

# Institute of Financial Accountants Disciplinary Regulations

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**Effective from 1 January 2021**

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## **1 Citation**

- 1.1 These Regulations may be cited as the Institute of Financial Accountants Disciplinary Regulations. These Regulations, as amended, shall take effect from 1 January 2021.

## **2 Interpretation**

- 2.1 Throughout these Regulations, unless the context otherwise requires, the interpretation set out in Bye-law 2 shall apply.

## **3 Assessment of a complaint**

- 3.1 A complaint against a member, student, affiliate, member firm or contracted firm shall be in writing in the Institute's prescribed form.
- 3.2 The Institute may, as a result of its own enquiry or information, submit a complaint against a member, student, affiliate, member firm or contracted firm in accordance with these Disciplinary Regulations.
- 3.3 A complaint shall be referred to a case manager, who shall carry out the initial assessment of the complaint.

## **4 Complaint not suitable for investigation**

- 4.1 A complaint will be investigated if it involves liability to disciplinary action as defined in the Bye-laws. If a complainant believes that they have a claim in law against a member, student, affiliate, member firm or contracted firm, the complainant should seek independent legal advice. There is no provision in the Bye-laws or Disciplinary Regulations to order compensation to the complainant or an interested person.
- 4.2 The case manager may reject a complaint without investigation if they believe that:
- (a) the complaint was lodged more than six months after the complainant became aware of the grounds for the complaint unless, in the opinion of the case manager, the investigation of the complaint is in the public interest;
  - (b) the Institute does not have jurisdiction over the member, student, affiliate or firm being the subject of the complaint; and/or
  - (c) the complaint is trivial or vexatious.
- 4.3 If, on initial assessment, the case manager determines that a complaint is not suitable for investigation, they shall notify the complainant in writing.
- 4.4 If, within 21 working days of receiving notification that their complaint is not suitable for investigation, the complainant notifies the case manager, in writing, that they are appealing the case manager's decision, the complaint shall be referred to the chair of the Investigations Committee or chair of the Regulatory Committee.
- 4.5 The chair of the Investigations Committee or chair of the Regulatory Committee may uphold the case manager's decision or request that the matter be referred to the relevant Conduct Committee.
- 4.6 Where a complaint is decided to be unsuitable for investigation, the complainant may seek a form of alternative dispute resolution from a third party. The Institute is not an alternative dispute resolution body, and does not provide such a service.

## **5 Investigation of a complaint**

- 5.1 The Institute may proceed with the disciplinary process, notwithstanding the complainant's withdrawal from the process.

- 5.2 If the case manager determines that a complaint is suitable for investigation, or the chair of the Investigations Committee requests that a matter be referred to the relevant Conduct Committee, the case manager shall prepare the complaint for Committee investigation.
- 5.3 The case manager shall:
- (a) disclose the initial written complaint and supporting documentation to the respondent;
  - (b) invite further evidence and submissions from the complainant;
  - (c) allow the respondent sufficient opportunity to provide evidence and submissions in response to the complaint, submissions and evidence provided by the complainant; and
  - (d) furnish the respondent with a copy of the papers to be considered by the Conduct Committee.
- 5.4 The Investigations Committee or the Regulatory Committee as appropriate (“the Committee”) shall investigate a complaint against a respondent, and determine whether the respondent is liable to disciplinary action.
- 5.5 The appropriate Committee will be the Investigations Committee, unless the investigation only concerns one or more complaints by the Institute alleging liability to disciplinary action arising from Bye-laws 11.2 (c) and 11.2 (d), in which case the appropriate Committee will be the Regulatory Committee.
- 5.6 In reaching its decision, the Committee will receive evidence and submissions referred to it, comprising:
- (a) the initial written complaint and supporting documentation as disclosed to the respondent by the case manager;
  - (b) any further evidence and submissions procured by the case manager and disclosed to the respondent; and
  - (c) any further evidence and submissions provided by the respondent, prior to the prescribed deadline, for the Committee’s consideration.
- 5.7 If the Committee determines that there is insufficient evidence that the respondent is liable to disciplinary action, the Committee shall dismiss the complaint, and the Institute shall notify the respondent of the Committee’s decision within 10 working days of its decision. No further action shall be taken.

## **6 Consent orders**

- 6.1 Where the Investigations Committee or the Regulatory Committee as appropriate (“the Committee”) determines that there is sufficient evidence that the respondent is liable to disciplinary action, and that:
- (a) the conduct of the respondent does not warrant an order or sanction other than those available to the Committee and
  - (b) a referral to the Disciplinary Committee is not in the public interest,
- the Committee may impose, by way of a consent order, one or more of the following sanctions:
- (i) caution
  - (ii) reprimand
  - (iii) fine.

- 6.2 There shall be no maximum fine available to the Committee. In setting the level of a fine, the Committee shall have due regard to guidelines provided by the Institute, and the statutory limits.
- 6.3 In determining what sanction (or combination of sanctions) to offer the respondent by way of a consent order, the Committee shall have regard to the disciplinary record of the respondent.
- 6.4 The Institute may make an application for costs at the point of the case manager referring a matter to the appropriate Committee, and the Committee may include costs to the Institute within the proposed consent order if it considers it to be fair and reasonable to do so.
- 6.5 The Committee shall propose a consent order to the respondent within 10 working days of its decision.
- 6.6 If the respondent accepts the consent order, in writing, within 21 working days of receiving the proposed consent order, the Institute shall administer the collection of a fine, if any, and the appropriate publicity arrangements.

## **7 Progression to a disciplinary hearing**

- 7.1 A complaint arising from a conviction, where there is conclusive proof of the conviction as set out below, shall be referred directly to the Disciplinary Committee without preliminary investigation by the Investigations Committee.
- 7.2 If a respondent does not accept a consent order, in writing, within 21 working days of receiving the proposed consent order, the complaint shall progress to a hearing of the Disciplinary Committee.
- 7.3 Where the Investigations Committee or the Regulatory Committee, as appropriate, determines that there is sufficient evidence that the respondent is liable to disciplinary action, and that:
- (a) the conduct of the respondent could warrant an order or sanction other than those available to the Investigations Committee and the Regulatory Committee, and
  - (b) a referral to the Disciplinary Committee is in the public interest,

the Institute shall notify the respondent of the relevant Committee's decision within 10 working days of its decision.

## **8 Notice of a disciplinary hearing**

- 8.1 At least 21 working days before a hearing of the Disciplinary Committee, the Institute shall send notice of the hearing to the respondent.
- 8.2 Notice of a Disciplinary Committee hearing shall include:
- (a) the date, time and place fixed for the hearing;
  - (b) the wording of the allegation, or allegations, that the Institute shall seek to prove;
  - (c) copies of all documents upon which the Institute intends to rely; and
  - (d) the names of any witnesses (which may include the complainant) that the Institute intends to bring to the hearing.
- 8.3 The respondent shall, at least 10 working days before the hearing:
- (a) inform the Institute of whether they intend to attend the hearing;
  - (b) provide the Institute with the names of any witnesses that the respondent intends to bring to the hearing;

- (c) provide the Institute with the name of any representative that the respondent intends to represent them and speak on their behalf at the hearing; and
  - (d) provide the Institute with copies of all documents upon which they intend to rely in evidence at the hearing.
- 8.4 Any documents not provided to the Institute at least 10 working days before the hearing shall not be admitted into evidence without the permission of the Disciplinary Committee.
- 8.5 The respondent shall notify their representative and/or witnesses, if any, of the date, time, and place fixed for the hearing.

## **9 Hearings of the Disciplinary Committee**

- 9.1 The Disciplinary Committee shall consider, at a hearing, matters referred to it by the Investigations Committee or the Regulatory Committee.
- 9.2 The hearing shall take place in public unless, in the interests of fairness, the chair of the Disciplinary Committee determines that all or part of the hearing should take place in private. All deliberations of the Disciplinary Committee shall take place in private, with a legal assessor (if appointed) present in an advisory capacity.
- 9.3 The respondent shall have the right to attend, and be heard at, the hearing.
- 9.4 At the hearing, the respondent may be accompanied by a representative, or the respondent may appoint a representative to attend in the respondent's place. In either case, the representative may speak on the respondent's behalf.
- 9.5 If the respondent does not attend the hearing and is not represented at the hearing then, provided the Disciplinary Committee is satisfied that due notice was served on the respondent, the Disciplinary Committee may proceed with the hearing in the respondent's absence. In such circumstances, the Disciplinary Committee shall consider any written representations submitted by, or on behalf of, the respondent.
- 9.6 The respondent may arrange for witnesses to attend to give evidence.
- 9.7 All fees and expenses of the respondent's representative and/or witnesses, if any, shall be met in full by the respondent.
- 9.8 The Institute shall appoint a presenting officer who shall be entitled to attend the hearing of the Disciplinary Committee, and shall be given a reasonable opportunity to present the allegation against the respondent on the Institute's behalf.
- 9.9 The Institute may invite a complainant and/or one or more other individuals to attend the hearing as a witness.
- 9.10 The burden of proof at a disciplinary hearing shall rest on the presenting officer, and the standard of proof required is the balance of probabilities, such that the Disciplinary Committee considers that the facts and circumstances relevant to the allegation are more likely than not to have occurred.
- 9.11 The conduct of the proceedings at a hearing of the Disciplinary Committee is entirely at the discretion of the chair.
- 9.12 Where a respondent has been convicted of a criminal offence, a copy of the certificate of conviction or memorandum of conviction, certified by a competent officer of the court in the United Kingdom or elsewhere, shall be conclusive proof of the conviction, and the findings of fact set out in a judgment of a court in the United Kingdom or elsewhere shall be conclusive proof of those facts.

- 9.13 If the Disciplinary Committee decides that there is no, or insufficient, evidence of the facts that are alleged to have rendered the respondent liable to disciplinary action, the Disciplinary Committee shall dismiss the allegation. If this decision is reached at an early stage, the respondent may not be required to give evidence.
- 9.14 If the Disciplinary Committee dismisses all allegations against the respondent, the Institute shall notify the respondent, in writing, of the Disciplinary Committee's decision within 10 working days of its decision.

## **10 Findings and orders of a Disciplinary Committee**

- 10.1 If the Disciplinary Committee decides that a complaint against a respondent has been proved, wholly or in part, it shall make a finding to that effect.
- 10.2 In the event of a finding by the Disciplinary Committee, the Disciplinary Committee may make any one, or more, of the following orders:
- (a) that the respondent shall be ineligible for the award of a practising certificate in future (or for a stated number of years and/or until a specified condition is met);
  - (b) that a condition shall be imposed on the respondent's eligibility to remain on the register of members or register of students, as applicable;
  - (c) that the respondent shall be removed from the register of members or register of students, as applicable, and shall be ineligible for reinstatement for a stated number of years and/or until a specified condition has been met;
  - (d) that the respondent shall be permanently removed from the register of members or register of students, as applicable;
  - (e) in the case of a member in practice
    - (i) that their practising certificate be suspended for a stated number of years and/or until a specified condition is met
    - (ii) that their practising certificate be withdrawn, and that they shall be ineligible to reapply for a practising certificate for a stated number of years
    - (iii) that their practising certificate be withdrawn and that they shall be permanently ineligible to reapply for a practising certificate.
- 10.3 In the event of a finding against the respondent, the Disciplinary Committee may order any one, or more, of the following sanctions against the respondent:
- (a) caution
  - (b) reprimand
  - (c) severe reprimand
  - (d) fine.
- 10.4 There shall be no maximum fine available to the Disciplinary Committee. In setting the level of a fine, the Disciplinary Committee shall have due regard to guidelines provided by the Institute and the statutory limits.
- 10.5 In determining what sanction (or combination of sanctions) to offer the respondent, the Disciplinary Committee shall have regard to the disciplinary record of the respondent.
- 10.6 In the event of a finding against the respondent, the Institute may make an application to the Disciplinary Committee for costs, and the Disciplinary Committee may make an order for costs payable to the Institute, if it considers it to be fair and reasonable to do so.

10.7 The Institute shall notify the respondent, in writing, of the Disciplinary Committee's decision, together with its written reasons, within 10 working days of its decision.

10.8 Orders of the Disciplinary Committee shall be effective from:

- (a) the date of expiry of the appeal period following written notification of the outcome of the disciplinary hearing; or
- (b) where the respondent has made a valid application to appeal, the date of (i) the application being refused, (ii) the appeal being abandoned by the appellant or (iii) the appeal being determined by the Appeal Committee and the order of the Disciplinary Committee being upheld.

## **11 Application to appeal**

11.1 If a respondent wishes to appeal a decision of the Disciplinary Committee, they shall apply, in writing, to the Institute for permission to appeal, within 21 working days of receiving the decision and written reasons of the Disciplinary Committee.

11.2 An application to appeal must set out the grounds for the appeal, and shall only be granted on one or more of the following grounds:

- (a) that the decision of the Disciplinary Committee was based on a misinterpretation of, or other failure to act in accordance with, any of the IFA Regulations and Bye-laws;
- (b) that there was a procedural irregularity that resulted in an unjust decision of the Disciplinary Committee;
- (c) that the decision of the Disciplinary Committee was based on an error in law or in fact;
- (d) that there was a failure to pay due regard to relevant evidence at the hearing, or that further evidence is newly available, which would have been relevant to the Disciplinary Committee's decision;
- (e) that an order of the Disciplinary Committee is unreasonable in relation to its findings.

11.3 If an application to appeal has been served on the Institute, but no grounds of appeal have been set out, an application may be made, before the expiry of the appeal period, for an extension of the period in which grounds for appeal shall be notified to the Institute.

11.4 An application for permission to notify the Institute of grounds for appeal after the expiry of the appeal period shall be made, in writing, to the Institute, setting out the reasons why the grounds for appeal could not reasonably have been notified to the Institute within the appeal period. Supporting evidence (for example, of a medical condition) shall accompany this application, where appropriate.

11.5 The chair of the Appeal Committee shall consider such an application, together with any supporting evidence, and shall decide whether the period for notifying the Institute of grounds for appeal may be extended and, if so, the period of the extension. The chair shall only allow such an application if, in the chair's opinion, it is in the interests of justice to do so.

11.6 The applicant will be informed, in writing, of the chair's decision as soon as practicable.

11.7 Where a respondent fails to set out the grounds for appeal within the extended period granted by the chair of the Appeal Committee, the order of the Disciplinary Committee shall take effect from the end of that extended period.

11.8 An appeal cannot be on the basis of fines and or costs order alone.



- 11.9 The chair of the Appeal Committee shall consider a valid application to appeal, together with the stated grounds for appeal, and shall determine, based on the stated grounds for appeal, whether the Appeal Committee shall hear the appeal.
- 11.10 If the chair of the Appeal Committee determines that there are not sufficient grounds for appeal, the Institute shall notify the respondent, in writing, of the chair's decision as soon as practicable.
- 11.11 There is no provision for a complainant or any other interested person to appeal a decision of a Conduct Committee.

## **12 Notice of an appeal hearing**

- 12.1 If the chair of the Appeal Committee determines that there are sufficient grounds for appeal, the Institute shall, at least 21 working days before a hearing of the Appeal Committee, send notice of the hearing to the appellant.
- 12.2 Notice of an Appeal Committee hearing shall include:
- (a) the date, time and place fixed for the hearing;
  - (b) the findings and orders of the Disciplinary Committee being appealed;
  - (c) the grounds for appeal submitted by the appellant and accepted by the chair of the Appeal Committee;
  - (d) the Institute's response in respect of any or all of those grounds for appeal;
  - (e) copies of all documents upon which the Institute intends to rely; and
  - (f) the names of any witnesses (which may include the complainant) that the Institute intends to bring to the hearing.
- 12.3 The appellant shall, at least 10 working days before the hearing:
- (a) inform the Institute of whether they intend to attend the hearing;
  - (b) provide the Institute with the names of any witnesses that the appellant intends to bring to the hearing;
  - (c) provide the Institute with the name of any representative that the appellant intends to represent them and speak on their behalf at the hearing; and
  - (d) provide the Institute with copies of all documents upon which they intend to rely in evidence at the hearing.
- 12.4 Any new evidence provided shall be evidence that was not, and could not have been, made available to the Disciplinary Committee at the disciplinary hearing.
- 12.5 Any documents not provided to the Institute at least 10 working days before the hearing shall not be admitted into evidence without the permission of the Appeal Committee.
- 12.6 The appellant shall notify their representative and/or witnesses, if any, of the date, time, and place fixed for the hearing.

## **13 Hearings of the Appeal Committee**

- 13.1 A hearing of the Appeal Committee shall take place in public unless, in the interests of fairness, the chair of the Appeal Committee determines that all or part of the hearing should take place in private. All deliberations of the Appeal Committee shall take place in private, with a legal assessor (if appointed) present in an advisory capacity.

- 13.2 The appellant shall have the right to attend, and be heard at, the hearing.
- 13.3 At the hearing, the appellant may be accompanied by a representative, or the appellant may appoint a representative to attend in the appellant's place. In either case, the representative may speak on the appellant's behalf.
- 13.4 If the appellant does not attend the hearing and is not represented at the hearing then, provided the Appeal Committee is satisfied that due notice was served on the appellant, the Appeal Committee may proceed with the hearing in the appellant's absence. In such circumstances, the Appeal Committee shall consider any written representations submitted by, or on behalf of, the appellant.
- 13.5 The appellant may arrange for witnesses to attend to give evidence.
- 13.6 All fees and expenses of the appellant's representative and/or witnesses, if any, shall be met in full by the appellant.
- 13.7 The Institute shall appoint a presenting officer who shall be entitled to attend the hearing of the Appeal Committee, and shall be given a reasonable opportunity to present to the Appeal Committee, on the Institute's behalf, a defence to the appeal.
- 13.8 The Institute may invite a complainant and/or one or more other individuals to attend the hearing as a witness.
- 13.9 The burden of proof at an appeal hearing shall rest on the appellant, and the standard of proof required is the balance of probabilities, such that the Appeal Committee considers that the facts and circumstances relevant to the appeal are more likely than not to have occurred.
- 13.10 The conduct of the proceedings at a hearing of the Appeal Committee is entirely at the discretion of the chair.

#### **14 Findings and orders of an Appeal Committee**

- 14.1 An Appeal Committee may make one or more of the following findings:
- (a) that the findings and orders of the Disciplinary Committee shall be upheld in full;
  - (b) that one or more orders of the Disciplinary Committee shall be varied or rescinded;
  - (c) that one or more orders of the Disciplinary Committee shall be substituted by one or more other orders that were available to the Disciplinary Committee;
  - (d) that one or more findings of the Disciplinary Committee shall be varied or set aside;
  - (e) that the complaint shall be heard afresh by a new Disciplinary Committee.
- 14.2 In the event of a finding by the Appeal Committee that the findings and orders of the Disciplinary Committee shall be upheld in full, the Institute may make an application to the Appeal Committee for costs, and the Appeal Committee may make an order for costs payable to the Institute, if it considers it to be fair and reasonable to do so.
- 14.3 A decision of the Appeal Committee shall be final and there shall be no further right of appeal.
- 14.4 The Institute shall notify the appellant, in writing, of the Appeal Committee's decision, together with its written reasons, within 10 working days of its decision.
- 14.5 Where the Appeal Committee finds that an order of the Disciplinary Committee shall be varied or substituted, the varied or substituted order shall be effective from the date the appellant is notified of the Appeal Committee's decision.

- 14.6 Where the finding of the Appeal Committee is that all findings of the Disciplinary Committee shall be set aside and all orders of the Disciplinary Committee shall be rescinded, the Institute shall notify the appellant, in writing, of the Appeal Committee's decision.

## **15 Adjourments**

- 15.1 Prior to a hearing, the chair of the Disciplinary Committee or Appeal Committee as appropriate ("the Committee") may grant an application for an adjournment of the hearing. After the hearing has commenced, any application for adjournment shall be decided by the Committee.
- 15.2 If at any time during a hearing the chair is of the opinion that it is impracticable or would be contrary to the interests of justice for the hearing to be continued or completed, the chair shall direct that the matter be heard by a newly constituted Disciplinary Committee or Appeal Committee, as appropriate, which shall not include any member of a Disciplinary Committee or Appeal Committee previously constituted to hear the matter.

## **16 Interlocutory directions and orders**

- 16.1 At any stage prior to the conclusion of a hearing, the chair of the Disciplinary Committee or Appeal Committee, as appropriate, has the power to issue interlocutory directions to the parties to the proceedings and to their representatives, if any, for the efficient and equitable progress of the hearing.
- 16.2 The Institute may, at any time prior to the conclusion of the disciplinary process, apply to the chair of the Disciplinary Committee for an interlocutory order which, if granted, shall have immediate effect.
- 16.3 The chair may make one or more of the following interlocutory orders, which shall be effective for a stated maximum period:
- (a) that a respondent's membership or student registration be suspended;
  - (b) that an affiliate cease act, and to hold themselves out, as a principal in a member firm or contracted firm;
  - (c) that a member's practising certificate be suspended;
  - (d) that a respondent's continuing membership, student registration and/or right to practise be subject to conditions specified in the interlocutory order.
- 16.4 The chair shall only make such interlocutory order as is necessary for the urgent protection of the public.
- 16.5 An interlocutory order shall have effect until the earliest of the following events:
- (a) it expires, and is not renewed by the chair of the Disciplinary Committee;
  - (b) it is replaced by a new interlocutory order of the chair of the Disciplinary Committee;
  - (c) a Disciplinary Committee or Appeal Committee makes an order, and that order has taken effect;
  - (d) the disciplinary process in respect of the respondent has concluded.

## **17 Conduct Committees: constitution and powers**

- 17.1 Conduct Committees shall operate independently of the Board and the Institute.
- 17.2 Those eligible to sit on the Institute's Conduct Committees shall be deemed to meet predetermined, objective criteria, and shall be appointed by the Board, following recommendations by a panel of Conduct Committee chairs and the Chief Executive Officer. Any

conflicts of interest (or possible perceived conflicts of interest) on the part of a chairs, the Chief Executive Officer and the Board shall be disclosed to the Institute at the earliest opportunity.

- 17.3 Those eligible to sit on the Institute's Conduct Committees shall be appointed by the Board for a period of three years, and shall be eligible for reappointment, up to a maximum period of six years in total.
- 17.4 A member of a Conduct Committee shall not be (nor allow themselves to be perceived as):
- (a) a current member of the Board;
  - (b) a current board member of the IPA;
  - (c) a past member of the Board, or a past IPA board member, who ceased to be so within the previous two years;
  - (d) a current member of staff of the Institute;
  - (e) a past member of staff of the Institute who ceased to be so within the previous two years.
- 17.5 No person eligible to sit on a Conduct Committee shall sit on a Disciplinary Committee or an Appeal Committee, as applicable, if they have previously sat on any Conduct Committee to consider a complaint against the respondent or appellant, as applicable, at an earlier stage in the disciplinary process.
- 17.6 For a Conduct Committee, the quorum shall be three, and each of the Committees shall include the following:
- (a) the Regulatory Committee shall include a lay person chair, an additional lay person and a member of the Institute (or another professional accountant);
  - (b) the Investigations Committee shall include a lay person chair who is legally qualified, an additional lay person and a member of the Institute (or another professional accountant);
  - (c) the Disciplinary Committee shall include a lay person chair who is legally qualified, an additional lay person and a member of the Institute (or another professional accountant);
  - (d) the Appeal Committee shall include a lay person chair who is legally qualified, an additional lay person and a member of the Institute (or another professional accountant).

In any case, the majority of members of a Conduct Committee shall be lay persons.

- 17.7 The findings and orders of a Conduct Committee shall be by unanimous decisions, and written reasons for those decisions shall be drafted on behalf of the whole Conduct Committee, with the legal assessor present to advise where one has been appointed.

## **18 Legal assessors: qualification, powers and responsibilities**

- 18.1 A legal assessor may, at the discretion of the Institute, be called upon to be present at a hearing of the Disciplinary Committee or Appeal Committee ("the Committee"). If appointed, the responsibilities of a legal assessor at a hearing are:
- (a) to advise the Committee on any legal or procedural points that may arise, during the public hearing or during the Committee's private deliberations;
  - (b) to ensure that all advice shall be given, or (if the advice is given in private) repeated, in the presence of the parties present and their representatives, if any; and

- (c) to be present to advise the Committee at the drafting of the Committee's decisions and written reasons for reaching those decisions.

A legal assessor shall not partake in the decision-making process of the Committee.

- 18.2 Those eligible to act as legal assessor shall be deemed to meet predetermined, objective criteria, and shall be appointed by a panel of Conduct Committee chairs. Any conflicts of interest (or possible perceived conflicts of interest) on the part of a chair shall be disclosed to the Institute at the earliest opportunity.
- 18.3 Those eligible to act as legal assessor shall be appointed for a period of three years, and shall be eligible for reappointment, up to a maximum period of six years in total.
- 18.4 A legal assessor shall not be (nor allow themselves to be perceived as):
  - (a) a current member of the Board;
  - (b) a current board member of the IPA;
  - (c) a past member of the Board, or a past IPA board member, who ceased to be so within the previous two years;
  - (d) a current member of staff of the Institute;
  - (e) a past member of staff of the Institute who ceased to be so within the previous two years.
- 18.5 No person eligible to act as legal assessor shall act as such at a hearing of the Disciplinary Committee or Appeal Committee, as applicable, if they have previously acted as legal assessor at a hearing of a complaint against the respondent or appellant, as applicable, at an earlier stage in the disciplinary process.

## **19 Code of conduct for Committees and legal assessors**

- 19.1 An individual appointed to serve on a Conduct Committee or to act as legal assessor shall be bound by a code of conduct, as amended from time to time, which shall be approved by the Board. In addition, those bound by the code of conduct shall disclose to the Institute, at the earliest opportunity, any business interests and/or relationships that might impact their ability to perform their duties in accordance with the code of conduct.
- 19.2 Alleged breaches of the code of conduct referred to above shall be considered by the Board, which shall have the power to remove an individual, for any reason and without notice, from their appointment to serve on a Conduct Committee or to act as legal assessor.

## **20 General provisions**

- 20.1 If, at any time, a respondent or appellant, as the case may be, believes that continuing the disciplinary process would be seriously prejudicial to their health, they may instruct the case manager to present the respondent's or appellant's claim of ill health to the chair of the relevant Conduct Committee.
- 20.2 On receiving such a claim, the case manager shall, as soon as practicable, present the claim to the chair of the relevant Conduct Committee, together with any supporting evidence provided by the respondent or appellant such as a medical report. The chair may request further information and/or evidence of the respondent or appellant, as the case may be.
- 20.3 If, following a claim of ill health by a respondent or an appellant or otherwise, information or circumstances are brought to the attention of the chair of the relevant Conduct Committee that, in the chair's opinion, and paying due regard to the public interest, make it inappropriate for the disciplinary process to proceed, the chair of the relevant Conduct Committee may make an

appropriate order. Such information and circumstances might include, but are not limited to, information and circumstances regarding the ill health of the respondent or appellant.

- 20.4 The chair of the Conduct Committee may decide that it is fair and reasonable, and in the public interest, for the disciplinary process to continue. If so, the chair's decision shall be notified to the respondent or appellant, as applicable, within 10 working days of the chair's decision.
- 20.5 If the chair of the Conduct Committee decides that it is inappropriate for the disciplinary process to proceed, the chair may order that the disciplinary process be suspended or the complaint withdrawn, or that the matter should rest on the file of the member, student or affiliate concerned for a period of five years. Such an order may be combined with an order to withdraw or suspend a member's practising certificate.

#### *Matters rested on file*

- 20.6 If, at any time, the case manager, Investigations Committee or Regulatory Committee determines that there is a case to answer, but it is not in the public interest to refer the matter to the relevant Conduct Committee (and the respondent has not agreed to a consent order), the matter may rest on the respondent's file for a period of five years.
- 20.7 Should the Institute receive a subsequent complaint in respect of a respondent, any matter previously considered by the case manager, Investigations Committee or Regulatory Committee, and still resting on the respondent's file may be considered by the case manager and/or Conduct Committee(s) in addition to the subsequent complaint, and so be the subject of disciplinary action.

#### *Fines and costs*

- 20.8 Late payments of fines and costs ordered by the Conduct Committees shall be subject to interest.
- 20.9 A member, student or member firm may be removed from the register of members, the register of students or the register of member firms, as appropriate, for non-payment of fines and/or costs payable to the Institute.

#### *Duty to co-operate with investigations and hearings*

- 20.10 A member, student affiliate, member firm or contracted firm shall provide their full and prompt co-operation to the case manager and any Conduct Committee in connection with an investigation or hearing involving the member, student, affiliate, member firm or contracted firm.
- 20.11 Failure to co-operate may render a member, student, affiliate, member firm or contracted firm liable to disciplinary action.
- 20.12 If a respondent ceases to be a member or student before the conclusion of the disciplinary process in which they or their member firm is a respondent, the Institute shall retain its jurisdiction over the member, student, member firm and/or contracted firm until the matter has been concluded by way of consent order or final hearing, and any fines and/or costs ordered have been paid in full.
- 20.13 A firm that ceases to meet the definition of a member firm before the conclusion of the disciplinary process in which the firm is a respondent, the Institute shall retain its jurisdiction over the firm as if it were a member firm until the matter has been concluded by way of consent order or final hearing, and any fines and/or costs ordered have been paid in full.
- 20.14 A contracted firm cannot cease its contract with the Institute before the conclusion of the disciplinary process in which the firm is a respondent. In these circumstances, the Institute shall retain its jurisdiction over the firm as if it were a member firm until the matter has been concluded by way of consent order or final hearing, and any fines and/or costs ordered have been paid in full.

### *Publicity*

- 20.15 The Institute shall publish on its website advance notice of hearings of the Disciplinary Committee and Appeals Committee on its website at least seven days before the Conduct Committee is due to sit. There is no publication of the meeting dates for the Investigations Committee or Regulatory Committee since these Committees do not sit in public.
- 20.16 Advance publicity shall include the name of the respondent or appellant, as applicable, and in the case of a public hearing, the date, time and location of the hearing.
- 20.17 Where, following a hearing of the Investigations Committee or the Regulatory Committee, a consent order has been agreed by a respondent, the details of the relevant complaint, together with the findings and order (or orders), should be published on the Institute's website and the official journal of the Institute, including the name of the respondent.
- 20.18 Following a hearing of the Disciplinary Committee or the Appeal Committee, the details of the relevant complaint, together with any findings and/or orders, should be published on the Institute's website and the official journal of the Institute, including the name of the respondent.
- 20.19 Following a hearing of the Disciplinary Committee or the Appeal Committee, and having invited the respondent to make representations, the Conduct Committee may order further publicity, as would be proportionate and effective in better protecting the public.
- 20.20 While there is a presumption in favour of publishing the findings made by a Conduct Committee, the Conduct Committees have discretion not to order publication of the name of the respondent or the details of orders made against them in exceptional circumstances.

### *Written reasons*

- 20.20 The written reasons for decisions made by the Conduct Committees are confidential to the Committee and the parties to the disciplinary process. The written reasons shall not be published.

### *Deemed notification*

- 20.21 Any notification required by these Disciplinary Regulations shall be deemed to have been served in accordance with the provisions of the Bye-laws.