

# **The Disciplinary Regulations**

Amended: 4 August 2008

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Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the only UK professional accountancy body to specialise in public services, CIPFA's qualifications are the foundation for a career in public finance.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services for our public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance around the world.

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## **1 APPLICATION**

- 1.1 These Regulations shall apply where, in respect of any Member or former Member, it comes to the notice of the Institute that one or more of the events described in Bye-Law 23 (a) to (d) have or might have occurred, or where, in respect of any Student or former Student, it comes to the notice of the Institute that one or more of the events described in Bye-Law 25 (a) to (d) have or might have occurred, or where, representations, complaints and information which come to the attention of the Institute may or might found a basis for proceedings under a joint disciplinary scheme in which the Institute participates.

## **2 DEFINITIONS AND INTERPRETATION**

- 2.1 In these Regulations, unless the context otherwise requires, the following expressions shall have the following meanings:

- (a) "AADB Scheme" means the joint disciplinary scheme made and adopted on behalf of the Accountancy Investigation and Discipline Board Limited, now the Accountancy and Actuarial Discipline Board Limited, in which the Institute participates in accordance with Bye-Law 25B. In these Regulations, references to the AADB Scheme shall include the Accountancy and Actuarial Discipline Board as appropriate;
- (b) "Appeal Committee" means the committee established for the purposes set out in regulation 8.1 and in accordance with regulations 8 and 15.3;
- (c) "breach of Bye-Law 23 or 25" means an occurrence of any one or more of the events described in Bye-Law 23 (a) through (d) or in Bye-Law 25 (a) through (d);
- (d) "Bye Laws" means the Bye-Laws of the Institute as amended from time to time;
- (e) "Charter" means the Supplemental Charter of the Institute as amended from time to time;

- (f) "CIPFA Member" means a member of the Investigations Committee, the Disciplinary Committee or the Appeal Committee appointed in accordance with regulation 14.6;
- (g) "Committee" means any one or more of the Investigations Committee, the Disciplinary Committee and the Appeal Committee as is appropriate in the context;
- (h) "Compensatory Award" means an award as to compensation made on behalf of the Institute:
- (i) by the Investigations Committee, to a complainant to compensate him or her in whole or in part for the reasonable costs of bringing an issue to the Institute's attention (subject to a maximum of £1000 (one thousand pounds sterling) or such other maximum as the Council may from time to time determine); or
  - (ii) by the Disciplinary Committee, to a complainant and/or third party to reimburse in whole or in part fees paid by the complainant and/or third party to the Defendant in relation to work done by or on behalf of the Defendant, where such work has been considered by the Disciplinary Committee at a hearing. The combined value of any such award(s) made by the Disciplinary Committee in any case shall not exceed the value of £5000 (five thousand pounds sterling) or such other maximum as the Council may from time to time determine.
- (i) "Cost Order" means an award as to costs to be paid by either the Defendant or the Institute so as wholly or partially to reimburse the Institute or the Defendant such reasonable costs and expenses as that party has incurred in connection with the investigation and determination of the disciplinary action including any appeal;
- (j) "Defendant" means a Member or former Member, Student or former Student who is subject to disciplinary proceedings under these regulations;

- (k) "Disciplinary Committee" means the committee established for the purposes set out in regulation 7.1 and in accordance with regulations 7 and 15.2;
  - (l) "Entry on Record" means an entry placed on the membership record of a Member or former Member, Student or former Student for a period not exceeding 2 years and which may be taken into account in any subsequent disciplinary proceedings.
  - (m) "Expulsion" means, in relation to a Member or Student expulsion from membership or studentship of the Institute indefinitely, and, in relation to a former Member or former Student means an order that if the former Member or former Student at any time applies to be re-admitted to membership or studentship of the Institute the application shall be treated in accordance with regulation 16.
  - (n) "former Member" means any person who has been a Member;
  - (o) "former Student" means any person who has been a Student;
  - (p) "Independent Member" means a member of the Investigations Committee, the Disciplinary Committee or the Appeal Committee appointed in accordance with regulation 14.5;
  - (q) "Investigations Committee" means the committee established for the purposes set out in regulation 4.1(a) and in accordance with regulation 4 and regulation 15.1;
  - (r) "Investigations Unit" means the division of the Institute whose task is to investigate disciplinary matters or such external contractors, agents or representatives as the Institute may appoint;
  - (s) "Legal Assessor" means a person appointed to provide legal advice to the Investigations Committee, the Disciplinary Committee or the Appeal Committee and who shall be independent from the Investigations Unit.
  - (t) "Member" means, for the purposes of these Regulations only, a corporate or non-corporate member of the Institute elected in accordance with Bye-Laws 4, 5, 6, 18 or 19;
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- (u) "Practising Certificate" means a certificate issued to a Member under the Institute's Practice Regulations authorising him or her to engage in specific areas of work which are defined as "public practice";
- (v) "Presenting Officer" means a person appointed to represent the Investigations Unit at any hearing held in accordance with these Regulations;
- (w) "Reimbursement Order" means an order for payment to be made by the Defendant to the Institute to reimburse the Institute in whole or in part for monies paid out by the Institute in respect of a Compensatory Award;
- (x) "Reviewer of Complaints" means a person appointed to review certain decisions of the Investigations Committee in accordance with regulation 6;
- (y) "Student" means a student registered by the Institute in accordance with Bye-Laws 20 and 21 and Section 2 of the Education and Training Regulations of the Institute as in force from time to time;
- (z) "Suspension" means, in relation to a Member or Student, suspension of membership or studentship of the Institute for a definite period of time, and in relation to a former Member or former Student means an order that any application received from that former Member or former Student for re-admittance to membership or studentship during the definite period specified shall be rejected.

2.2 Unless the context otherwise so requires, other words and expressions shall have the meanings assigned to them by the Charter and the Bye-Laws. Words importing the masculine gender shall include the feminine and words in the singular shall import the plural; and vice versa.

### **3 CONSTITUTIONAL STRUCTURE**

3.1 In those circumstances where it shall come to the notice of the Institute that there has been or may have been a breach of Bye-Law 23 or 25 or there may be a basis for proceedings under the AADB Scheme:

- (a) The Investigations Committee - the Investigations Committee shall in accordance with these Regulations instruct the Investigations Unit to carry out such preliminary and other enquiries and investigations as it shall think fit and, subject thereto, may if it then so sees fit:
- (i) refer the matter in writing to the Disciplinary Committee; or
  - (ii) issue an order whereby the Defendant may accept a reprimand; in which case there will be no referral to the Disciplinary Committee; the Defendant shall have a right of referral to the Disciplinary Committee where the reprimand is not accepted; or
  - (iii) issue an order whereby the Defendant may accept an Entry on Record; in which case there will be no referral to the Disciplinary Committee and no further action will be taken under the disciplinary scheme unless similar complaints or allegations regarding the Defendant are received within the specified period when the Investigations Committee may refer the matter and any other matters to the Disciplinary Committee as set out in paragraph (i) above or issue an order as set out in paragraph (ii) above; the Defendant shall have a right of referral to the Disciplinary Committee where the Entry on Record is not accepted; or
  - (iv) refer the matter to the Council to consider whether or not to refer the matter to the AADB Scheme; and
  - (v) may if it sees fit make a Compensatory Award to a complainant to compensate him or her in whole or in part for the reasonable costs of bringing an issue to the Institute's attention.
- (b) The Reviewer of Complaints - The Reviewer of Complaints shall review cases dismissed by the Investigations Committee at the request of a complainant and may if he so sees fit remit the matter to the Investigations Committee with a recommendation that the whole or part of the matter be reconsidered.
- (c) The Disciplinary Committee – the Disciplinary Committee shall:

in those cases referred to it by the Investigations Committee, investigate the circumstances so referred in accordance with the Disciplinary Committee's terms of reference and determine the nature and extent of any penalty or sanction or Cost Order to be imposed on a Defendant (including for the avoidance of doubt any Compensatory Award and/or Reimbursement Order that may be imposed by the Disciplinary Committee) or Cost Order to be imposed on the Institute; a Defendant shall have a right of appeal to the Appeal Committee against any determination of the Disciplinary Committee save that there shall be no appeal in relation to a Cost Order; any party against whom the Disciplinary Committee makes a Cost Order may request a review on legal grounds of that Cost Order.

- (d) The Appeal Committee – the Appeal Committee shall:
  - (i) hear appeals from certain decisions of the Disciplinary Committee including as to the nature and extent of any penalty or sanction imposed by the Disciplinary Committee (excluding for the avoidance of doubt any decision connected with a Cost Order) in accordance with the Appeal Committee terms of reference; and where the Appeal Committee considers it to be appropriate, impose, confirm, rescind or vary a penalty or sanction on a Defendant; and
  - (ii) review on legal grounds any Cost Order made by the Disciplinary Committee upon the application of the party against whom the order was made.

## **4 THE INVESTIGATIONS COMMITTEE**

### **4.1 Preliminary Enquiries**

- (a) The Investigations Committee shall consider all representations and complaints made to the Institute and all information which comes to the attention of the Institute which the Investigations Committee reasonably believes may or might found a basis for proceedings under Bye-Laws 23 or 25 or under the AADB Scheme.

- (b) If after initial consideration the Investigations Committee is of the opinion that, having regard to all the circumstances, it is appropriate that the matter is referred to the AADB Scheme, the Investigations Committee shall pass the matter to Council to consider a referral to the AADB Scheme.
- (c) If after initial consideration the Investigations Committee is of the opinion that a referral under regulation 4.1(b) is not appropriate but considers that there is or may be a basis for proceedings under Bye-Law 23 or 25 it shall instruct the Investigations Unit to investigate the matter further.
- (d) Where the Investigations Committee passes a matter to the Council to consider a referral to the AADB Scheme under regulation 4.1(b) and either the Council decides not to make such a referral or the AADB Scheme declines to consider the matter, the Investigations Committee shall reconsider the matter and make an alternative determination as soon as reasonably practicable but in any event within 35 days of the date of the decision of the Council or the AADB Scheme as the case may be.
- (e) Where the Investigations Committee instructs the Investigations Unit to investigate the matter further, the Investigations Unit shall:
  - (i) as soon as practicable, give notice to the Defendant and any other interested persons or bodies who or which in the opinion of the Investigations Unit have a proper interest in being so informed that an investigation has begun under Bye Law 23 or 25 (as appropriate), and provide the Defendant with a brief description of the matters which appear to fall within the provisions of Bye Law 23 or 25;
  - (ii) as soon as practicable, carry out such preliminary enquiries and investigations into the facts and circumstances including (but without prejudice to the generality of the foregoing) correspondence or discussion with the Defendant, and any other persons or bodies who may, in the opinion of the Investigations Unit, be able to assist the Investigations

Committee in deciding whether or not there is or appears to be a case for the Defendant to answer;

- (iii) report to the Investigations Committee, if at any time during the course of its preliminary enquiries and investigations, it is of the opinion that, having regard to all the circumstances, it is appropriate that the matter is referred to the AADB Scheme. The Investigations Committee shall consider any such report in accordance with regulation 4.3(b);
  - (iv) if on conclusion of the preliminary enquiries and investigations the Investigations Unit believes there is no case to answer it shall report to the Investigations Committee accordingly;
  - (v) if on conclusion of the preliminary enquiries and investigations the Investigations Unit has in its opinion found sufficient evidence to establish a breach of Bye Law 23 or 25 it shall proceed in accordance with regulation 4.1(f).
- (f) If this regulation 4.1(f) applies the Investigations Unit shall proceed as follows:
- (i) The Investigations Unit shall notify the Defendant of the particulars of the breaches of Bye Law 23 or 25 that may be placed before the Investigations Committee and such facts or circumstances as shall then be within the knowledge or belief of the Investigations Unit and as the Investigations Unit thinks appropriate so as fairly to inform the Defendant of the substance of the issue or issues raised, and require the Defendant to reply within twenty-one days (or such longer period as the Investigations Unit may determine) of the date of service of such notice in accordance with regulation 4.1(g);
  - (ii) Upon receiving the Defendant's reply or upon expiry of the twenty-one days (or such longer period as the Investigations Unit may determine), the Investigations Unit shall reconsider the matter and if it sees fit may discontinue, alter, amend or add to the particulars of the breaches of Bye Law 23 or 25 which are to be placed before the Investigations Committee.

- (iii) If the Investigations Unit alters, amends or adds to such particulars, the altered, amended and additional particulars shall be notified to the Defendant in accordance with regulation 4.1(f)(i);
  - (iv) If the Investigation Unit does not wish to alter, amend or add to such particulars the Investigations Unit shall submit its report and all relevant evidence in its possession including any submissions from the Defendant to the Investigations Committee.
- (g) The Defendant shall provide his or her full and prompt co-operation to the Investigations Unit and in particular but without limit upon receipt from the Investigations Unit of the particulars of the breaches of Bye Law 23 or 25 that may be placed before the Investigations Committee the Defendant shall provide the Investigations Unit with all information and copies of all documents relevant to the particulars and which are in the Defendant's control and upon the request of the Investigations Unit shall grant any consent or authorisation required by the Investigations Unit to obtain such documents from a third party.
- (h) Any Member or Student (not being the Defendant) requested to do so shall provide his or her full and prompt co-operation to the Investigations Unit in connection with its investigation and in particular but without limit provide the Investigations Unit with all information and copies of all documents relevant to the investigation which are in the Member's or Student's control.

#### 4.2 Reaching a Determination

- (a) The Investigations Committee shall conduct its business at private meetings and/or through the use of voice, video or electronic mail communication or any other form of communication provided that every member of the Investigations Committee participating in the determination is able to receive, understand and respond to all comments views and opinions expressed by other participating members and the Legal Assessor before any determination or decision composing part of a determination is reached.

- (b) If the Investigations Committee conducts its business other than at private meetings, and at any time before the determination is reached any participating member is not satisfied that the form of communication complies with Regulation 4.2(a), that member may require the Investigations Committee to hold a meeting prior to any determination being made.
- (c) If the Investigations Committee conducts its business other than at private meetings it shall put in place such additional confidentiality and security arrangements as it considers necessary to preserve the confidentiality of proceedings.

#### 4.3 Determinations

- (a) The Investigations Committee shall consider any report submitted to it by the Investigations Unit and may ask the Investigations Unit to carry out such further investigations or enquiries as it sees fit.
- (b) If the Investigations Unit reports to the Investigations Committee under regulation 4.1(e)(iii) (where the Investigations Unit is of the opinion that it is appropriate that the matter is referred to the AADB Scheme) the Investigations Committee shall:
  - (i) if it considers that, having regard to all the circumstances, it is appropriate that the matter is referred to the AADB Scheme, the Investigations Committee shall stay proceedings under Bye-Law 23 or 25 and pass the matter to Council to consider a referral to the AADB Scheme.
  - (ii) Where the Investigations Committee declines to make a referral under regulation 4.3(b)(i), the Investigations Committee shall refer the matter back to the Investigations Unit and the Investigations Unit will continue its preliminary enquiries and investigations.
- (c) If the Investigations Unit reports to the Investigations Committee under regulation 4.1(e)(iv) (where charges have not been put to the Defendant) the Investigations Committee shall:

- (i) if the Investigations Committee is of the opinion that, having regard to all the circumstances, it is appropriate that the matter is referred to the AADB Scheme, the Investigations Committee shall stay proceedings under Bye-Law 23 or 25 and pass the matter to the Council to consider a referral to the AADB Scheme; or
  - (ii) request that the Investigations Unit puts charges to the Defendant in accordance with regulation 4.1(f); or
  - (iii) dismiss the case against the Defendant and notify the Defendant, a complainant and all parties previously notified of the investigation.
- (d) If the Investigations Unit reports to the Investigations Committee under regulation 4.1(f)(iv) (where charges have been put to the Defendant) the Investigations Committee shall consider the matter and reach one of the following determinations:
- (i) Where the Investigations Committee is of the opinion that, having regard to all the circumstances, it is appropriate that the matter is referred to the AADB Scheme, the Investigations Committee shall stay proceedings under Bye-Law 23 or 25 and pass the matter to the Council to consider a referral to the AADB Scheme;
  - (ii) Where the Defendant is a former Member or former Student if the Investigations Committee considers that the length of time since the Defendant ceased to be a Member or Student is such that it would not be appropriate in all the circumstances to continue with disciplinary proceedings the Investigations Committee shall dismiss the case against the Defendant;
  - (iii) Where the Investigations Committee is of the opinion that there is prima facie evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye Law 23 or 25 and if such facts or circumstances are found to have occurred or arisen the gravity of the breach (together with any previous breaches of Bye-Law 23 or 25 and any finding of

liability under the AADB Scheme and any entry on the Defendant's record) may warrant a more severe penalty than the Investigations Committee is empowered to impose, and in addition the Investigations Committee considers that a referral under Regulation 4.3(d)(i) is not appropriate, the Investigations Committee shall refer the matter to the Disciplinary Committee;

- (iv) Where the Investigations Committee is of the opinion that there is sufficient evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye Law 23 or 25 and the gravity of the breach (together with any previous breaches of Bye-Law 23 or 25 and any finding of liability under the AADB Scheme and any entry on the Defendant's record) does not warrant a more severe penalty than the Investigations Committee is empowered to impose, and in addition the Investigations Committee considers that a referral under Regulation 4.3(d)(i) is not appropriate, the Investigations Committee may impose one or more sanctions;
  - (v) Where the Investigations Committee is of the opinion that there is no or insufficient evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye Law 23 or 25 or such facts or circumstances which it is alleged have occurred do not amount to a breach of Bye Law 23 or 25 the Investigations Committee shall dismiss the case against the Defendant.
- (e) The Investigations Committee may impose the following sanctions by way of Consent Order:
- (i) Entry on Record
  - (ii) Reprimand
- (f) In considering what sanction to impose upon the Defendant the Investigations Committee shall have regard to any previous breaches of Bye-Law 23 or 25 and any finding of liability under the AADB Scheme and any entry on the record of the Defendant.

- (g) If the Defendant refuses to consent to any order for imposition of a Reprimand or Entry on Record the Investigations Committee shall refer the matter to the Disciplinary Committee.
  - (h) Where the Investigations Committee passes a matter to the Council to consider a referral to the AADB Scheme under regulation 4.3(b)(i) and either the Council decides not to make such a referral or the AADB Scheme declines to consider the matter it shall pass immediately to the Investigations Unit and the Investigations Unit will continue its preliminary enquiries and investigations.
  - (i) Where the Investigations Committee passes a matter to the Council to consider a referral to the AADB Scheme under regulations 4.3(c)(i) or 4.3(d)(i) and either the Council decides not to make such a referral or the AADB Scheme declines to consider the matter the Investigations Committee shall reconsider the matter and make an alternative determination as soon as reasonably practicable but in any event within 35 days of the date of the decision of the Council or the AADB Scheme as the case may be.
  - (j) The Investigations Committee may make a Compensatory Award to a complainant to compensate him or her in whole or in part for the reasonable costs of bringing an issue to the Institute's attention, regardless of whether or not the Investigations Committee decides to refer the issue to the Council or to the Disciplinary Committee for further consideration.
  - (k) In considering whether to make a Compensatory Award and the amount of any such Compensatory Award the Investigations Committee shall take into account:
    - (i) The public interest in the issue brought to the Institute's attention;
    - (ii) The conduct of the complainant;
    - (iii) Any costs losses or detriment necessarily incurred or suffered by the complainant in bringing the issue to the Institute's attention; and
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- (iv) The gravity of the issue complained of.
- (l) The Investigations Committee shall inform the Defendant, a complainant, the Chair of the Disciplinary Committee and any other interested persons or bodies who or which in the opinion of the Investigations Committee have a proper interest in being so informed of its determination (including whether it has made any Compensatory Award and if so the extent of that Compensatory Award) as soon as practicable and in any event within 21 days of the date of its determination. The Investigations Committee shall provide the Defendant and complainant with reasons for its determination. Where applicable a complainant shall be informed of his, her or its right to request a review by the Reviewer of Complaints.
- (m) The Institute shall publish a determination of the Investigations Committee to impose a Reprimand by way of Consent Order under regulation 4.3(d)(iv) in each case as it may consider appropriate.

#### 4.4 Right of Review

- (a) A complainant may request that the Reviewer of Complaints review a determination of the Investigations Committee to dismiss a case under regulation 4.3(c)(iii), 4.3(d)(ii) or 4.3(d)(v).
- (b) A request for a review by a complainant must be lodged with the Institute within 21 days of receipt of notice of the Investigations Committee's determination. The request must be in writing and state the facts or matters relied on in support of the review.
- (c) There shall be no review or appeal by either a complainant or the Defendant relating to the exercise or non-exercise of the Investigations Committee's discretion to make a Compensatory Award. A decision of the Investigations Committee to refer a matter to the Disciplinary Committee shall not be subject to review or appeal by either a complainant or the Defendant. A decision of the Investigations Committee to refer or not to refer a matter to Council shall not be subject to review or appeal by either a complainant or the Defendant. A decision of the Council to refer or not to refer a

matter to the AADB Scheme shall not be subject to review or appeal by either a complainant or the Defendant.

## **5 THE AADB SCHEME**

5.1 If the Institute receives notice in writing from the AADB Scheme which states that:

- (a) a referral of a matter by Council is accepted by the AADB Scheme; or
- (b) a matter currently being dealt with under these Regulations shall be dealt with under the AADB Scheme

then with immediate effect the AADB Scheme shall become responsible for the investigation of the matters referred to or assumed by it, and any investigation or action in relation to those matters under these Regulations shall be stayed.

5.2 Where there are further matters relating to a Defendant which are not referred to or assumed by the AADB Scheme, the Investigations Committee may at its discretion stay any further investigation or action in respect of those matters pending any determination recommendation or sanction imposed by the AADB Scheme in respect of those matters referred to it.

5.3 If the AADB Scheme determines at any time that a matter referred to or assumed by it is on further investigation not in fact within its terms of reference, and discontinues its investigation or action for that reason alone, then the matter shall again be referred to the Investigations Committee which may terminate the stay of action imposed above and recommence investigation or actions under these Regulations from the point at which they were stayed, or may make any other determinations in accordance with these Regulations which it considers necessary.

5.4 In any other case, any final determination, recommendation or sanction (whether or not more severe than the sanctions available under these Regulations) made or imposed by the AADB Scheme shall be recorded by the Institute and given effect to as if made or imposed under these Regulations,

save that the collection and/or recovery of fines and costs shall be a matter to be dealt with by agreement between the Institute and the AADB Scheme.

5.5 The Defendant and any Member or Student (not being a Defendant) shall provide his or her full and prompt co-operation to the AADB Scheme and/or its representatives in connection with any investigation under the AADB Scheme and in particular but without limit provide the AADB Scheme with all information and copies of documents relevant to the investigation which are in the Member's or Student's control.

## **6 REVIEWER OF COMPLAINTS**

6.1 The terms of reference of a Reviewer of Complaints shall be to consider at the request of a complainant those matters referred to him under regulation 4.4.

6.2 The Reviewer of Complaints shall notify the Defendant of the grounds upon which a complainant has sought a review of the Investigation Committee's decision and allow the Defendant 21 days from receipt of such notification (or such longer period as the Reviewer of Complaints may determine) to comment upon the matters raised by a complainant.

6.3 If, having considered the evidence before the Investigations Committee and submissions by a complainant and the Defendant, the Reviewer of Complaints considers that the determination reached or the procedure followed by the Investigations Committee may be flawed or incorrect or it is otherwise appropriate to do so the Reviewer of Complaints shall remit the matter to the Investigations Committee with a recommendation that the whole or part of the matter be reconsidered.

6.4 The Reviewer of Complaints shall inform the Defendant, a complainant, the Investigations Committee and any other interested persons or bodies who or which in the opinion of the Reviewer of Complaints have a proper interest in being so informed of his determination to remit a matter to the Investigations Committee or not to so remit a matter, as the case may be, as soon as practicable and in any event within 21 days of the date of his determination. The Reviewer of Complaints shall provide the Defendant and complainant with reasons for his determination.

- 6.5 If the Reviewer of Complaints remits a matter to the Investigations Committee under regulation 6.3 with a recommendation that the whole or part of it be reconsidered, the matter or that part of it shall be treated by the Investigations Committee as if it had been newly laid before it under regulation 4.3(c) or 4.3(d) except that the Investigations Committee shall have regard both to the information and any representations previously available to it in relation to the matter and to any information or representations received by it from the Reviewer of Complaints, including submissions from the Defendant and a complainant.
- 6.6 The Investigations Committee shall inform the Reviewer of Complaints in addition to those persons and bodies mentioned under regulation 4.3(l) of its final determination as soon as practicable and in any event within 21 days of the date of its final determination. The Investigations Committee shall provide the Reviewer of Complaints, together with each of the parties detailed at regulation 4.3(l), with reasons for its final determination.
- 6.7 Where a matter is remitted to the Investigations Committee by the Reviewer of Complaints and the Investigations Committee reconsiders the matter in accordance with regulation 6.5, a complainant shall have no further right of review or appeal in relation to the final determination of the Investigations Committee.

## **7 DISCIPLINARY COMMITTEE**

- 7.1 Terms of reference of the Disciplinary Committee shall be to consider those matters referred to the Disciplinary Committee by the Investigations Committee pursuant to regulations 4.3(d)(iii) and 4.3(g).
- 7.2 Referrals under regulations 4.3(d)(iii) and 4.3(g).
- (a) With regard to referrals under regulations 4.3(d)(iii) and 4.3(g) the Disciplinary Committee shall hold a hearing at which the matter will be considered afresh and in accordance with regulations 9 and 10.
  - (b) On conclusion of the hearing and any further deliberations the Disciplinary Committee may reach one of the following determinations:

- (i) Where the Defendant is a former Member or former Student if the Disciplinary Committee considers that the length of time since the Defendant ceased to be a Member or Student is such that it would not be appropriate in all the circumstances to continue with disciplinary proceedings the Disciplinary Committee shall dismiss the case against the Defendant.
  - (ii) Where the Disciplinary Committee is of the opinion that there is sufficient evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye Law 23 or 25 the Disciplinary Committee may impose one or more sanctions and may make a Cost Order against the Defendant.
  - (iii) Where the Disciplinary Committee is of the opinion that there is no or insufficient evidence that facts or circumstances have occurred or arisen which constitute a breach of Bye Law 23 or 25 or such facts or circumstances which it is alleged have occurred do not amount to a breach of Bye Law 23 or 25 the Disciplinary Committee shall dismiss the case against the Defendant and may make a Cost Order against the Institute.
- (c) The Disciplinary Committee may impose the sanctions listed below and in addition or as an alternative the sanctions listed in regulation 7.2(d) below:
- (i) Entry on Record; or
  - (ii) Reprimand; or
  - (iii) Severe Reprimand; or
  - (iv) Suspension; or
  - (v) Expulsion; or
- (d) As an alternative or in addition to any of the above sanctions one or more of the following sanctions:
- (i) Withdrawal of any Practising Certificate held by the Defendant either indefinitely or for a specified period; or
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- (ii) A fine up to £10,000 or such maximum as the Council may from time to time determine;
  - (iii) The Disciplinary Committee may make a Compensatory Award or Compensatory Awards to a complainant and/or third party in respect of fees paid by such party or parties to the Defendant. If the Disciplinary Committee makes such a Compensatory Award then it shall make a Reimbursement Order against the Defendant for the same amount, so that the Institute shall be fully reimbursed.
  - (iv) If the Investigations Committee has made a Compensatory Award to a complainant the Disciplinary Committee may if it considers it appropriate make a Reimbursement Order against the Defendant for the same amount or such lesser amount as it considers appropriate.
- (e) In considering whether to impose a fine and the amount of any fine the Disciplinary Committee shall take into account:
- (i) The nature and seriousness of the breach of Bye-Law 23 or 25; and
  - (ii) The nature and seriousness of the consequences of the breach of Bye-Law 23 or 25;
  - (iii) The value of the work undertaken by the Defendant in connection with which the breach of Bye-Law 23 or 25 occurred;
  - (iv) Any other sanction imposed upon the Defendant and the value of any Cost Order to be made against the Defendant; and
  - (v) Any evidence before the Disciplinary Committee or submissions made to the Disciplinary Committee regarding the financial circumstances of the Defendant including whether and the extent to which any person is financially dependent upon the Defendant.
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- (f) In considering whether to make a Compensatory Award under regulation 7.2(d)(iii) and the level of any such Compensatory Award the Disciplinary Committee shall take into account:
- (i) The fact that under regulation 7.2(d)(iii) if the Disciplinary Committee makes such a Compensatory Award it must then make a Reimbursement Order against the Defendant for the same amount;
  - (ii) Any evidence before the Disciplinary Committee or submissions made to the Disciplinary Committee regarding the financial circumstances of the Defendant including whether and the extent to which any person is financially dependent upon the Defendant;
  - (iii) Any other sanction imposed upon the Defendant and the value of any Cost Order to be made against the Defendant.
  - (iv) The extent to which the Defendant may have profited from his or her misconduct;
  - (v) The extent to which the Defendant's misconduct has caused loss to a complainant and/or third party; and
  - (vi) The extent to which a complainant and/or third party may have benefited or otherwise received value from the Defendant's services notwithstanding the Defendant's misconduct.
- (g) In considering whether to make a Reimbursement Order under regulation 7.2(d)(iv) and the level of any such Reimbursement Order the Disciplinary Committee shall take into account:
- (i) Any evidence before the Disciplinary Committee or submissions made to the Disciplinary Committee regarding the financial circumstances of the Defendant including whether and the extent to which any person is financially dependent upon the Defendant.
  - (ii) Any other sanction imposed upon the Defendant and the value of any Cost Order to be made against the Defendant;
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- (iii) The nature of the relationship between a complainant and the Defendant; and
    - (iv) The conduct of the Defendant and a complainant in respect of the complaint.
  - (h) In considering what sanction to impose upon the Defendant the Disciplinary Committee shall have regard to any breaches of Bye Law 23 or 25 and any finding of liability under the AADB Scheme and any Entry on the Record of the Defendant.
  - (i) The Disciplinary Committee shall inform the Defendant, a complainant and any recipient of a Compensatory Award that it has made, and such other interested persons or bodies who or which in the opinion of the Disciplinary Committee have a proper interest in being so informed of its determination as soon as practicable and in any event within 21 days. The Disciplinary Committee shall provide the Defendant, a complainant and any recipient of a Compensatory Award that it has made with reasons for its determination and the Defendant shall be informed of his or her right to appeal to and/or request a review by the Appeal Committee.
  - (j) The Institute shall publish the determination of the Disciplinary Committee in each case as it may consider appropriate.
  - (k) The Defendant may appeal against a determination of the Disciplinary Committee pursuant to a referral under regulations 4.3(d)(iii) or 4.3(g) to the Appeal Committee upon one or more of the grounds set out in regulation 8.2(a). For the avoidance of doubt and without prejudice to regulation 7.2(l) an appeal shall not be permitted against any Cost Order of the Disciplinary Committee.
  - (l) A party against whom the Disciplinary Committee makes a Costs Order may request a review on legal grounds of that Cost Order on the ground only that the Cost Order was unlawful.
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- (m) An appeal or request for review by the Defendant or the Institute must be lodged with the Institute within 21 days of receipt of notice by the Defendant of the Disciplinary Committee's determination. The notice of appeal or request for review must be in writing and state the facts or matters relied on in support of the appeal or the review. In the case of a review of any Cost Order the request for review must state the legal grounds on which the Cost Order is said to be unlawful.

## **8 APPEAL COMMITTEE**

8.1 The terms of reference of the Appeal Committee shall be (i) to consider any appeal made in accordance with the provisions of these Regulations by a Defendant, against either or both the decision of the Disciplinary Committee or as to the nature and extent of the sanction imposed (including for the avoidance of doubt the making of any Compensatory Award in relation to fees and the associated Reimbursement Order made under regulation 7.2(d)(iii) and any Reimbursement Order made under regulation 7.2(d)(iv)) by the Disciplinary Committee in any case brought against the Defendant under Bye-Laws 23 or 25; (ii) to review any Cost Order made by the Disciplinary Committee upon the application of the party against whom the Cost Order was made.

### **8.2 Appeals**

- (a) The grounds upon which an appeal may be made are that:
  - (i) The determination of the Disciplinary Committee was wrong in that the Committee gave insufficient weight to or drew incorrect conclusions from any material before it (including the Institute's Charter, Bye-Laws and Regulations) which was or should have been material to its determination; or
  - (ii) The determination is flawed because of a serious procedural or other irregularity in the proceedings before the Disciplinary Committee; or
  - (iii) The Defendant has acquired new evidence which could not have been submitted to the Disciplinary Committee and if submitted

to the Disciplinary Committee would have been likely to have influenced its decision; or

(iv) The sanction imposed by the Disciplinary Committee was excessive in the light of the Disciplinary Committee's determination or the Defendant's circumstances.

(b) In the case of an appeal under 8.2(a)(i) above:

(i) the Defendant shall set out in his or her notice of appeal the basis on which he or she contends that the decision of the Disciplinary Committee in relation to any charge against him or her was wrong and shall indicate what evidence or arguments he or she wishes to rely upon before the Appeal Committee;

(ii) the Appeal Committee shall re-open any issue of fact or law decided by the Disciplinary Committee and re-examine or re-hear any evidence that was before the Disciplinary Committee if it considers that this is necessary to enable it to determine the appeal.

(c) In the case of an appeal under 8.2(a)(iii) above:

(i) the Defendant shall set out in his or her notice of appeal the nature of the new evidence on which he relies and shall explain why it was not available at the time of the hearing by the Disciplinary Committee;

(ii) the Appeal Committee shall receive the evidence (including witnesses) which is the ground for the appeal if it considers that this is necessary to enable it to determine the appeal;

(iii) if the Appeal Committee is persuaded that the new evidence would have been likely to affect the decision of the Disciplinary Committee it shall refer the Defendant's case for a further hearing before a reconstituted Disciplinary Committee.

(d) Except as set out in regulations 8.2(c)(i) and 8.2(c)(ii) above, or unless it otherwise orders, the Appeal Committee shall not receive

evidence (including witnesses) which was or were not before the Disciplinary Committee.

- (e) On conclusion of the hearing and any further deliberations the Appeal Committee may confirm, rescind or vary either or both the determination of the Disciplinary Committee or the nature or extent of the sanction imposed by the Disciplinary Committee.
- (f) The Appeal Committee may impose any of the sanctions that could be imposed by the Disciplinary Committee under regulation 7.2(c) and regulation 7.2(d) and shall have regard to the considerations set out in regulation 7.2(e), regulation 7.2(f) and regulation 7.2(g) as appropriate. The Appeal Committee may vary or rescind any Cost Order made by the Disciplinary Committee and may itself make a Cost Order in relation to costs incurred up to and including the Disciplinary Committee's determination or costs incurred in relation to the appeal proceedings as it considers appropriate having regard to the extent to which the determination of and sanction imposed by the Disciplinary Committee is confirmed, varied or rescinded. For the avoidance of doubt the Appeal Committee may nevertheless make a Cost Order regarding costs incurred in relation to the appeal proceedings even where an appeal is withdrawn at any stage before the Appeal Committee reaches a final determination.

### 8.3 Reviews

In the case of a review under regulation 7.2(l) above the Appeal Committee shall consider the Cost Order made by the Disciplinary Committee and if it considers that the Cost Order is unlawful, whether for a reason given in the request for review or any other reason, the Appeal Committee may re-open the issue of costs and vary (in the Defendant's or the Institute's favour) or rescind the Cost Order of the Disciplinary Committee and/or may make a Cost Order against the Defendant or the Institute in relation to either or both costs incurred up to and including the Disciplinary Committee's determination or costs incurred in relation to the appeal proceedings as it considers appropriate.

#### 8.4 Appeal Committee – Further Provisions

- (a) The Appeal Committee shall inform the Defendant, a complainant and any recipient of a Compensatory Award made by the Disciplinary Committee that has been made, upheld, revoked or varied by the Appeal Committee and such other interested persons or bodies who or which in the opinion of the Appeal Committee have a proper interest in being so informed of its determination. The Appeal Committee shall also provide the Defendant, a complainant and any recipient of a Compensatory Award made by the Disciplinary Committee that has been made, upheld, revoked or varied by the Appeal Committee with the reasons for the Appeal Committee's determination.
- (b) The Institute shall publish the outcome of the appeal and/or review in each case as it may consider appropriate.
- (c) The decision of the Appeal Committee is final and not capable of being further appealed.

### **9 PROCEDURE PRIOR TO HEARINGS BY THE DISCIPLINARY COMMITTEE OR APPEAL COMMITTEE**

- 9.1 The procedures set out in this regulation shall apply to all hearings conducted by the Disciplinary Committee and the Appeal Committee.
- 9.2 The Committee shall give, or shall instruct the Investigation Unit to give, written notice to the Defendant, a complainant and any other interested persons or bodies who or which in the opinion of the Committee have a proper interest in being so informed of the proposed date, time and place of the hearing. This notice shall be sent to the Defendant by recorded postal delivery or other certified means not less than forty-two days (or such longer period as the Committee considers is necessary in the interests of fairness) prior to the date of the hearing.
- 9.3 The notice of the hearing which is sent to the Defendant shall be accompanied by copies of all the documents upon which the Investigations Unit intends to rely at the hearing and in hearings before the Disciplinary Committee or where so ordered by the Appeal Committee shall be

accompanied by the names of all the witnesses which the Investigations Unit intends to call and any witness statements taken from those witnesses or if such documents and details of witnesses do not accompany the notice of hearing they shall be sent by recorded postal delivery or other certified means to the Defendant by the Investigations Unit not less than forty-two days (or such longer period as the Committee considers is necessary in the interests of fairness) prior to the date of the hearing.

- 9.4 The Defendant shall at least twenty-one days before the date of the hearing provide the Committee with copies of all the documents or other evidence upon which he or she intends to rely together with the name, address and professional qualifications (if any) of any representative or adviser who will be attending and the name, address and occupation of any witnesses who will be attending on behalf of the Defendant.
- 9.5 The Defendant shall be invited to attend the hearing accompanied (if he or she so wishes) by a representative or adviser of his or her choice or to send a representative of his or her choice instead of attending in person.
- 9.6 The Committee may if it sees fit invite a complainant and any other interested persons or bodies who or which in the opinion of the Committee have a proper interest to attend the hearing.
- 9.7 The Defendant may notify the Chair of the Committee at any time prior to the hearing that he or she wishes but is unable to attend or wishes to call a witness who is unable to attend a hearing on the set date, time or place and the reason(s) for his or her unavailability. After consideration of the reasons for the Defendant's or witnesses unavailability, the amount of time left before the hearing, any delay in sending notification on the part of the Defendant and any other relevant factor, the Chair of the Committee shall decide whether fairness requires that the date, time or place of the meeting be rearranged and if so shall endeavour to make such rearrangements. In considering the Defendant's application the Chair may obtain the written advice of a Legal Assessor. The Legal Assessor's advice shall be provided to the Defendant and the Investigations Unit and both parties shall be afforded such period as is reasonable in all the circumstances to comment on that advice. If the date, time or place of the hearing is rearranged the Defendant shall be notified in writing and this regulation 9.7 shall apply again in relation to the new hearing.
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**10 PROCEDURE AT HEARINGS OF THE DISCIPLINARY COMMITTEE OR APPEAL COMMITTEE**

- 10.1 The Committee shall determine its own procedure in accordance with these Regulations and the overriding requirements of fairness. For the avoidance of doubt at any stage in the proceedings the Disciplinary Committee may order that amendments (including alterations and additions) may be made to the particulars of the case against the Defendant provided that the Defendant is not prejudiced in the conduct of his defence.
- 10.2 The hearing shall be open to the general public unless in the opinion of the Committee fairness or the public interest requires otherwise. The Committee may deny entry to the hearing to any person or expel any person from the hearing if that person is disrupting or is likely to disrupt the hearing or where fairness otherwise requires. Where a hearing is open to the general public the Committee may exclude the general public for any part of the hearing where this is appropriate and fairness allows or requires.
- 10.3 The Presenting Officer shall be given a reasonable opportunity to present the case against the Defendant or resist any appeal made by the Defendant.
- 10.4 The Defendant shall be given a reasonable opportunity in person or through his or her representative to make submissions in his or her defence or in support of his or her appeal and to respond to any submissions made by the Investigations Unit.
- 10.5 In the case of a hearing before the Appeal Committee, if neither the Defendant nor a representative acting on behalf of the Defendant attends the hearing the Appeal Committee shall consider whether, in all the circumstances, fairness or the public interest requires that the hearing should be adjourned to a future date. If neither the Defendant nor a representative acting on behalf of the Defendant attends a reconvened hearing the Appeal Committee shall dismiss the appeal and/or refuse the application of the Defendant for a review of a Cost Order
- 10.6 At hearings of the Disciplinary Committee and where so ordered by the Appeal Committee at hearings before the Appeal Committee both the Defendant and the Presenting Officer may call any witnesses in support of their submissions and cross-examine any witnesses called by the other.

Either party may only call a witness not previously notified to the other party or the Committee in accordance with regulation 9.3 or 9.4 at the discretion of the Committee.

10.7 The Committee may put questions to any witnesses, the Defendant and/or the Presenting Officer.

10.8 It shall not invalidate any decision or other determination of the Disciplinary Committee or Appeal Committee if at any time (i) during the holding of a hearing or adjourned hearing of that Committee, any member of the Committee shall leave that hearing having taken part therein and (ii) upon an adjournment of a hearing, at the adjourned hearing any member of the Committee present at the initial meeting shall not be present; provided in both cases that the quorum for that Committee is maintained at all times. The retiring Disciplinary Committee member or Appeal Committee member as the case may be shall not discuss the case with any person outside of the hearing.

## **11 STANDARD OF PROOF**

11.1 The Committee must be satisfied that any alleged facts which constitute a breach of Bye-Law 23 or 25 are more likely than not to be true. In assessing the probabilities the Committee shall bear in mind that the more serious the allegation, the more cogent is the evidence required to overcome the unlikelihood of what is alleged and thus to prove it.

## **12 LEGAL ADVICE AND ASSISTANCE**

12.1 The Legal Assessor shall be present at all hearings of the Disciplinary Committee or the Appeal Committee unless his or her presence is not required by the Committee.

12.2 The Legal Assessor shall advise the Investigations Committee, the Disciplinary Committee and the Appeal Committee on such legal or procedural matters as he or she believes in his or her professional opinion the Committees should be advised upon or upon which the Committees ask him or her to advise.

12.3 The advice of the Legal Assessor to the Disciplinary Committee and the Appeal Committee in relation to a particular disciplinary matter shall be delivered at the hearing in the presence of the Defendant and/or his or her representative or if delivered in private shall be faithfully and accurately relayed to the Defendant and/or his or her representative. The Defendant or his or her representative shall be entitled to comment upon such advice before any determination is made in relation to the matter upon which advice was sought.

12.4 The Disciplinary Committee or the Appeal Committee may at its absolute discretion and in exceptional cases pay the reasonable costs of legal advice and/or representation for the Defendant if, having taken account of the complexity of the case against the Defendant and any evidence before the Disciplinary Committee or submissions made to the Disciplinary Committee regarding the financial circumstances of the Defendant including whether and the extent to which any person is financially dependent upon the Defendant, the Committee considers this is necessary in order to ensure that the Defendant is provided with a fair hearing.

### **13 APPOINTMENT OF REVIEWER OF COMPLAINTS**

13.1 The Council shall appoint a Reviewer of Complaints from amongst those persons eligible to be appointed as Independent Members for the purposes of these Regulations generally and in particular in accordance with Regulation 14.5. The Council may appoint one or more eligible persons to hold the office of Reviewer of Complaints. No person shall be a Reviewer of Complaints who is also a member of any of the Investigations Committee, the Disciplinary Committee or the Appeal Committee.

13.2 Each Reviewer of Complaints shall be appointed for a term of at least three years and no more than five years and upon expiry of his first term of office may be re-appointed for one further term of at least three years and no more than five years.

13.3 The Council may suspend or remove any Reviewer of Complaints upon that person ceasing to be eligible for appointment as an Independent Member and upon a majority of the members of the Council taking part in such determination voting for such suspension or removal.

13.4 A Reviewer of Complaints may be paid such remuneration by the Institute as the Council may from time to time determine.

## **14 APPOINTMENT OF COMMITTEE MEMBERS**

14.1 The Council shall appoint all members of the Investigations Committee, the Disciplinary Committee and the Appeal Committee from amongst those persons eligible to be members of these committees. No person shall be a member of more than one Committee at the same time.

14.2 Members of the Investigations Committee, the Disciplinary Committee and the Appeal Committee shall be appointed for a term of at least three years and no more than five years and upon expiry of their first term of office may be re-appointed for one further term of at least three years and no more than five years.

14.3 The Council may suspend or remove any member of the Investigations Committee, the Disciplinary Committee or the Appeal Committee:

(a) upon receiving a recommendation for suspension or removal of that member from three-quarters of the members of the Committee upon which that member serves and upon three-quarters of the members of the Council taking part in such determination voting for such suspension or removal; or

(b) upon that member ceasing to be eligible for appointment as an Independent Member or CIPFA Member (as the case may be) and upon a majority of the members of the Council taking part in such determination voting for such suspension or removal.

14.4 A CIPFA Member shall automatically be suspended from all Committees upon which he or she sits in the event that the Investigations Unit puts charges to that person under regulation 4.1(f). A CIPFA Member who is suspended shall remain suspended until the conclusion of any disciplinary proceedings under these Regulations.

14.5 A person is eligible to be appointed as an Independent Member if neither they nor any of their immediate family, including spouse or person with whom

they are living as a life partner, are a Member or former Member, Student or former Student, employee or former employee of the Institute.

14.6 A person is eligible to be appointed as a CIPFA Member if they are a Member or former Member, Student or former Student and he or she is not a suspended Member or suspended Student under Bye Law 28 and he or she has not had any sanction imposed upon him or her under these regulations or any antecedent regulations or under any joint disciplinary scheme within the last 10 years and disciplinary proceedings are not presently underway against him or her under these Regulations or any antecedent regulations or under any joint disciplinary scheme. For the purposes of this regulation only disciplinary proceedings under these Regulations shall be deemed to be underway if charges have been put under regulation 4.1(f).

14.7 Independent Members may be paid such remuneration by the Institute as the Council may from time to time determine in relation to each category of Committee membership and in relation to each Committee.

## **15 COMPOSITION OF COMMITTEES**

15.1 Composition of the Investigations Committee

- (a) The Investigations Committee shall consist of at least ten members.
- (b) At least 40% of the members of the Investigations Committee shall be Independent Members.
- (c) The Investigations Committee shall act under a quorum of at least three members of whom at least one shall be an Independent Member.
- (d) The Chair of the Investigations Committee shall be an Independent Member. In the absence of the Chair, meetings shall be chaired by one of the Independent Members present.
- (e) The Chair of the Investigations Committee shall have the power to appoint panels of the Investigations Committee to investigate and reach a determination on particular disciplinary matters. If a panel is appointed in relation to a particular disciplinary matter those

members of the Investigations Committee not appointed to such a panel shall play no part in the investigation and determination of that disciplinary matter. These Regulations (other than Regulations 14.3, 15.1(a), and 15.1(b)) shall apply to a panel as they apply to the Investigations Committee as a whole save that references to the Investigations Committee and the Chair of the Investigations Committee shall be read as references to the panel and the chair of the panel.

## 15.2 Composition of Disciplinary Committee

- (a) The Disciplinary Committee shall consist of at least twenty members.
- (b) At least 40% of the members of the Disciplinary Committee shall be Independent Members.
- (c) The Disciplinary Committee shall act under a quorum of at least five members of whom at least two shall be Independent Members.
- (d) The Chair of the Disciplinary Committee shall be an Independent Member. In the absence of the Chair, meetings shall be chaired by one of the Independent Members present.
- (e) The Disciplinary Committee may delegate to the Chair of the Disciplinary Committee the power to determine any preliminary or procedural issue that arises prior to a hearing including but not limited to the determination of the time periods under regulations 9.2, 9.3 and 9.4.
- (f) The Chair of the Disciplinary Committee shall have the power to appoint panels of the Disciplinary Committee to investigate and reach a determination on particular disciplinary matters. If a panel is appointed in relation to a particular disciplinary matter those members of the Disciplinary Committee not appointed to such a panel shall play no part in the investigation and determination of that disciplinary matter. These Regulations (other than Regulations 14.3 and 15.2(a)) shall apply to a panel as they apply to the Disciplinary Committee as a whole save that references to the Disciplinary

Committee and the Chair of the Disciplinary Committee shall be read as references to the panel and the chair of the panel.

15.3 Composition of the Appeal Committee

- (a) The Appeal Committee shall consist of at least five members.
- (b) At least 60% of the members of the Appeal Committee shall be Independent Members.
- (c) The Appeal Committee shall act under a quorum of at least three members of whom at least two shall be Independent Members.
- (d) The Chair of the Appeal Committee shall be an Independent Member. In the absence of the Chair, meetings shall be chaired by one of the Independent Members present.
- (e) The Appeal Committee may delegate to the Chair of the Appeal Committee the power to determine any preliminary or procedural issue that arises prior to a hearing including but not limited to the determination of the time periods under regulations 9.2, 9.3 and 9.4.

**16 EXPULSION**

16.1 A Member or Student who is expelled from the Institute may apply to the Members and Students Development Board to be re-admitted as a Member or Student in the following circumstances only:

- (a) At least one year has passed since the Member or Student was expelled and the Member or Student has new evidence relating to the disciplinary matter in relation to which he or she was expelled which was not before the Disciplinary Committee or Appeal Committee and could not reasonably have been put before the Disciplinary Committee or Appeal Committee by the Member or Student and the Member or Student believes that if the Disciplinary Committee or the Appeal Committee had been in possession of such evidence it would not have expelled the Member or Student; or

- (b) At least five years (or such period as the Council may from time to time determine) have passed since the Member or Student was expelled.

16.2 Upon receipt of an application for re-admittance under regulation 16.1(a) the Members and Students Development Board shall refer the matter for consideration by the Chair of the Appeal Committee. If the Chair of the Appeal Committee considers that if the Disciplinary Committee or the Appeal Committee had been in possession of the new evidence it may not have expelled the Member or Student he or she shall convene a hearing before the Appeal Committee in accordance with regulations 9 and 10. In all other circumstances the application for re-admittance shall be rejected.

16.3 Upon receipt of an application for re-admittance under regulation 16.1(b) the Members and Students Development Board shall obtain the considered opinion of the Appeal Committee. The Appeal Committee shall reach its opinion after considering all relevant factors including:

- (a) The seriousness of the breach of Bye Law 23 or 25; and
- (b) The applicant's conduct since expulsion; and
- (c) Whether if re-admitted the applicant could be expected to uphold the standards expected of a Member or Student.

16.4 Where an application under regulation 16.1 is made by an individual who previously held a Practising Certificate the Members and Students Development Board and the Appeal Committee shall also consider whether a further Practising Certificate should be granted if the applicant is re-admitted to membership of the Institute.

## **17 WITHDRAWAL OF PRACTISING CERTIFICATE**

17.1 A Member whose Practising Certificate has been withdrawn for an indefinite period may apply to have it re-instated by the Members and Students Development Board on the expiry of at least five years (or such period as the Council may from time to time determine) from the date of withdrawal.

- 17.2 Upon receipt of an application for re-instatement of a Practising Certificate under regulation 17.1 the Members and Students Development Board shall obtain the considered opinion of the Appeal Committee. The Appeal Committee shall reach its opinion after considering all relevant factors including:
- (a) The seriousness of the breach of Bye Law 23 or 25; and
  - (b) The applicant's conduct since withdrawal of the Practising Certificate; and
  - (c) Whether if the Practising Certificate is re-instated the applicant could be expected to uphold the standards expected of a Member who is engaged in public practice.

## **18 EFFECTIVE DATES**

- 18.1 An order by the Investigations Committee to impose a Reprimand or Entry on Record shall become effective on the date the Investigations Committee receives the Defendant's consent to the imposition of the Reprimand or Entry on Record.
- 18.2 Any Compensatory Award made by the Investigations Committee shall take effect when the decision of the Investigations Committee to make the Compensatory Award is received by the Institute.
- 18.3 Any order, Compensatory Award or Reimbursement Order made by the Disciplinary Committee shall take effect from the date of the expiry of the appeal/review period specified at regulation 7.2(m) unless the Defendant shall duly give notice of appeal or apply for a review prior to the expiry of such a period in which case the order, Compensatory Award or Reimbursement Order shall be suspended until the appeal or review has been determined.
- 18.4 Any order of the Appeal Committee shall take effect from the date it is announced by the Committee.

## **19 PAYMENT**

- 19.1 Any Cost Order, Compensatory Award or Reimbursement Order or fine imposed by a Committee shall be payable within 28 days from the date the order becomes effective unless the Institute agrees otherwise.

## **20 NOTICES**

- 20.1 Any notice or other document required to be given to any Member or Student under these Regulations may be given to him personally or by sending it by post, special delivery or courier to the Member's or former Member's or Student's or former Student's address last known to the Institute. Any such notice or document so sent shall be deemed to have arrived within 72 hours of dispatch.