

The Disciplinary Regulations

1 October 2015

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1 APPLICATION

- 1.1 These Regulations shall apply where, in respect of any Member, former Member, Student or former Student it comes to the notice of the Institute that one or more of the events described in Bye-Law 23 (a) to (e) 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 or statutory 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) "Appeal Committee" means a committee established in accordance with Regulation 16.2 and 16.4 for the purposes set out in Regulation 8;
 - (b) "breach(es) of Bye-Law 23" means an occurrence of any one or more of the events described in Bye-Law 23 (a) through (e) or, in relation to any matters which took place prior to 9 October 2013, an occurrence of any one or more of the events described in Bye-Law 23 or 25 or 28(B)(a) as in force at the time of the occurrence;
 - (c) "Bye-Laws" means the Bye-Laws of the Institute as amended from time to time;
 - (d) "Chair of the Investigations Committee" means the individual appointed in accordance with Regulation 15.1 who shall undertake the role detailed in Regulations 4.1, 4.2 and 16.1(d) and, when acting pursuant to Regulations 4.1 and 4.2, shall be sitting as the quorum of the Investigations Committee;
 - (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, a Disciplinary Committee or an Appeal Committee appointed in accordance with Regulation 15.8;

- (g) "Committee" means any one or more of the Investigations Committee, a Disciplinary Committee and an 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 a Disciplinary Committee, or, on appeal, an Appeal 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 Respondent in relation to work done by or on behalf of the Respondent, where such work has been considered by that Disciplinary Committee or Appeal Committee at a hearing. The combined value of any such award(s) made by a Disciplinary Committee or an Appeal 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) "Complainant" means any person who has formally brought to the attention of or reported to the Institute any facts, circumstances or matters considered under these Regulations;
- (j) "Conviction Matter" means any matter wholly or substantially arising from a conviction in any proceedings for an offence in relation to which a sentence of imprisonment may be imposed;
- (k) "Cost Order" means an award as to costs to be paid by either the Respondent or the Institute so as wholly or partially to reimburse the Institute or the Respondent such reasonable costs and expenses as that party has incurred in connection with the investigation and determination of the disciplinary action including any appeal;

- (l) "Disciplinary Committee" means a committee established in accordance with Regulation 16.2 and 16.3 for the purposes set out in Regulation 7;
- (m) "Entry on Record" means an entry placed on the membership record of a Respondent for a period not exceeding two years that no further action will be taken under the disciplinary scheme in respect of a matter, unless further complaints or allegations regarding the Respondent are received within the specified period, in which case the original matter may be reconsidered alongside any new matter and taken into account by a Committee in deciding what if any sanction to impose on the Respondent;
- (n) "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 17;
- (o) "former Member" means any person who has been a Member;
- (p) "former Student" means any person who has been a Student;
- (q) "Independent Member" means a member of the Investigations Committee, a Disciplinary Committee or an Appeal Committee appointed in accordance with Regulation 15.7;
- (r) "Interested Person" means an individual or body with a proper interest in the outcome of any proceedings under these Disciplinary Regulations and may include the Respondent's employer and any other professional regulatory bodies of which, to the Institute's knowledge, the Respondent is a member;
- (s) "Investigations Committee" means the committee established in accordance with Regulation 16.1 (except where the Chair of the Investigations Committee is acting alone as the quorum of the Investigations Committee, in which case the term "Chair of the Investigations Committee" shall be used);

- (t) "Investigations Unit" means the division of the Institute or such external contractors, agents or representatives as the Institute may appoint to carry out the functions of the Investigations Unit whose task is to investigate disciplinary matters, refer matters to the Investigations Committee in accordance with these Regulations and to present cases before Disciplinary and Appeal Committees and which shall be independent from any Committee;
- (u) "Joint Disciplinary Scheme" means a scheme in which the Institute participates in accordance with Bye-Law 25(B);
- (v) "Legal Assessor" means a person appointed to provide legal advice to the Investigations Committee, a Disciplinary Committee or an Appeal Committee and who shall be independent from those Committees and from the Investigations Unit;
- (w) "Member" means, for the purposes of these Regulations only, a person elected or registered (as appropriate) in accordance with Bye-Laws 4, 5, 18 or 19;
- (x) "Practising Certificate" means any certificate issued to a Member under any Practice Regulations of the Institute in force from time to time authorising him or her to engage in specific areas of work which are defined as "public practice";
- (y) "Presenting Officer" means a representative of the Investigations Unit or a person appointed to represent the Investigations Unit at any hearing held in accordance with these Regulations;
- (z) "Regulatory Panel" means the panel established in accordance with Regulation 16.2 from which members are appointed to sit as members of a Disciplinary or Appeal Committee;
- (aa) "Reimbursement Order" means an order for payment to be made by the Respondent 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;
- (bb) "Respondent" means a Member or former Member, Student or former Student who is subject to preliminary enquiries or disciplinary proceedings under these Regulations as is appropriate in the context;

- (cc) "Reviewer of Complaints" means a person appointed in accordance with Regulation 14 to review certain decisions of the Chair of the Investigations Committee and the Investigations Committee in accordance with Regulation 6;
- (dd) "Student" means a student registered by the Institute in accordance with Bye-Laws 20 and 21 and the Student Regulations of the Institute as in force from time to time;
- (ee) "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 there may be a basis for proceedings under a Joint Disciplinary Scheme:
 - (a) The Investigations Unit shall carry out such preliminary enquiries as it deems are required to determine whether the matter in whole or in part may properly form the basis for proceedings under Bye-Law 23 or under a Joint Disciplinary Scheme and shall pass the results of those preliminary enquiries to the Chair of the Investigations Committee or to the Investigations Committee.
 - (b) If the preliminary enquiries relate to a Conviction Matter the Investigations Unit shall pass the results of its preliminary enquiries to the Chair of the Investigations Committee. The Chair of the Investigations Committee, subject to his/her obligation under these Regulations to consider whether a matter should be referred to a Joint Disciplinary Scheme, shall;

- (i) refer the matter, in whole or in part, to the Investigations Unit for further investigation if he or she considers that further investigation is required; or
 - (ii) refer the matter, in whole or in part, to the Investigations Committee for determination if in his or her opinion the matter does not warrant a more severe penalty than the Investigations Committee is empowered to impose; or
 - (iii) refer the matter, in whole or in part, to the Disciplinary Committee for determination if in his or her opinion the matter may warrant a more severe penalty than the Investigations Committee is empowered to impose; or
 - (iv) close the matter, if in his or her opinion the matter may not properly form the basis of proceedings or the matter should otherwise be closed in accordance with these Regulations.
- (c) If, having conducted preliminary enquiries, the Investigations Unit is of the opinion that the matter the subject of the preliminary enquiries may not properly form the basis of proceedings the Investigations Unit will pass the results of its preliminary enquiries to the Chair of the Investigations Committee. The Chair of the Investigations Committee, subject to his/her obligation under these Regulations to consider whether a matter should be referred to a Joint Disciplinary Scheme, shall:
- (i) refer the matter, in whole or in part, to the Investigations Unit for formal investigation in accordance with his or her directions, if in his opinion the matter may properly form the basis of proceedings under Bye-Law 23, with the outcome of that investigation to be considered by the Investigations Committee, or
 - (ii) close the matter if in his opinion the matter may not properly form the basis of proceedings or the matter should otherwise be closed in accordance with these Regulations.

- (d) If having conducted preliminary enquiries, the Investigations Unit considers that a matter which is not a Conviction Matter may properly form the basis of proceedings, the Investigations Unit shall pass the results of its preliminary enquiries to the Investigations Committee. The Investigations Committee shall, subject to its obligations under these Regulations to consider whether a matter should be referred to a Joint Disciplinary Scheme, consider if the matter in whole or in part may properly form the basis for proceedings under Bye-Law 23, and shall;
- (i) refer the matter in whole or in part to the Investigations Unit for formal investigation in accordance with the directions of the Investigations Committee if in the Committee's opinion the matter in whole or in part may properly form the basis for proceedings under Bye-Law 23, with the outcome of that investigation being considered by the Investigations Committee, or
 - (ii) close the matter if in the Committee's opinion the matter may not properly form the basis of proceedings or the matter should otherwise be closed in accordance with these Regulations.
- (e) Following formal investigation by the Investigations Unit , or following referral by the Chair of the Investigations Committee to the Investigations Committee of a Conviction Matter, the Investigations Committee, may if it then so sees fit:
- (i) refer the matter to the Council to consider whether or not to refer the matter to a Joint Disciplinary Scheme; or
 - (ii) refer the matter in whole or in part for consideration by a Disciplinary Committee in accordance with these Regulations; or
 - (iii) issue an order whereby the Respondent may accept a reprimand in relation to the whole or part of the matter; in which case there will be no referral to a Disciplinary Committee; the Respondent shall have a right not to accept the reprimand, and if the Respondent does not accept the reprimand in writing within 21 days of receiving notification of

the order the whole or part of the matter will automatically be referred for consideration by a Disciplinary Committee; or

- (iv) issue an order whereby the Respondent may accept an Entry on Record for a period not exceeding two years in relation to the whole or part of the matter; in which case there will be no referral for consideration by a Disciplinary Committee and no further action will be taken under the disciplinary scheme unless further complaints or allegations regarding the Respondent are received within the specified period in which case the Investigations Committee may refer the new matter and the earlier matter (the subject of the Entry on Record) to a Disciplinary Committee as set out in paragraph (ii) above or issue an order as set out in paragraph (iii) above; the Respondent shall have a right not to accept the Entry on Record, and if the Respondent does not accept the Entry on Record in writing within 21 days of receiving notification of the order the matter will automatically be referred for consideration by a Disciplinary Committee; and/or
 - (v) 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; and/or
 - (vi) take no further action and therefore dismiss the case against the Respondent
- (f) The Reviewer of Complaints shall review certain cases dismissed by the Investigations Committee or the Chair of the Investigations Committee at the request of a Complainant provided such request is made within 28 days of the Complainant receiving notification of the Investigation Committee's or Chair of the Investigations Committee's decision and may if he or she sees fit remit the matter to the Investigations Committee with a recommendation that the whole or part of the matter be reconsidered.
- (g) A Disciplinary Committee shall:
- in those cases referred to it by the Investigations Committee or the Chair of the Investigations Committee, consider the circumstances so referred in accordance with its terms of reference and determine the
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nature and extent of any penalty or sanction or Cost Order to be imposed on a Respondent (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 Respondent shall have a right of appeal to the Appeal Committee against any determination of a Disciplinary Committee save that there shall be no appeal in relation to a Cost Order; any party against whom a Disciplinary Committee makes a Cost Order may request a review on legal grounds of that Cost Order; any request for an appeal or a review must be made within 21 days of submission of the determination to the Respondent.

- (h) An Appeal Committee shall:
 - (i) hear appeals from certain decisions of a 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 Respondent; and
 - (ii) review on legal grounds any Cost Order made by a Disciplinary Committee upon the application of the party against whom the order was made.

4 THE INVESTIGATIONS UNIT AND INVESTIGATIONS COMMITTEE

4.1 Preliminary enquiries

- (a) Any complaints made to the Institute or information that comes to the attention of the Institute which could form the basis of proceedings under Bye-Law 23 or under a Joint Disciplinary Scheme will in the first instance be passed to the Investigations Unit, which will conduct such preliminary enquiries as are necessary in order that the Investigations Committee or the Chair of the Investigations Committee can consider whether the matter may properly form the basis for proceedings.

- (b) If the matter is a Conviction Matter the Investigations Unit as part of its preliminary enquiries shall:
- (i) Provide the Respondent who appears to it to have suffered the conviction with particulars of alleged breach of Bye-Law 23 that may be placed before the Chair of 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 Respondent of the substance of the issue raised and invite the Respondent to reply within 21 days of the Institute providing such particulars, and, notify the Respondent that the matter is to be referred to the Chair of the Investigations Committee for initial consideration.
 - (ii) upon receiving the Respondent's reply or upon expiry of the 21 days from the date of the provision of the particulars of breach to the Respondent, reconsider the matter and, if it sees fit, may discontinue, alter, amend or add to the particulars of the breach of Bye-Law 23 which are to be placed before the Chair of 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 Respondent in accordance with Regulation 4.1(b)(i).
- (c) The Investigations Unit, after considering the results of its preliminary enquiries, shall pass the results of its preliminary enquiries to the Investigations Committee or the Chair of the Investigations Committee.
- (d) The Investigations Unit shall pass the results of its preliminary enquiries to the Chair of the Investigations Committee for consideration under Regulation 4.2 if;
- (i) the matter has not previously been considered by either the Investigations Committee or the Chair of the Investigations Committee and either the Investigations Unit is of the opinion

that the matter may not properly form the basis of proceedings or the matter is a Conviction Matter.

(ii) Regulation 4.2(h) does not apply and the matter was referred to the Investigations Unit for further preliminary enquiries by the Chair of the Investigations Committee under Regulation 4.2 (a) and either the Investigations Unit is of the opinion that the matter may not properly form the basis of proceedings or the matter is a Conviction Matter.

(e) Save where Regulation 4.1(d) applies the Investigations Unit shall pass the result of its preliminary enquiries to the Investigations Committee for initial consideration under Regulation 4.3.

4.2 Initial consideration by the Chair of the Investigations Committee

(a) If a matter is referred to the Chair of the Investigations Committee for initial consideration he or she will consider the results of the Investigation Unit's preliminary enquiries and may refer the matter back to the Investigations Unit for further specified preliminary enquiries.

(b) If after initial consideration the Chair of the Investigations Committee is of the opinion that, having regard to all the circumstances, it is appropriate that the matter is referred to a Joint Disciplinary Scheme, the Chair of the Investigations Committee shall stay proceedings under Bye-Laws 23 and pass the matter to Council to consider a referral to a Joint Disciplinary Scheme.

(c) Where the matter referred for initial consideration is a Conviction Matter and the Respondent is a former Member or former Student, if the Chair of the Investigations Committee considers that the length of time since the Respondent 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 Chair of the Investigations Committee shall dismiss the case against the Respondent.

(d) If after initial consideration of a Conviction Matter the Chair of the Investigations Committee is of the opinion that no further investigations are necessary to enable the matter to be considered

and that there is prima facie evidence of a breach of Bye-Law 23 and that the gravity of the breach (together with any finding of liability under a Joint Disciplinary Scheme and any finding of liability under a statutory disciplinary scheme and any entry on Respondent's record) may warrant a more severe penalty than the Investigations Committee is empowered to impose the Chair shall refer the matter, in whole or in part, for consideration by a Disciplinary Committee.

- (e) If after initial consideration of a conviction matter the Chair of the Investigations Committee is of the opinion that no further investigations are necessary to enable the matter to be considered and that the gravity of the breach (together with any finding of liability under a Joint Disciplinary Scheme and any finding of liability under a statutory disciplinary scheme and any entry on Respondent's record) does not warrant a more severe penalty than the Investigations Committee is empowered to impose the Chair shall refer the matter to the Investigations Committee for determination under Regulation 4.6(d).
- (f) If after initial consideration of a matter in relation to which the Investigations Unit is of the opinion that the matter may not properly form the basis of proceedings or a Conviction Matter, the Chair of the Investigations Committee is of the opinion that there is no basis for proceedings under Bye-Law 23 or that the matter or part of the matter on which there is a basis for proceedings, if investigated, would not result in any sanction against a Respondent, the Chair of the Investigations Committee shall determine that no further action should be taken in that matter or part of that matter.
- (g) If after initial consideration of a matter in relation to which the Investigations Unit is of the opinion that the matter may not properly form the basis of proceedings, the Chair of the Investigations Committee is of the opinion that a referral under Regulation 4.2(b) is not appropriate but considers that there is or may be a basis for proceedings under Bye-Law 23 and it is appropriate to commence proceedings the Chair shall refer the matter in whole or in part to the Investigations Unit for formal investigation.

- (h) Should a matter have been the subject of initial consideration by the Chair of the Investigations Committee under Regulation 4.2 on three occasions, any future referral of that matter for initial consideration shall be to the Investigations Committee.
- (i) Where the Chair of the Investigations Committee passes a matter to the Council to consider a referral to a Joint Disciplinary Scheme under Regulation 4.2(b) and either the Council decides not to make such a referral or a Joint Disciplinary Scheme declines to consider the matter, the Chair of 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 a Joint Disciplinary Scheme as the case may be.
- (j) The Chair of the Investigations Committee shall notify or instruct the Investigations Unit to notify the Respondent, a Complainant, the Chair of the Regulatory Panel and any individual or body who in the opinion of the Chair of the Investigations Committee is an Interested Person of his or her determination as soon as practicable and in any event within 21 days of the date of his or her determination. The Chair of the Investigations Committee shall provide the Respondent and the Complainant with reasons for his or her determination. Where applicable a Complainant shall be informed of his or her right to request a review by the Reviewer of Complaints.

4.3 Initial consideration by the Investigations Committee

- (a) If a matter is referred to the Investigations Committee by the Investigations Unit for initial consideration under Regulation 4.1(e) or by the Chair of the Investigations Committee under Regulation 4.2(e) the Investigations Committee will consider the results of the Investigations Unit's preliminary enquiries and may refer the matter back to the Investigations Unit for further specified preliminary enquiries.
- (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 a Joint Disciplinary Scheme, the

Investigations Committee shall pass the matter to Council to consider a referral to a Joint Disciplinary Scheme.

- (c) If after initial consideration the Investigations Committee is of the opinion that a referral under Regulation 4.3(b) is not appropriate but considers that there is or may be a basis for proceedings under Bye-Law 23 and it is appropriate to commence proceedings it shall refer the matter in whole or in part to the Investigations Unit for formal investigation.
- (d) If after initial consideration the Investigations Committee is of the opinion that there is no basis for proceedings under Bye-Law 23 it shall determine that no further action should be taken in that matter or part of that matter.
- (e) Where the Investigations Committee passes a matter to the Council to consider a referral to a Joint Disciplinary Scheme under Regulation 4.3(b) and either the Council decides not to make such a referral or a Joint Disciplinary 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 a Joint Disciplinary Scheme as the case may be.

4.4 Formal investigation

- (a) Where the Investigations Committee or the Chair of the Investigations Committee refers a matter in whole or in part to the Investigations Unit for formal investigation, the Investigations Unit shall:
 - (i) as soon as practicable, give notice to the Respondent and any individual or body who in the opinion of the Investigations Committee or Investigations Unit is an Interested Person that an investigation has begun under Bye-Law 23, and provide the Respondent with a brief description of the matters which appear to fall within the provisions of Bye-Law 23;
 - (ii) as soon as practicable, carry out such investigations into the facts and circumstances including (but without prejudice to the

generality of the foregoing) correspondence or discussion with the Respondent, and any other persons or bodies who may, in the opinion of the Investigations Unit, be able to assist the Investigations Unit's investigations;

- (iii) refer the matter to the Investigations Committee, if at any time during the course of its investigations, it is of the opinion that, having regard to all the circumstances, it is appropriate that the matter is referred to a Joint Disciplinary Scheme. The Investigations Committee shall consider any such referral in accordance with Regulation 4.6(b);
 - (iv) if on conclusion of the investigations the Investigations Unit believes there is no prima facie evidence of breach of Bye-Law 23 it shall refer the matter to the Investigations Committee accordingly. The Investigations Committee shall consider any such referral in accordance with Regulation 4.6(c);
 - (v) if on conclusion of the investigations the Investigations Unit is of the opinion that there is prima facie evidence of breach of Bye-Law 23 it shall proceed in accordance with Regulation 4.4(b)
- (b) If this Regulation 4.4(b) applies the Investigations Unit shall proceed as follows:
- (i) the Investigations Unit shall notify the Respondent of the particulars of the breach(es) of Bye-Law 23 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 Respondent of the substance of the issue or issues raised, and invite the Respondent to reply within 21 days (or such longer period as the Investigations Unit may determine) of the date of the Institute giving such notice.
 - (ii) upon receiving the Respondent's reply or upon expiry of the 21 days from the date of the Respondent being given notice of the particulars of breach (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 breach of Bye-Law 23 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 Respondent in accordance with Regulation 4.4(b)(i);
- (iv) if the Investigations Unit does not wish to alter, amend or add to such particulars the Investigations Unit shall refer the matter and all relevant evidence in its possession including any submissions from the Respondent to the Investigations Committee.

4.5 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 (if the Legal Assessor's advice has been requested) 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 of the Investigations Committee is not satisfied that the form of communication complies with Regulation 4.5(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.

4.6 Determinations

- (a) The Investigations Committee shall consider any matter referred to it by the Investigations Unit or the Chair of the Investigations Committee and may refer the matter back to the Investigations Unit for specified further investigations.
- (b) If the Investigations Unit refers a matter to the Investigations Committee under Regulation 4.4(a)(iii)(where the Investigations Unit is of the opinion that it is appropriate that the matter is referred to a Joint Disciplinary 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 a Joint Disciplinary Scheme, the Investigations Committee shall stay proceedings under Bye-Law 23 and pass the matter to Council to consider a referral to a Joint Disciplinary Scheme.
 - (ii) where the Investigations Committee declines to make a referral under Regulation 4.6(b)(i), the Investigations Committee shall refer the matter back to the Investigations Unit and the Investigations Unit will continue its investigations.
- (c) If the Investigations Unit refers a matter to the Investigations Committee under Regulation 4.4(a)(iv) (where particulars of breach have not been put to the Respondent) 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 a Joint Disciplinary Scheme, the Investigations Committee shall stay proceedings under Bye-Law 23 and pass the matter to the Council to consider a referral to a Joint Disciplinary Scheme; or
 - (ii) request that the Investigations Unit formulate and notify the Respondent of particulars of breach in accordance with Regulation 4.4(b); or

- (iii) dismiss the case against the Respondent and notify the Respondent, a Complainant and all parties previously notified of the investigation.
- (d) If the Chair of the Investigations Committee refers a matter to the Investigations Committee under Regulation 4.2(e) or if the Investigations Unit refers a matter to the Investigations Committee under Regulation 4.4(b)(iv) (where particulars of breach have been put to the Respondent) 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 a Joint Disciplinary Scheme, the Investigations Committee shall stay proceedings under Bye-Law 23 and pass the matter to the Council to consider a referral to a Joint Disciplinary Scheme;
 - (ii) Where the Respondent is a former Member or former Student if the Investigations Committee considers that the length of time since the Respondent 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 Respondent;
 - (iii) Where the Investigations Committee is of the opinion that there is prima facie evidence of breach of Bye-Law 23 but it is of the opinion that there is no realistic prospect of the matter being found proven and/or in the Committee's opinion it is not in the public interest to continue with disciplinary proceedings the Investigations Committee shall dismiss the case against the Respondent;
 - (iv) Where the Investigations Committee is of the opinion that there is prima facie evidence of breach of Bye-Law 23 and that Regulation 4.6(d)(iii) does not apply and the gravity of the breach 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 4.6(d)(i) is not appropriate, the Investigations
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Committee shall refer the matter in whole or in part for consideration by a Disciplinary Committee;

- (v) Where the Investigations Committee is of the opinion that there is prima facie evidence of breach of Bye-Law 23 and that Regulation 4.6(d)(iii) does not apply and the gravity of the breach 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 4.6(d)(i) is not appropriate, the Investigations Committee may impose one or more sanctions;
 - (vi) Where the Investigations Committee is of the opinion that there is no or no prima facie evidence of breach of Bye-Law 23 the Investigations Committee shall dismiss the case against the Respondent.
- (e) The Investigations Committee may impose the following sanctions if the Respondent so consents:
- (i) Entry on Record
 - (ii) Reprimand
- (f) In considering the gravity of a breach and/or what sanction to impose upon the Respondent the Investigations Committee shall have regard to any previous breaches of Bye-Law 23 and any finding of liability under a Joint Disciplinary Scheme and any finding of liability under a statutory disciplinary scheme.
- (g) In considering the gravity of a breach and/or what sanction to impose upon the Respondent, the Investigations Committee shall have regard to the facts, admissions and decisions relating to any current Entry on Record against the Respondent and may impose any sanction in respect of that matter or that matter combined with any later matter in relation to which the Investigations Committee is passing sanction which is appropriate in all the circumstances.
- (h) If the Respondent does not provide his or her written consent to any order for imposition by the Investigations Committee of a Reprimand or Entry on Record within 21 days of the Institute giving the

Respondent notice of the order the matter or the part of the matter the subject of the order shall automatically be referred for consideration by a Disciplinary Committee.

- (i) Where the Investigations Committee passes a matter to the Council to consider a referral to a Joint Disciplinary Scheme under Regulation 4.6(b)(i) and either the Council decides not to make such a referral or a Joint Disciplinary Scheme declines to consider the matter it shall pass immediately to the Investigations Unit and the Investigations Unit will continue its investigations.
- (j) Where the Investigations Committee passes a matter to the Council to consider a referral to a Joint Disciplinary Scheme under Regulations 4.6(c)(i) or 4.6(d)(i) and either the Council decides not to make such a referral or a Joint Disciplinary 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 Joint Disciplinary Scheme as the case may be.
- (k) 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 a Disciplinary Committee for further consideration.
- (l) 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

- (iv) the gravity of the issue complained of.
- (m) The Investigations Committee shall notify or shall instruct the Investigations Unit to notify the Respondent, a Complainant, the Chair of the Regulatory Panel and any individual or body who in the opinion of the Investigations Committee is an Interested Person 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 Respondent 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.
- (n) The Institute shall publish a determination of the Investigations Committee to impose an agreed Reprimand under Regulation 4.6(d)(v) in each case as it may consider appropriate.

4.7 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 4.6(c)(iii), 4.6(d)(ii), 4.6(d)(iii) or 4.6(d)(vi) or a decision of the Chair of the Investigations Committee to dismiss a case under Regulation 3.1(b)(iv) or 4.2(c).
- (b) A request for a review by a Complainant must be lodged with the Institute within 28 days of the Institute giving notice to the Complainant 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 Respondent relating to the exercise or non-exercise of the Investigations Committee's discretion to make a Compensatory Award. A decision of the Chair of the Investigations Committee or the Investigations Committee to refer a matter for consideration by a Disciplinary Committee shall not be subject to review or appeal by either a Complainant or the Respondent. A decision of the Chair of the Investigations Committee or 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 Respondent. A decision of the Council to refer or not to refer a matter to a Joint Disciplinary Scheme shall not be subject to review or appeal by either a Complainant or the Respondent.

5 THE JOINT DISCIPLINARY SCHEME AND STATUTORY DISCIPLINARY SCHEMES

5.1 If the Institute receives notice in writing from a Joint Disciplinary Scheme which states that:

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

then with immediate effect the Joint Disciplinary 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 Respondent which are not referred to or assumed by the Joint Disciplinary 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 Joint Disciplinary Scheme in respect of those matters referred to it.

5.3 If a Joint Disciplinary 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 a Joint Disciplinary Scheme or a statutory disciplinary 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 Joint Disciplinary Scheme or the statutory disciplinary scheme.

- 5.5 A statutory disciplinary scheme may undertake its own investigation into a case relating to a Member or Student. In such circumstances, any investigation under these Regulations into the same matter shall be suspended pending that statutory disciplinary scheme's investigation.

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 or her under Regulation 4.7.
- 6.2 The Reviewer of Complaints shall notify the Respondent of the grounds upon which a Complainant has sought a review of the Chair of the Investigations Committee's or the Investigations Committee's decision and allow the Respondent 21 days from the Reviewer giving notice to the Respondent of such grounds (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 Chair of the Investigations Committee or the Investigations Committee and submissions by a Complainant and the Respondent, the Reviewer of Complaints considers that the determination reached or the procedure followed by the Chair of the Investigations Committee or 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 by a newly constituted Investigations Committee.
- 6.4 The Reviewer of Complaints shall notify the Respondent, a Complainant, the Chair of the Investigations Committee or the Investigations Committee (as appropriate) and any individual or body who in the opinion of the Reviewer of Complaints is an Interested Person of his or her 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 or her determination. The Reviewer of Complaints shall provide the Respondent and Complainant with reasons for his or her 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 4.6(c) or 4.6(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 Respondent and a Complainant.
- 6.6 The Investigations Committee shall notify the Reviewer of Complaints in addition to those persons and bodies mentioned under Regulation 4.6(m) 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 4.6(m), 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 The terms of reference of a Disciplinary Committee shall be to consider those matters referred to a Disciplinary Committee by the Chair of the Investigations Committee pursuant to Regulation 4.2(d) and by the Investigations Committee pursuant to Regulations 4.6(d)(iv) and 4.6(h).
- 7.2 Referrals under Regulations 4.2(d), 4.6(d)(iv) and 4.6(h).
- (a) With regard to referrals under Regulations 4.2(d), 4.6(d)(iv) and 4.6(h) a Disciplinary Committee hearing shall be held at which the

matter will be considered afresh and in accordance with Regulations 10 and 11.

- (b) On conclusion of the hearing and any further deliberations a Disciplinary Committee may reach one of the following determinations:
 - (i) Where the Respondent is a former Member or former Student if the Disciplinary Committee considers that the length of time since the Respondent 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 Respondent.
 - (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 the Disciplinary Committee may impose one or more sanctions and may make a Cost Order against the Respondent.
 - (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 such facts or circumstances which it is alleged have occurred do not amount to a breach of Bye-Law 23 the Disciplinary Committee shall dismiss the case against the Respondent and may make a Cost Order against the Institute.
- (c) A 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.

- (d) As an alternative or in addition to any of the above sanctions one or more of the following sanctions:
- (i) Provided the Institute has Practice Regulations in force, withdrawal of any Practising Certificate held by the Respondent either indefinitely or for a specified period.
 - (ii) A fine up to £10,000 or such maximum as the Council may from time to time determine.
 - (iii) A 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 Respondent. If a Disciplinary Committee makes such a Compensatory Award then it shall make a Reimbursement Order against the Respondent 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 a Disciplinary Committee may if it considers it appropriate make a Reimbursement Order against the Respondent 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 a Disciplinary Committee shall take into account:
- (i) The nature and seriousness of the breach of Bye-Law 23;
 - (ii) The nature and seriousness of the consequences of the breach of Bye-Law 23;
 - (iii) The value of the work undertaken by the Respondent in connection with which the breach of Bye-Law 23 occurred;
 - (iv) Any other sanction imposed upon the Respondent and the value of any Cost Order to be made against the Respondent; and

- (v) Any evidence before the Disciplinary Committee or submissions made to the Disciplinary Committee regarding the financial circumstances of the Respondent including whether and the extent to which any person is financially dependent upon the Respondent.
- (f) In considering whether to make a Compensatory Award under Regulation 7.2(d)(iii) and the level of any such Compensatory Award a Disciplinary Committee shall take into account:
- (i) The fact that under Regulation 7.2(d)(iii) if a Disciplinary Committee makes such a Compensatory Award it must then make a Reimbursement Order against the Respondent for the same amount;
 - (ii) Any evidence before the Disciplinary Committee or submissions made to the Disciplinary Committee regarding the financial circumstances of the Respondent including whether and the extent to which any person is financially dependent upon the Respondent;
 - (iii) Any other sanction imposed upon the Respondent and the value of any Cost Order to be made against the Respondent;
 - (iv) The extent to which the Respondent may have profited from his or her misconduct;
 - (v) The extent to which the Respondent'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 Respondent's services notwithstanding the Respondent'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 a 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 Respondent including whether and the

- extent to which any person is financially dependent upon the Respondent;
- (ii) Any other sanction imposed upon the Respondent and the value of any Cost Order to be made against the Respondent;
 - (iii) The nature of the relationship between a Complainant and the Respondent; and
 - (iv) The conduct of the Respondent and a Complainant in respect of the complaint.
- (h) In considering what sanction to impose upon the Respondent a Disciplinary Committee shall have regard to all the circumstances, including any breaches of Bye-Law 23 and any finding of liability under a Joint Disciplinary Scheme and any finding of liability under a statutory disciplinary scheme.
- (i) In considering what sanction to impose upon the Respondent, a Disciplinary Committee shall have regard to the facts, admissions and decisions relating to any current Entry on Record against the Respondent and impose any sanction in respect of that matter or that matter combined with any later matter in relation to which the Disciplinary Committee is passing sanction which is appropriate in all the circumstances.
- (j) A Disciplinary Committee shall notify or shall instruct the Investigations Unit to notify the Respondent, a Complainant, any recipient of a Compensatory Award that it has made and any individual or body who in the opinion of the Disciplinary Committee is an Interested Person of its determination as soon as practicable and in any event within 21 days. The Disciplinary Committee shall provide the Respondent, a Complainant and any recipient of a Compensatory Award that it has made with reasons for its determination and the Respondent shall be informed of his or her right to appeal to and/or request a review by an Appeal Committee.
- (k) The Institute shall publish the determination of a Disciplinary Committee in each case as it may consider appropriate.

- (l) The Respondent may appeal against a determination of a Disciplinary Committee pursuant to a referral under Regulations 4.2(d), 4.6(d)(iv) or 4.6(h) to an 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(m) an appeal shall not be permitted against any Cost Order of a Disciplinary Committee.
- (m) A party against whom a Disciplinary Committee makes a Cost Order may request a review on legal grounds of that Cost Order on the ground only that the Cost Order was unlawful.
- (n) An appeal or request for review by the Respondent or the Institute must be lodged with the Institute within 21 days of the Institute giving notice to the Respondent 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 an Appeal Committee shall be (i) to consider any appeal made in accordance with the provisions of these Regulations by a Respondent, against either or both the decision of a 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 Respondent under Bye-Law 23; (ii) to review on legal grounds any Cost Order made by a 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 a Disciplinary Committee was wrong in that the Committee gave insufficient weight to or drew incorrect conclusions from any material before it (including the
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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 Respondent 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 Respondent's circumstances.

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

- (i) the Respondent 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 an Appeal Committee;
- (ii) an 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 Regulation 8.2(a)(iii) above:

- (i) the Respondent shall set out in his or her notice of appeal the nature of the new evidence on which he or she relies and shall explain why it was not available at the time of the hearing by the Disciplinary Committee;
- (ii) an 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 Respondent's case for a further hearing before a freshly constituted Disciplinary Committee, which shall exclude any member of the previous Disciplinary Committee which previously considered the same matter.
- (d) Except as set out in Regulations 8.2(c)(i) and 8.2(c)(ii) above, or unless it otherwise orders, an Appeal Committee shall not receive evidence (including witness evidence) which was not before the Disciplinary Committee which previously considered the same matter.
- (e) On conclusion of the hearing and any further deliberations an 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) An Appeal Committee may impose any of the sanctions that could be imposed by a Disciplinary Committee under Regulation 7.2(c) and Regulation 7.2(d) and shall have regard to the considerations set out in Regulations 7.2(e), 7.2(f), 7.2(g) and 7.2(h) as appropriate and any matter re-opened in accordance with Regulation 7.2(i). An 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 an 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 an Appeal Committee reaches a final determination.

8.3 Reviews

In the case of a review under Regulation 7.2(m) above an 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 Respondent's or the Institute's favour) or rescind the Cost Order of the Disciplinary Committee and/or may make a Cost Order against the Respondent 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) An Appeal Committee shall notify or shall instruct the Investigations Unit to notify the Respondent, a Complainant and any recipient of a Compensatory Award made by a Disciplinary Committee that has been made, upheld, revoked or varied by that Appeal Committee and any individual or body who in the opinion of that Appeal Committee is an Interested Person of its determination. An Appeal Committee shall also provide the Respondent, a Complainant and any recipient of a Compensatory Award made by a Disciplinary Committee that has been made, upheld, revoked or varied by that 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 an Appeal Committee is final and not capable of being further appealed.

9 MEMBERS' DUTY TO CO-OPERATE WITH INVESTIGATIONS

- 9.1 Any Member or Student (including any Respondent) requested to do so shall provide his or her full and prompt co-operation to:
 - (a) The Investigations Unit in connection with any preliminary enquiries or investigations under these Disciplinary Regulations;
 - (b) Any Committee in connection with any hearing under these Disciplinary Regulations; and
 - (c) Anyone carrying out an investigation under a Joint Disciplinary Scheme or a statutory disciplinary scheme,

and in particular but without limit shall provide the relevant body with all information and copies of all documents relevant to the investigation which are in his or her control and upon the request of the relevant body shall grant any consent or authorisation required to obtain such documents from a third party.

- 9.2 Failure to co-operate with an investigation shall constitute a breach of these Regulations and may render the relevant person liable to disciplinary action.

10 PROCEDURE PRIOR TO HEARINGS BY A DISCIPLINARY COMMITTEE OR AN APPEAL COMMITTEE

- 10.1 The procedures set out in this Regulation shall apply to all hearings conducted by a Disciplinary Committee and an Appeal Committee.

- 10.2 The Committee shall give, or shall instruct the Investigations Unit to give, written notice to the Respondent, a Complainant and any individual or body who in the opinion of the Committee is an Interested Person of the proposed date, time and place of the hearing. This notice shall be sent to the Respondent by recorded delivery or other certified means to arrive 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.

- 10.3 The notice of the hearing which is sent to the Respondent shall set out the particulars of breach against the Respondent to be considered at the hearing and shall be accompanied by copies of all the documents upon which the Investigations Unit intends to rely at the hearing and in hearings before a Disciplinary Committee or where so ordered by an 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 delivery or other certified means to the Respondent by the Investigations Unit to arrive 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.

- 10.4 The Respondent 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 Respondent.
- 10.5 The Respondent 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.
- 10.6 The Committee may if it sees fit invite a complainant and any individual or body who in the opinion of the Committee is an Interested Person to attend the hearing.
- 10.7 The Respondent may apply in writing to the Chair of the Committee appointed to consider the matter for the date, time or place of the hearing to be changed owing to any of the following circumstances:
- (a) the Respondent is unable to attend;
 - (b) a person that the Respondent wishes to attend the hearing as a witness on his or her behalf is unable to attend; or
 - (c) a person that the Respondent wishes to attend the hearing as his or her representative or adviser is unable to attend,
- and in each case the Respondent shall provide the reasons why the relevant person is unable to attend and shall provide details of practicable alternative arrangements. The Investigations Unit shall be afforded a reasonable opportunity to respond to any request for a change to the date, time or place of the hearing made under this regulation.
- 10.8 The Chair of the Committee appointed to consider the matter shall consider the application and any response made by the Investigations Unit and decide whether fairness requires that the date, time or place of the hearing be rearranged and if so shall endeavour to make such rearrangements. The Chair may (but does not have to) obtain the written advice of a Legal Assessor. Such advice (if any) shall be provided to the Respondent and the Investigations Unit in advance of the Chair of the Committee's decision and the Respondent and the Investigations Unit shall

be given a reasonable period to provide comments to the Chair of the Committee on that advice. In making his or her decision the Chair of the Committee shall have regard to the Respondent's and the Investigation Unit's submissions, any advice obtained from a Legal Assessor, any comments received from the Respondent or the Investigations Unit on such advice, the reasons for the Respondent's application, the amount of time left before the hearing, any delay in the Respondent's application and any other relevant factor. If the date, time or place of the hearing is rearranged all attendees shall be notified in writing and Regulation 10.7 shall apply again in relation to the new hearing.

- 10.9 The Respondent and the Investigations Unit may apply to the Chair of a Disciplinary Committee or Appeal Committee appointed to consider a matter for directions in relation to the hearing of the matter provided always that any such directions are in accordance with these Regulations. The Respondent or the Investigations Unit (as appropriate) shall be afforded a reasonable opportunity to respond to any such application. The Chair of the Committee appointed to consider the matter shall decide what directions, if any, shall be given and shall notify the Respondent and the Investigations Unit in writing of the directions given. The Chair may (but does not have to) obtain the written advice of a Legal Assessor. Such advice (if any) shall be provided to the Respondent and the Investigations Unit in advance of the Chair of the Committee's decision and the Respondent and the Investigations Unit shall be given a reasonable period to provide comments to the Chair of the Committee on that advice.

11 PROCEDURE AT HEARINGS OF A DISCIPLINARY COMMITTEE OR AN APPEAL COMMITTEE

- 11.1 A Disciplinary or Appeal Committee shall determine its own procedure in accordance with these Regulations and the overriding requirements of fairness.
- 11.2 A Disciplinary Committee may proceed in the absence of the Respondent and of any representative acting on the Respondent's behalf if it is satisfied that the Respondent has been provided with notice of the hearing in accordance with Regulation 10.2.
- 11.3 At any stage in the proceedings a Disciplinary Committee may order that amendments (including alterations and additions) may be made to the

particulars of the case against the Respondent provided that the Respondent is not prejudiced in the conduct of his or her defence.

11.4 The hearing shall be open to the general public unless in the opinion of the Committee fairness or the public interest requires otherwise. A 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 a Committee may exclude the general public for any part of the hearing where this is appropriate and fairness allows or requires.

11.5 The Presenting Officer shall be given a reasonable opportunity to present the case against the Respondent or resist any appeal made by the Respondent.

11.6 In the case of a hearing before a Disciplinary Committee once the Presenting Officer has presented the case against the Respondent, the Respondent is entitled to make a submission that there is no case to answer. The Presenting Officer shall be entitled to reply to any such submission. The Committee shall consider any such submission and determine whether it should be upheld.

11.7 The Respondent 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.

11.8 In the case of a hearing before an Appeal Committee, if neither the Respondent nor a representative acting on behalf of the Respondent 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 Respondent nor a representative acting on behalf of the Respondent attends a reconvened hearing the Appeal Committee shall dismiss the appeal and/or refuse the application of the Respondent for a review of a Cost Order

11.9 At hearings of a Disciplinary Committee and where so ordered by an Appeal Committee at hearings before an Appeal Committee both the Respondent 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 10.3 or 10.4 at the discretion of the Committee.

11.10 A Committee and, subject to the agreement of the Chair of that Committee, the Legal Assessor may put questions to any witnesses, the Respondent and/or the Presenting Officer.

11.11 It shall not invalidate any decision or other determination of a Disciplinary Committee or an 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.

12 EVIDENTIAL ISSUES

12.1 A Committee in reaching its determination on the facts of a case will apply the civil standard of proof. This means that the Committee must be satisfied on the balance of probabilities that a matter took place before finding it proven.

12.2 At a hearing of a Disciplinary Committee the burden of proving any facts in the particulars of breach that are not admitted by the Respondent rests on the Investigations Unit.

12.3 A Committee may admit any relevant oral, documentary or other evidence whether or not such evidence would be admissible in any civil proceedings.

12.4 A Committee may exclude evidence in the interests of fairness and/or in the interests of justice.

12.5 The production of a certified copy of the certificate of conviction (or, in Scotland, an extract conviction) shall be conclusive proof of that conviction and the findings of fact on which it was based. The only evidence that a Respondent may call in rebuttal of such a certificate of conviction or extract conviction is evidence called for the purpose of proving that the

Respondent is not the person referred to the certificate of conviction or extract conviction.

12.6 The findings of any court of competent jurisdiction (within the UK or elsewhere), any financial services regulator, accountancy regulatory authority and any statutory, chartered or other professional body exercising a regulatory function shall be prima facie evidence of the facts so found.

12.7 A Committee may consider at one hearing more than one matter against the same Respondent and/or matters concerning more than one Respondent provided it is satisfied that it is just for it to do so.

13 LEGAL ADVICE AND ASSISTANCE

13.1 The Legal Assessor shall be present at all hearings of a Disciplinary Committee or an Appeal Committee. The Legal Assessor shall also be present at meetings of the Investigations Committee unless his or her presence is not required by the Committee.

13.2 The Legal Assessor shall advise a Disciplinary Committee, and an 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.

13.3 The advice of the Legal Assessor to a Disciplinary Committee and an Appeal Committee in relation to a particular disciplinary matter shall be delivered at the hearing in the presence of the parties in attendance at the hearing including for the avoidance of doubt the Respondent and/or his or her representative. If delivered in private the advice shall be faithfully and accurately relayed to the parties in attendance at the hearing including for the avoidance of doubt the Respondent and/or his or her representative. The parties in attendance, including the Respondent or his or her representative (if any) shall be entitled to comment upon such advice before any determination is made in relation to the matter upon which advice was sought.

13.4 The Investigations Committee may request the advice of the Legal Assessor on any legal or procedural issue, in which case the Legal Assessor will advise on that issue and on such legal or procedural matters as he or she believes in his or her professional opinion the Investigations

Committee should be advised upon. The Legal Assessor's advice (if any) shall be notified to the Respondent along with the decision of the Investigations Committee.

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

13.6 A Legal Assessor may be paid such remuneration by the Institute as the Institute may from time to time determine.

14 APPOINTMENT OF REVIEWER OF COMPLAINTS

14.1 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 15.7. 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 the Investigations Committee or the Regulatory Panel.

14.2 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 or her 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 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.

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

15 APPOINTMENT OF INVESTIGATIONS COMMITTEE AND REGULATORY PANEL MEMBERS

- 15.1 The Council shall appoint all members of the Investigations Committee including an Independent Member as Chair of the Investigations Committee, from amongst those persons eligible to be members of this committee.
- 15.2 The Council shall appoint a Regulatory Panel, including an Independent Member as Chair of the Regulatory Panel, from amongst those persons eligible to sit as members of the Regulatory Panel.
- 15.3 No person shall be a member of the Investigations Committee and the Regulatory Panel at the same time.
- 15.4 Members of the Investigations Committee and the Regulatory Panel 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.
- 15.5 The Council may suspend or remove any member of the Investigations Committee or the Regulatory Panel:
- (a) upon receiving a recommendation for suspension or removal of that member from three-quarters of the members of the Investigations Committee or the Regulatory Panel 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.
- 15.6 A CIPFA Member shall automatically be suspended from the Investigations Committee or the Regulatory Panel upon which he or she serves in the event that the Investigations Unit formulates and notifies particulars of breach to that person under Regulation 4.1(b)(i) or 4.4(b). A CIPFA Member who is suspended shall remain suspended until the conclusion of

any disciplinary proceedings under these Regulations in relation to him or her.

15.7 A person is eligible to be appointed and to continue as an Independent Member if:

- (a) neither they nor any of their immediate family, including his or her spouse or partner with whom he or she cohabits, is a Member or former Member, Student or former Student, employee or former employee of the Institute;
- (b) He or she is not an accountant; and
- (c) Neither he or she nor any company of which he or she is a director is party to any contract (save for any contract entered into in relation to his or her appointment as an Independent Member) with the Institute.

15.8 A person is eligible to be appointed as a CIPFA Member if he or she is a Member or Student 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 or by a statutory 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 or any statutory disciplinary scheme. For the purposes of this Regulation disciplinary proceedings under these Regulations shall only be deemed to be underway if charges have been put under Regulation 4.1(b)(i) or 4.4(b).

15.9 Independent Members may be paid such remuneration by the Institute as the Institute may from time to time determine.

16 COMPOSITION OF THE INVESTIGATIONS COMMITTEE AND THE REGULATORY PANEL

16.1 Composition of the Investigations Committee

- (a) The Investigations Committee shall consist of at least ten members who shall not be members of the Regulatory Panel.
- (b) Save as detailed in Regulation 16.1(d), the Investigations Committee shall act under a quorum of at least three members of whom at least

two shall be Independent Members. Independent Members shall be in the majority regardless of the total number of persons sitting.

- (c) 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.
- (d) The Chair of the Investigations Committee may delegate his or her powers under these regulations to another Independent Member of the Investigations Committee if this is necessary for the efficient operation of the work of the Investigations Committee.
- (e) The Chair of the Investigations Committee shall be the quorum of the Investigations Committee when the Committee Chair is acting pursuant to Regulations 4.1 and 4.2. Otherwise the Chair of the Investigations Committee shall appoint panels of the Investigations Committee to consider 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 15.5 and 16.1(a)) 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.

16.2 Composition of the Regulatory Panel

- (a) The Regulatory Panel shall consist of at least twenty five members who shall not be members of the Investigations Committee.
- (b) The Chair of the Regulatory Panel shall be an Independent Member appointed by Council. The Chair of the Regulatory Panel shall appoint:
 - (i) members of the Regulatory Panel to sit as members of a Disciplinary Committee or an Appeal Committee to consider a particular disciplinary matter, and

- (ii) from amongst those Committee members appointed in accordance with 16.2(b)(i) above, a chair of the Disciplinary Committee or Appeal Committee appointed to consider a particular disciplinary matter.
- (c) No Regulatory Panel member may sit as a member of a Disciplinary Committee and an Appeal Committee which considers the same, or substantially the same, disciplinary matter.
- (d) The Chair of the Regulatory Panel may delegate his or her powers under these regulations to another Independent Member of the Regulatory Panel if this is necessary for the efficient operation of the work of the Regulatory Panel.
- (e) In the event that the Chair of the Regulatory Panel has sat as a member, including as the chair, of a Committee which previously considered or determined the same, or substantially the same, disciplinary matter that falls to be considered under these Regulations the Regulatory Panel Chair shall delegate his or her power
 - (i) to appoint members, including a chair, to a Disciplinary or an Appeal Committee considering such a matter, and/or
 - (ii) to consider the matter in his or her role as Chair of the Regulatory Panel
 to another Independent Member of the Regulatory Panel.

16.3 Composition of a Disciplinary Committee

- (a) A Disciplinary Committee shall act under a quorum of at least three members, including a Chair, of whom at least two shall be Independent Members. Independent Members shall be in the majority regardless of the total number of persons sitting.
- (b) The Chair of a Disciplinary Committee appointed to consider a particular disciplinary matter shall be an Independent Member. In the absence of that Chair the meeting shall be chaired by another Independent Member present.

- (c) A Disciplinary Committee appointed to consider a particular matter may delegate to the Chair of that 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 10.2, 10.3 and 10.4.
- (d) If a Disciplinary Committee is appointed in relation to a particular disciplinary matter those members of the Regulatory Panel not appointed to such a Committee shall play no part in the consideration and determination of that disciplinary matter.

16.4 Composition of an Appeal Committee

- (a) An Appeal Committee shall act under a quorum of at least three members of whom at least two shall be Independent Members. Independent Members shall be in the majority regardless of the total number of persons sitting.
- (b) The Chair of an Appeal Committee sitting to consider a particular disciplinary matter shall be an Independent Member. In the absence of that Chair the meeting shall be chaired by another Independent Member present.
- (c) An Appeal Committee may delegate to the Chair of that Appeal Committee sitting to consider a particular disciplinary matter 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 10.2, 10.3 and 10.4.

17 EXPULSION

17.1 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 which considered his or her matter and could not reasonably have been put before that Disciplinary Committee or Appeal Committee by the Member or Student and the

Member or Student believes that if that Disciplinary Committee or 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.

17.2 Upon receipt of an application for re-admittance under Regulation 17.1(a) the Members and Students Development Board shall refer the matter for consideration by the Chair of the Regulatory Panel. If the Chair of the Regulatory Panel 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 an Appeal Committee in accordance with Regulations 10 and 11. In all other circumstances the application for re-admittance shall be rejected.

17.3 Upon receipt of an application for re-admittance under Regulation 17(b) the Members and Students Development Board shall obtain the considered opinion of an Appeal Committee. The appointed Appeal Committee shall seek such further information as it deems appropriate and shall reach its opinion after considering all relevant factors including:

- (a) The seriousness of the breach(es) of Bye-Law 23; 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.

17.4 Where an application under Regulation 17.1 is made by an individual who previously held a Practising Certificate and provided the Institute has Practice Regulations in force at the time that application is made the Members and Students Development Board and the appointed Appeal Committee shall also consider whether a further Practising Certificate should be granted if the applicant is re-admitted to membership of the Institute.

18 WITHDRAWAL OF PRACTISING CERTIFICATE

18.1 Provided the Institute has Practice Regulations in force at the time the application is made, 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.

- 18.2 Upon receipt of an application for re-instatement of a Practising Certificate under Regulation 18.1, provided the Institute has Practice Regulations in force at the time of that application, the Members and Students Development Board shall obtain the considered opinion of an appointed Appeal Committee. The Appeal Committee shall seek such further information as it deems appropriate and shall reach its opinion after considering all relevant factors including:
- (a) the seriousness of the breach of Bye-Law 23; 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.

19 EFFECTIVE DATES

- 19.1 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 Respondent's consent to the imposition of the Reprimand or Entry on Record.
- 19.2 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.
- 19.3 Any order, Compensatory Award or Reimbursement Order made by a Disciplinary Committee shall take effect from the date of the expiry of the appeal/review period specified at Regulation 7.2(n) unless the Respondent 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.
- 19.4 Any order of an Appeal Committee shall take effect from the date it is announced by the Committee.

20 PAYMENT

- 20.1 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.

21 NOTICES

- 21.1 Subject to express provisions within these Regulations, notices shall be given and shall be deemed to have been received in accordance with the Bye-Laws of the Institute.

22. TRANSITIONAL PROVISIONS

- 22.1 For the purposes of this Regulation 22:

- (a) "Relevant Date" means the date on which this Regulation comes into force;
- (b) "Current Member" means a member of the Disciplinary Committee or the Appeal Committee on the Relevant Date; and
- (c) "Current Chair" means the Chair of the Disciplinary Committee or the Chair of the Appeal Committee (as the case may be) on the Relevant Date.

- 22.2 From the Relevant Date, each Current Member will become a member of the Regulatory Panel for the remainder of the period of their current appointment subject to the provisions of these Regulations.

- 22.3 Any Current Member who, on the Relevant Date is eligible to be reappointed to the Disciplinary Committee or Appeal Committee at the end of their current term of office, may be reappointed at that time to the Regulatory Panel.

- 22.4 Each current Chair shall continue to undertake the duties of their current Chair role for the remainder of the period of their current appointment to the Disciplinary or Appeal Committee as one of two Joint Chairs of the Regulatory Panel provided always that they are otherwise remain eligible to sit (subject always to Regulations 15.4, 15.5, 15.6, 15.7 and 15.8 as applicable).

22.5 Upon one of the Current Chairs ceasing to hold that office, the remaining Current Chair shall be the sole Chair of the Regulatory Panel for the remainder of his or her current appointment and for any permitted period of re-appointment.