substitution for these Disciplinary Regulations, shall have retrospective effect.