

Bye-Laws made by the Council of the Institute of Bankers in Ireland pursuant to Articles 20 and 49 of the Articles of Association of the Institute of Bankers in Ireland

EXPLANATORY NOTE

(This note is not part of the Bye-Laws and does not purport to be a legal interpretation).

The Institute aims to maintaining adherence to the best standards of professional and business conduct for members of the banking profession thereby promoting high public confidence in the profession and the members of the Institute.

Where it is suspected or alleged that the standards applied by a professional member in a particular case fell below what is required, the Bye-Laws on discipline provide a formal framework for investigating the suspicion or allegation, and where wrongdoing is proved, allowing for appropriate sanctions, while also effectively protecting the rights of professional members to defend their conduct and to protect their reputations.

The Bye-Laws anticipate two distinct stages in responding to any suspicion or allegation. In the first, which is generally informal and in private, a preliminary investigation occurs (led by the Investigations Officer who supports the Professional Membership Complaints Committee) so that the Institute can establish the sequence of relevant facts. The Investigations Officer may engage with any professional member concerned at this stage, but is not required to do so.

The Professional Membership Complaints Committee (which is an independent committee comprising both Institute and lay members) considers the facts and makes a judgment about whether the matter is one in which the Institute can appropriately take action and whether there is a *prima facie* case of particular misconduct by a professional member or members. If there is no *prima facie* case of misconduct which the Institute can deal with, the matter does not go beyond this first stage. In any case where the Professional Membership Complaints Committee decides there is a *prima facie* case of misconduct by a professional member, it will make a formal complaint to the Professional Membership Disciplinary Committee.

The second stage of a formal disciplinary procedure can only begin where the Professional Membership Complaints Committee is satisfied that a formal disciplinary procedure is appropriate.

The procedures before the panel of the Professional Membership Disciplinary Committee (which comprises both Institute and lay members) must meet all requirements of natural justice. Any professional member against whom a formal complaint is made must be notified clearly of the alleged misconduct which is the subject of the complaint, and must be provided with relevant documents and other materials. Where the professional member disputes the complaint, he or she will be able to present his or her case, documents and witnesses to the panel hearing the case and to question the witnesses in support of the formal complaint. If the panel's decision is against the professional member, the penalty must be proportionate and the professional member has a right of appeal to the Professional Membership Appeal Committee.

The disciplinary procedure presumes that every professional member is innocent of any misconduct unless or until misconduct is proved to the Professional Membership Disciplinary Committee. Professional members are expected to deal promptly and comprehensively with matters raised with them under the disciplinary Bye-Laws. Equally, professional members may have confidence that their rights, interests and personal and professional reputation will be protected where they become involved in professional disciplinary proceedings.

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Disciplinary proceedings

1 Interpretation

1.(1) In these Bye-Laws:

“Articles” means the Articles of Association of the Institute of Bankers in Ireland;

“complaint” means a complaint made by a person to the Professional Membership Complaints Committee concerning a professional member alleging that the professional member has committed or is responsible for a relevant contravention or a matter referred for a preliminary investigation by the Professional Membership Complaints Committee;

“Council” means the Council of the Institute of Bankers in Ireland;

the “Investigations Officer” means the member of the staff of the Institute for the time being nominated to act as secretary to the Complaints Committee and to perform the functions conferred by these Bye-Laws on the Investigations Officer, and includes a member of the staff of the Institute for the time being nominated to act as deputy for, or in place of, such person.

“formal complaint” means a complaint referred by the Professional Membership Complaints Committee to the Professional Membership Disciplinary Committee, following a preliminary investigation, specifying the relevant contravention(s) in respect of which the Professional Membership Complaints Committee considers there is a *prima facie* case against the professional member concerned;

“Institute” means the Institute of Bankers in Ireland;

“preliminary investigation” means an initial investigation of facts or matters alleged in a complaint, which is undertaken by or under the direction of the Investigations Officer, to assemble the relevant facts or matters for consideration by the Professional Membership Complaints Committee to establish whether a formal complaint should be made in respect of a professional member to the Professional Membership Disciplinary Committee;

“professional member” means a Fellow (including Honorary Fellow); Licentiate; Practitioner or Associate of the Institute of Bankers in Ireland;

a “relevant contravention” arises where one or more of the circumstances described in Article 49(a) of the Articles of Association existed at a material time, or exists, in relation to a professional member.

(2) Unless the context otherwise requires, words and expressions have the same meanings as in the Articles.

(3) These Bye-Laws may be cited as the “Professional Disciplinary Regulations”.

2 Introduction

2.(1) A professional member is liable to disciplinary action where any of the circumstances described in Article 49(a) of the Articles is found to have existed at a material time or to exist in relation to that member.

(2) Proceedings to determine whether disciplinary action is appropriate in the case of a professional member shall be conducted in accordance with these Bye-Laws and in accordance with

the procedures adopted from time to time by the Professional Membership Disciplinary Committee and any Professional Membership Appeal Committee.

3 Appointment of Committees

3.(1) The Council shall in each year appoint a Professional Membership Complaints Committee and a Professional Membership Disciplinary Committee.

(2) The Council shall from time to time appoint a panel of persons from whom members of Professional Membership Appeals Committees may be appointed.

4 The Professional Membership Complaints Committee

4.(1) The Professional Membership Complaints Committee shall consist of not fewer than four persons who are professional members of the Institute but not members of the Council and two persons who are not members of the Institute. The quorum for meetings of the Professional Membership Complaints Committee shall be four of whom at least one shall be a person who is not a member of the Institute. Any meeting of the Professional Membership Complaints Committee at which a quorum is present shall be competent to exercise all the functions and powers conferred upon the Professional Membership Complaints Committee by or pursuant to these Bye-Laws. The Professional Membership Complaints Committee shall elect a Chairperson and Vice-Chairperson.

(2) The Professional Membership Complaints Committee shall be supported by a member of the staff of the Institute, who shall be secretary to the Professional Membership Complaints Committee and who shall perform the duties imposed by these Bye-Laws on the Investigations Officer.

(3) It is the duty of each member of the Professional Membership Complaints Committee to exclude himself or herself from the consideration of any complaint which, by reason of his or her interest in the matter or connection to a person concerned in the complaint, it would not be proper for him or her to consider.

(4) Every professional member and any other person may bring to the attention of the Professional Membership Complaints Committee any facts or matters indicating that a professional member may have become liable to disciplinary action.

(5) Subject to Bye-Law 5(4), the Investigations Officer shall conduct a preliminary investigation of such facts and matters and report on the preliminary investigation to the Professional Membership Complaints Committee.

5 Preliminary investigation of potential liability to disciplinary action

5.(1) Where a person (whether or not a professional member) wishes to make a complaint (the "**complaint**") concerning a professional member alleging that the member has committed or is responsible for a relevant contravention, the person (the "**complainant**") shall submit details of the complaint in writing to the Investigations Officer, specifying the conduct or omission complained of and the material facts or information concerning the matters the subject of the complaint, and providing copies of the documents in the complainant's possession concerning those matters.

(2) Where a complaint, including the documents provided, gives reasonable grounds for suspecting that the professional member concerned has committed or is responsible for a relevant contravention, the Investigations Officer shall, on his or her own initiative, but subject to Bye-Law 5(5), undertake or direct the undertaking of an initial investigation (the "**preliminary investigation**") to assemble the relevant facts or matters for consideration by the Professional Membership Complaints Committee.

(3) Where facts or matters come to the attention of the Professional Membership Complaints Committee which give reasonable grounds for suspecting that an identified professional member has committed or is responsible for a relevant contravention, the Professional Membership Complaints Committee shall, subject to Bye-Law 5(5), direct that an initial investigation (the “**preliminary investigation**”) be undertaken by or under the direction of the Investigations Officer to assemble the relevant facts or matters for consideration by the Professional Membership Complaints Committee.

(4) Where facts or matters come to the attention of any officer of the Institute which give reasonable grounds for suspecting that an identified professional member has committed or is responsible for a relevant contravention, the officer shall refer those facts or matters to the Professional Membership Complaints Committee or to the Investigations Officer.

(5) Where the matters which may be the subject of an preliminary investigation would also amount to a breach of any law, regulation, code or other instrument issued by a regulatory authority, whether in Ireland or elsewhere, and is currently being or is likely to be considered by a court of law, regulatory tribunal, professional body or similar body with prior or superior jurisdiction to that of the Institute, the Professional Membership Complaints Committee may, either on the proposal of the Investigations Officer or of its own initiative, determine to defer or suspend the preliminary investigation, or the making of a formal complaint, pending the conduct, completion and/or outcome of any inquiries by any relevant legal and/or regulatory authority.

(6) The preliminary investigation shall be directed towards the establishment by the Professional Membership Complaints Committee of whether there is a *prima facie* case that the professional member has committed or is responsible for a relevant contravention.

(7) In the course of conducting a preliminary investigation, the Investigations Officer may call for such further information (if any) as he or she considers or is advised or is informed by any member of the Professional Membership Complaints Committee is necessary to enable an opinion to be formed whether or not a *prima facie* case that the professional member has committed or is responsible for a relevant contravention has been made out.

(8) The Investigations Officer may in his or her absolute discretion give the professional member concerned an opportunity of being heard before him or her and/or of making written representations before presenting his or her report on the preliminary investigation to the Professional Membership Complaints Committee.

(9) The Investigations Officer shall present a report on every preliminary investigation to the Professional Membership Complaints Committee.

(10) Where relevant, the report on a preliminary investigation shall consider whether:

(i) the matter falls within the jurisdiction and competence of the Institute;

(ii) the matter is currently being, or is likely to be, considered by a court of law, regulatory tribunal, professional body or similar body with prior or superior jurisdiction to that of the Institute;

(iii) the matter is one that should reasonably be dealt with by the professional member’s employer;

(iv) there is a realistic prospect that the Institute can collect the evidence required to conduct a fair hearing into matter; or

(v) the complaint appears to be of a vexatious or frivolous nature, and unworthy of further investigation.

6 Consideration of report of preliminary investigation by Professional Membership Complaints Committee

6.(1) Where a report by the Investigations Officer of a preliminary investigation has been made to it, the Professional Membership Complaints Committee may call for such further information (if any) as it considers necessary to enable it to decide whether or not a *prima facie* case has been made out against the professional member concerned.

(2) Before reaching a decision, the Professional Membership Complaints Committee may in its absolute discretion give the professional member an opportunity of being heard before it or of making written submissions to it.

(3) If, following consideration of the report by the Investigations Officer, and any further information and/or submissions it considers necessary, the Professional Membership Complaints Committee is of the opinion that:

(i) the matter falls within the jurisdiction and competence of the Institute;

(ii) the matter is not currently or likely to be considered by a court of law, regulatory tribunal, professional body or similar body with prior or superior jurisdiction to that of the Institute;

(iii) the matter is not one that should reasonably be dealt with by the professional member's employer;

(iv) there is a realistic prospect that the Institute can collect the evidence required to conduct a fair hearing into matter;

(v) the complaint is not of a vexatious or frivolous nature, and

(vi) there is a *prima facie* case that the professional member has committed or is responsible for a relevant contravention,

the Professional Membership Complaints Committee shall refer a formal complaint to the Professional Membership Disciplinary Committee, specifying the relevant contravention(s) in respect of which the Professional Membership Complaints Committee considers there is a *prima facie* case against the professional member.

(4) Arising from its consideration of the report by the Investigations Officer, including any further or other action recommended by the Investigations Officer (other than the referral of a formal complaint to the Professional Membership Disciplinary Committee), the Professional Membership Complaints Committee may take such other action in relation to a complaint as it considers appropriate to the case.

(5) In the case of any complaint in respect of which the Professional Membership Complaints Committee determines that no action should be taken, it shall advise the complainant of the outcome. Where the professional member concerned is aware of the complaint, it shall notify the professional member of the outcome. Where the professional member concerned has not previously been aware of the complaint, it may notify the professional member of the fact that a complaint has been made and that the Professional Membership Complaints Committee has determined to take no action.

(6) The Professional Membership Complaints Committee may in its discretion provide guidance on matters of professional standards and shall carry out such other duties as may from time to time be delegated to it by the Council.

7 The Professional Membership Disciplinary Committee

7.(1) The Professional Membership Disciplinary Committee shall consist of not fewer than four persons who are professional members of the Institute but not members of the Council and two persons who are not members of the Institute. The quorum for meetings of the Professional Membership Disciplinary Committee shall be four, of whom at least one shall be a person who is not a member of the Institute. Any meeting of the Professional Membership Disciplinary Committee at which a quorum is present shall be competent to exercise all the functions and powers conferred upon the Professional Membership Disciplinary Committee by or pursuant to these Bye-Laws. The Professional Membership Disciplinary Committee shall elect a Chairperson and Vice-Chairperson.

(2) The Professional Membership Disciplinary Committee may adopt written procedures for the conduct of disciplinary hearings.

(3) It is the duty of each member of the Professional Membership Disciplinary Committee to exclude himself or herself from the consideration of any formal complaint which, by reason of his or her interest in the matter or connection to a person concerned in the formal complaint, it would not be proper for him or her to consider.

(4) On receipt of a formal complaint from the Professional Membership Complaints Committee, the Professional Membership Disciplinary Committee shall as soon as practicable notify the professional member concerned of the nature of the formal complaint and of the time and place fixed for the hearing. The Professional Membership Disciplinary Committee shall give the professional member concerned the opportunity of attending the hearing, of being heard before it, of calling witnesses to give evidence on his or her behalf, of adducing documentary evidence, and, if he or she so desires, he or she shall be permitted to be represented at the hearing by counsel or by a solicitor or by another professional member of the Institute.

(5) The Professional Membership Complaints Committee may appoint the Investigations Officer or another member of the staff of the Institute to support the formal complaint before the Professional Membership Disciplinary Committee. The person appointed to support the formal complaint may instruct a legal representative to support the formal complaint. Witnesses may be called to give evidence on behalf of the Professional Membership Complaints Committee and of the professional member and documentary evidence may be adduced before the Professional Membership Disciplinary Committee.

(6) The Professional Membership Disciplinary Committee may, in respect of any disciplinary hearing, appoint a sub-committee, comprising not fewer than four members of whom at least one is not a member of the Institute, to conduct the disciplinary hearing. Any reference in these Bye-Laws and any written procedure to the Professional Membership Disciplinary Committee includes, where the context requires, a reference to such a sub-committee. Any such sub-committee shall, in relation to the formal complaint concerned, be competent to exercise all the functions and powers conferred upon the Professional Membership Disciplinary Committee by or pursuant to these Bye-Laws.

(7) The Professional Membership Disciplinary Committee may instruct a legal representative to assist it or to act as legal assessor on the hearing of any formal complaint.

(8) Meetings and hearings of the Professional Membership Disciplinary Committee (and any sub-committee) shall ordinarily be held in private, subject to the requirements of Bye-Law 12, but if the Professional Membership Disciplinary Committee so resolves, any one or more hearings before the Professional Membership Disciplinary Committee (or any sub-committee) shall be open to the public.

(9) If for any reason any member of the sub-committee of the Professional Membership Disciplinary Committee hearing a formal complaint is during the course of the hearing unable to continue to attend the hearing, the remaining members, provided that they are not less than two in number, may continue with the hearing, but if the professional member is present they shall do so only if he or she consents. In any other case, the formal complaint shall be re-heard by a new sub-committee.

(10) If at any time the sub-committee is of the opinion that it is for any reason impracticable for the original sub-committee to complete the hearing of a formal complaint, it shall direct that the formal complaint be heard by a new sub-committee.

(11) Whenever a formal complaint is reheard pursuant to this Bye-Law any of the members of the original sub-committee may be appointed to the new sub-committee.

(12) If, following the hearing of the complaint, the Professional Membership Disciplinary Committee determines that the formal complaint has been proven, in whole or in part, it shall make a finding to that effect.

8 Penalties and orders of the Professional Membership Disciplinary Committee

8.(1) If the Professional Membership Disciplinary Committee determines that a formal complaint has been proven, in whole or in part, it may make any one or more of the following orders against the professional member as it considers appropriate having regard to its views as to the nature and seriousness of the complaint and any mitigating circumstances:

(i) that the professional member be excluded from membership of the Institute;

(ii) that the professional member be suspended from membership of the Institute for such period, not exceeding two years, as is specified in the order, and during the period of suspension, the professional member may not use membership descriptions, professional titles and/or designatory letters conferred by the Institute;

(iii) that the professional member be admonished;

(iv) that the professional member be fined a sum not exceeding €2,000;

(v) that a record of the formal complaint and the determination be noted on the professional member's record for a specified period;

(vi) that the professional member be required at his or her own expense to attend such additional training or complete additional tests or examinations as directed by the Professional Membership Disciplinary Committee; and/or

(vii) such other available sanction that the Professional Membership Disciplinary Committee considers reasonable, proportionate and appropriate, and/or

(viii) that the professional member be required to pay a sum not exceeding €5,000 in respect of costs incurred by or on behalf of the Institute in relation to the proceedings of the Professional Membership Complaints Committee and/or the Professional Membership Disciplinary Committee.

(2) The Professional Membership Disciplinary Committee may order that no further action be taken on the formal complaint notwithstanding its determination that a formal complaint has been proved.

(3) Unless the order itself provides otherwise, an order of the Professional Membership Disciplinary Committee shall take effect from the date on which notice of the order would be deemed in accordance with the Articles to have been received by the professional member. Any order that a sum, by way of fine and/or costs, be paid to the Institute must be complied with within 21 days from such date unless a valid appeal is lodged by the professional member concerned within such period.

(4) Any professional member shall, *ipso facto*, cease to be a member of the Institute if such sum by way of fine and/or costs as is mentioned in paragraph (1)(iv) or (viii) above is not paid by the due date.

(5) An order of the Professional Membership Disciplinary Committee may be made by consent, where the formal complaint is not opposed by the professional member concerned.

(6) An order of the Professional Membership Disciplinary Committee may be made upon such terms and conditions (if any) as the Professional Membership Disciplinary Committee considers appropriate.

9 Professional Membership Appeal Committee

9.(1) If the Professional Membership Disciplinary Committee makes any order against a professional member, the professional member may, within 21 days of the notification to him or her of the order, give notice of appeal to the Secretary of the Institute.

(2) Any notice of appeal shall be in writing and shall state the grounds of appeal and the grounds stated in the notice of appeal shall not be amended except with the leave of the Professional Membership Appeal Committee appointed to hear such appeal.

(3) An appeal may only be made on any one or more of the following grounds:

(i) that the findings of the Professional Membership Disciplinary Committee and/or the sanctions imposed were based on an error of law or fact;

(ii) that the findings of the Professional Membership Disciplinary Committee and/or the sanctions imposed were unjust because of a serious procedural error or irregularity in the proceedings before the Professional Membership Disciplinary Committee; or

(iii) that the sanctions imposed by the Professional Membership Disciplinary Committee were disproportionate to the relevant contravention found

(4) The Secretary of the Institute in his or her absolute discretion may extend the time for giving notice of appeal.

(5) The Secretary of the Institute shall, as soon as practicable after the receipt of any notice of appeal, appoint a Professional Membership Appeal Committee from among the panel referred to in Bye-Law 3(2) to hear the appeal. The Professional Membership Appeal Committee shall consist of not fewer than four persons who are professional members of the Institute but not members of the Council and two persons who are not members of the Institute.

(6) No member or former member of the Professional Membership Complaints Committee or Professional Membership Disciplinary Committees who has been concerned with the formal complaint which is the subject of the appeal shall be eligible for appointment to the Professional Membership Appeal Committee. The Professional Membership Appeal Committee shall elect a Chairperson and Vice-Chairperson.

(7) The appellant shall have the right:

(a) to represent himself or herself before the Professional Membership Appeal Committee or to have representation by a legal representative or by another professional member of the Institute;

(b) to make submissions himself or herself or through his or her representative to the Professional Membership Appeal Committee, and

(c) to apply to the Professional Membership Appeal Committee to call new evidence, where such evidence is likely to be necessary to fairly decide the appeal and was unavailable at the original hearing for good and sufficient reasons.

10 Conduct of appeals

10.(1) The Professional Membership Appeal Committee may adopt written procedures for the conduct of the disciplinary appeal.

(2) As soon as practicable after its appointment, the Professional Membership Appeal Committee shall notify the professional member of the time and place fixed for the hearing of the appeal. The Professional Membership Appeal Committee shall give the professional member the opportunity of attending the hearing, of being heard before it and, if he or she so desires, he or she shall be permitted to be represented at the hearing of the appeal by a legal representative or by another professional member of the Institute.

(3) It is the duty of every person nominated to membership of a Professional Membership Appeal Committee to exclude himself or herself from the consideration of any appeal which, by reason of his or her interest in the matter or connection to a person concerned in the formal complaint, it would not be proper for him or her to consider.

(4) On hearing any appeal, the Professional Membership Appeal Committee may:

(a) affirm any order of the Professional Membership Disciplinary Committee;

(b) where it is satisfied that the findings of the Professional Membership Disciplinary Committee were based on an error of law or fact, or were unjust because of a serious procedural error or irregularity in the proceedings before the Professional Membership Disciplinary Committee, rescind the order of the Professional Membership Disciplinary Committee and may, in such case, remit the formal complaint to the Professional Membership Disciplinary Committee for re-hearing;

(c) where it is satisfied that the sanctions imposed by the Professional Membership Disciplinary Committee were disproportionate to the relevant contravention found, substitute any other order or orders (on such terms and conditions (if any) as it thinks appropriate) by way of sanctions which the Professional Membership Disciplinary Committee might have made in accordance with these Bye-Laws on the original formal complaint.

(5) The Professional Membership Appeal Committee may make an order requiring the unsuccessful party to pay a sum not exceeding €5,000 in respect of the costs incurred by or on behalf of the successful party in the appeal.

(6) Meetings and hearings of a Professional Membership Appeal Committee shall ordinarily be held in private, subject to the requirements of Bye-Law 12, but if a Professional Membership Appeal Committee so resolves, any one or more hearings before that committee shall be open to the public.

(7) If for any reason, prior to the time fixed for the hearing of the appeal, any member of the Professional Membership Appeal Committee becomes unable to act, the remaining members of the Professional Membership Appeal Committee shall co-opt another eligible person from among the panel referred to in Bye-Law 3(2) to act in his or her place.

(8) If for any reason any member of the Professional Membership Appeal Committee is, during the course of the hearing, unable to continue to attend the hearing, the remaining members, provided that they are not less than four in number, may continue with the hearing, but if the professional member is present they shall do so only if he or she consents. In every other case, the appeal shall be re-heard by a new Professional Membership Appeal Committee.

(9) If at any time during the course of the hearing of an appeal the Professional Membership Appeal Committee is of the opinion that it is for any reason impracticable for it to complete the hearing,

it shall inform the Secretary of the Institute who shall direct the appeal to be re-heard by a new Professional Membership Appeal Committee.

(10) Whenever any appeal is re-heard pursuant to the provisions of Bye-Law 10(7) or 10(8), any of the members of the original Professional Membership Appeal Committee may be appointed to the new Professional Membership Appeal Committee.

11 Orders of a Professional Membership Appeal Committee

11. Unless the order itself provides otherwise, an order of a Professional Membership Appeal Committee shall take effect as from the date of the order. Notice of any order of the Professional Membership Appeal Committee shall as soon as practicable be given to the professional member and to the Council.

12 Access to hearings and publicity

12.(1) Without prejudice to Bye-Laws 7(8) and 10(5), where the Professional Membership Complaints Committee, the Professional Membership Disciplinary Committee or a Professional Membership Appeal Committee is dealing with a complaint or hearing relevant to the requirements of or arising under any legislation, or other matter of public concern, such committee may inform the relevant supervisory or regulatory authority of its proceedings and may furnish details of such hearing if requested.

(2) Determinations of the Professional Membership Disciplinary Committee and any Professional Membership Appeal Committee may be communicated to such persons as the committee concerned thinks appropriate and may be published in such manner as the committee concerned considers appropriate, provided that:

(a) unless the special circumstances of the case otherwise require, any information published shall not extend beyond the name of the professional member, the nature of the complaint made against him or her, the Professional Membership Disciplinary Committee's or Professional Membership Appeal Committee's determination and any sanction imposed, and

(b) details of Professional Membership Disciplinary Committee determinations and any sanctions imposed on a member shall not be published until either:

(i) any appeal by the professional member concerned has been heard and determined, or

(ii) the time permitted for making an appeal has expired without any appeal being made.

Professional Membership Disciplinary Committee Procedure

1.(1) As soon as practicable after the referral of a formal complaint to the Professional Membership Disciplinary Committee, the Professional Membership Disciplinary Committee shall notify the professional member concerned in writing that he or she is the subject of disciplinary proceedings by the Institute. The notification shall set out fully the matter or matters concerning the professional member which are to be the subject of the disciplinary hearing. The notification shall include:

(i) a copy of any written formal complaint, and

(ii) a copy of any provisions of the Articles of Association and Bye-Laws which are relevant to the proceedings, and

(iii) a copy of this procedure.

(2) The notification shall also notify the professional member of his or her rights:

(a) to represent himself or herself before the Professional Membership Disciplinary Committee or to be represented by a legal representative or by another professional member of the Institute;

(b) to call witnesses;

(c) to question witnesses;

(d) to make submissions himself or herself or through his or her representative to the Professional Membership Disciplinary Committee.

2. References in this procedure to the "Investigations Officer" include reference to any other person appointed by the Professional Membership Complaints Committee to present or support the formal complaint.

3.(1) The Professional Membership Disciplinary Committee shall notify the professional member and the Investigations Officer of the time (which shall not be sooner than 28 days from the date of such notification) and place fixed for the disciplinary hearing.

(2) Not later than 21 days before the date fixed for the disciplinary hearing, the Investigations Officer shall send to the professional member and to the Professional Membership Disciplinary Committee copies of all documents in his or her possession relevant to the matter or matters concerning the professional member which are to be the subject of the disciplinary hearing (including any witness statement or report provided by any intended witness), together with the names of any witnesses to be called on behalf of the Professional Membership Complaints Committee.

(3) The Investigations Officer shall within the same time also send to the professional member (but not to the Professional Membership Disciplinary Committee) a copy of the report of the Investigations Officer to the Professional Membership Complaints Committee.

4. The Investigations Officer may not rely on any document not copied to the professional member or any witness whose name was not notified to the professional member in accordance with clause 3(3) unless the Professional Membership Disciplinary Committee determines that the professional member would not be prejudiced by such reliance. Where the Investigations Officer seeks to rely on any such document or witness, the Professional Membership Disciplinary Committee may adjourn the hearing to allow the professional member an opportunity to consider the document or witness.

5.(1) Not later than 14 days before the date fixed for the disciplinary hearing, the professional member shall confirm in writing to the Professional Membership Disciplinary Committee whether he or she intends to appear in person and/or be represented at the hearing.

(2) Where the professional member intends to appear in person and/or be represented at the disciplinary hearing, he or she shall, not later than 14 days before the date fixed for the hearing, send the Professional Membership Disciplinary Committee (and copy to the Investigations Officer) copies of any further documents on which he or she intends to rely at the disciplinary hearing, together with the names of any witnesses he or she intends to call. However, the professional member shall not be precluded from relying on any document which was not included in the material so delivered or from calling any witness not notified.

(3) Where the professional member proposes to rely on any mitigating circumstances, he or she shall provide details of those circumstances to the Professional Membership Disciplinary Committee (and to the Investigations Officer) not later than 7 days before the hearing.

6. If the professional member or the Investigations Officer does not attend the disciplinary hearing, then the Professional Membership Disciplinary Committee may, in its discretion, either:

(a) if the Professional Membership Disciplinary Committee is satisfied that such person had notice of that hearing and there is no good reason for his or her non-attendance, proceed to hear the matter in that person's absence, or

(b) adjourn the hearing to such other date, venue and time as the Professional Membership Disciplinary Committee determines,

and the Professional Membership Disciplinary Committee shall give notice of that decision to the professional member and to the Investigations Officer.

7. The Professional Membership Disciplinary Committee may in its discretion grant extensions of time, adjournments and postponements where it considers it fair and proper to do so.

8. The Professional Membership Disciplinary Committee may, where it considers it necessary or desirable, instruct a legal representative to assist it in ensuring the fair and proper conduct of the disciplinary hearing.

9.(1) Unless the Professional Membership Disciplinary Committee permits otherwise, the Investigations Officer shall first summarise the substance of the formal complaint against the professional member, and then present the materials and witnesses produced in support of the formal complaint.

(2) Any witness produced by the Investigations Officer may be questioned first by the Investigations Officer, then by or on behalf of the professional member.

(3) The members of the Professional Membership Disciplinary Committee may question any such witness through the Chairperson.

(4) When all of the material on which the Investigations Officer intends to rely has been presented, the professional member or his or her representative may make a statement or address to the Professional Membership Disciplinary Committee in response, and shall then present the materials and witnesses produced in his or her defence.

(5) Any witness produced by the professional member may be questioned first by or on behalf of the professional member then by the Investigations Officer.

(6) The members of the Professional Membership Disciplinary Committee may question any such witness through the Chairperson.

(7) The Investigations Officer may then again address the Professional Membership Disciplinary Committee to sum up the matters supporting the formal complaint, to comment on the materials and witnesses presented by the professional member and to make any submission.

(8) The professional member or his or her representative may then finally address the Professional Membership Disciplinary Committee to comment on the materials and witnesses presented in support of the formal complaint, to sum up the matters raised in his or her defence and to make any submission.

(9) The Professional Membership Disciplinary Committee may receive the evidence of any witness by means of a live television link, provided that-

(a) doing so would not be prejudicial to the professional member, and

(b) the facilities provided by a live television link between the witness and the hearing are such as to enable the witness to participate in and to view and hear the proceedings at the hearing and to enable those present at the hearing to see and hear the witness.

10.(1) It is the responsibility of each of the professional member and the Investigations Officer to ensure that the witnesses who they intend to call are present at the disciplinary hearing.

(2) The Professional Membership Disciplinary Committee may, on the written request of either party or in its own discretion, request any person to attend at the disciplinary hearing.

11.(1) Having heard and considered the case, the Professional Membership Disciplinary Committee shall retire to determine whether the formal complaint is proved.

(2) If the Professional Membership Disciplinary Committee cannot reach a determination by consensus, the determination of the majority shall be the determination of the Professional Membership Disciplinary Committee. In the event of an equality of votes, the Chairperson shall have a second or casting vote.

(3) The Professional Membership Disciplinary Committee shall reconvene to announce its determination.

(4) If the formal complaint is proved, the Professional Membership Disciplinary Committee may consider what disciplinary action, if any is to be taken, and may hear submissions in that regard by the Investigations Officer and by or on behalf of the professional member, including any submission in mitigation.

(5) The Professional Membership Disciplinary Committee may adjourn the hearing to permit the preparation of any statement of mitigating circumstances.

12. A deviation from this procedure does not affect the validity of the proceedings concerned provided:

(a) the deviation is not material and is not prejudicial to the professional member who is the subject of the proceedings, or

(b) the professional member who is the subject of the proceedings agrees to the deviation, having had an opportunity to take advice on the proposed deviation.

Professional Membership Appeal Committee

1.(1) Every appeal shall be heard and decided by a Professional Membership Appeal Committee drawn from the panel for the time being nominated by the Council.

(2) If, for any reason, it is not possible to convene a Professional Membership Appeal Committee entirely from the panel for the time being nominated, the appeal may be heard and decided by a Professional Membership Appeals Committee comprised in whole or in part of such other persons as the Council considers competent to hear such appeal.

2. References in this procedure to the “Investigations Officer” include reference to any other person appointed by the Professional Membership Complaints Committee to defend the appeal.

3.(1) The Professional Membership Appeal Committee shall notify the appellant professional member and the Investigations Officer of the time (which shall not be sooner than 14 days from the date of such notification) and place fixed for the appeal hearing.

4.(1) Not later than seven days before the date fixed for the appeal hearing, the Investigations Officer shall send to the Professional Membership Appeal Committee, and copy to the appellant professional member, copies of all documents which were before the Professional Membership Disciplinary Committee, a copy of the order of the Professional Membership Disciplinary Committee, and any other record (including any transcript) of the proceedings before the Professional Membership Disciplinary Committee.

(2) Not later than seven days before the date fixed for the appeal hearing, the appellant professional member shall, if he or she has not already done so, submit a statement in writing to the Professional Membership Appeal Committee, with copy to the Investigations Officer, clearly setting out the grounds of the appeal.

5.(1) The appeal hearing shall be conducted promptly and in any event within 28 days of the receipt by the Secretary of the Institute of notification of the appeal, though the Chairperson of the Professional Membership Appeal Committee may extend this period where he or she considers that the appeal cannot fairly and practicably be determined within this period.

6.(1) Neither the appellant professional member nor the person defending the appeal may rely on any document which was not before the Professional Membership Disciplinary Committee or on any witness unless the Professional Membership Appeal Committee considers that consideration of such document or witness is necessary to fairly decide the matter and there is a good and sufficient reason why such document was not before the Professional Membership Disciplinary Committee or, as the case may be, why such witness should be heard.

(2) The Professional Membership Appeal Committee may adjourn the hearing to allow the other party an opportunity to consider such document or witness.

7. Where there is not, in the opinion of the Professional Membership Appeal Committee, a sufficient record of the proceedings before the Professional Membership Disciplinary Committee, the Appeal Committee may seek such written information as it considers appropriate from the Professional Membership Disciplinary Committee in regard to the hearing which is the subject of the appeal as it considers necessary, and shall copy such information, when provided, to the appellant professional member and to the person defending the appeal.

8. If the appellant professional member or the person defending the appeal does not attend the appeal hearing, then the Professional Membership Appeal Committee may, in its discretion, either:

(a) if it is satisfied that such person had notice of that hearing and there is no good reason for his or her non-attendance, proceed to hear the matter in that person’s absence; or

(b) adjourn the hearing to such other date, venue and time as the Professional Membership Appeal Committee may determine,

and the Professional Membership Appeal Committee shall give notice of that decision to the appellant professional member and to the person defending the appeal.

9. A Professional Membership Appeal Committee may in its discretion grant extensions of time, adjournments and postponements where it considers it fair and proper to do so.

10. A Professional Membership Appeal Committee may, where it considers it necessary or desirable, instruct a legal representative to assist it in ensuring the fair and proper conduct of the appeal.

11.(1) Unless the Professional Membership Appeal Committee permits otherwise, the appellant professional member (or his or her representative) shall first summarise his or her grounds of appeal, and then present the materials by reference to the proceedings before the Professional Membership Disciplinary Committee in support of the appeal.

(2) When all of the material on which the appellant professional member intends to rely has been presented, the person defending the appeal may address the Professional Membership Appeal Committee in response, and shall then present the materials produced in defence of the appeal.

(3) The appellant professional member or his or her representative may then finally address the Professional Membership Appeal Committee in response.

12.(1) Having heard and considered the appeal, the Professional Membership Appeal Committee shall retire to determine the appeal.

(2) If the Professional Membership Appeal Committee cannot reach a determination by consensus, the determination of the majority shall be the determination of the Professional Membership Appeal Committee. In the event of an equality of votes, the Chairperson shall have a second or casting vote.

(3) The Professional Membership Appeal Committee shall reconvene to announce its determination.

(4) The Professional Membership Appeal Committee shall make such order(s) in accordance with Bye-Law 10(4) as are appropriate in light of its determination.

(5) The determination and order(s) of the Professional Membership Appeal Committee shall, where practicable, be made within seven days of completing the hearing and shall be notified in writing to the appellant professional member and to the person defending the appeal.

13. A deviation from this procedure does not affect the validity of the proceedings concerned provided:

(a) the deviation is not material and is not prejudicial to the professional member who is the subject of the proceedings, or

(b) the professional member who is the subject of the proceedings agrees to the deviation, having had an opportunity to take advice on the proposed deviation.