

## **The IPR Code of Conduct**

In an increasingly competitive world in which consumer power dictates market strength, investing in good public relations is necessary for success. As the service industry continues to grow the Institute of Public Relations (IPR), as the voice of public relations professionals, has an important role in ensuring that the trust and confidence of consumers is gained in the boardroom and on the high-street.

The IPR operates a Code of Professional Conduct and disciplinary powers to which all members agree to adhere. The Professional Practices Committee of the Institute has occasion to handle complaints brought against members of the Institute who are thought to be in breach of the Code.

In regard to the supply of public relations services, the Code emphasises that honest and proper regard for the public interest, reliable and accurate information, and never misleading clients, employers and other professionals about the nature of representation or what can be competently delivered or achieved, are vital components to robust professional practice.

In March 2000 the IPR Professional Practices Committee issued a member consultation on the review of the IPR Code of Professional Conduct. The rationale for taking a fresh look at the Code was largely borne from the fact that the Professional Practices Committee had on several occasions of disciplinary investigation encountered difficulties in interpreting the complex arrangements set out in the Code. Procedures for the investigation of cases were often slow and resource intensive and the language of the Code, somewhat outdated and draconian, could not have been described as user-friendly.

Although the many cases (on average six per annum) that had come before the PPC over the years had been successfully resolved, usually by mediation and letters of guidance, none necessitated/resulted in termination of IPR membership. This led to a general perception among the membership that the PPC, and the IPR, had 'no teeth' and that the Code was outdated and not conducive to the expedient and decisive investigation of cases.

The PPC prepared a consultation paper focusing on the incorporation of new IPR activities (e.g. CPD) into the code and the rephrasing of the Code as a document of best practice, rather than retaining a 'thou shall not...' approach.

Following extensive consultation, and comparison with several codes of other professional and public relations bodies to ensure broad consistency, a revised section A of the Code was ratified at the IPR's October 2000 AGM.

The IPR can only investigate complaints made against its members.

All complaints remain confidential. Announcement of a complaint outcome is at the discretion of the Professional Practices Committee and subject to the endorsement of the Council.

Complaints arising mainly constitute breaches, and alleged breaches, of the IPR Code in respect of business management issues, for example contractual disputes, payment by results under dispute and late payment.

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## IPR Code of Conduct

### **Section A**

#### **IPR Principles**

1. Members of the Institute of Public Relations agree to:
  - i. Maintain the highest standards of professional endeavour, integrity, confidentiality, financial propriety and personal conduct;
  - ii. Deal honestly and fairly in business with employers, employees, clients, fellow professionals, other professions and the public;
  - iii. Respect the customs, practices and codes of clients, employers, colleagues, fellow professionals and other professions in all countries where they practise;
  - iv. Take all reasonable care to ensure employment best practice including giving no cause for complaint of unfair discrimination on any grounds;
  - v. Work within the legal and regulatory frameworks affecting the practice of public relations in all countries where they practise;
  - vi. Encourage professional training and development among members of the profession;
  - vii. Respect and abide by this Code and related Notes of Guidance issued by the Institute of Public Relations and encourage others to do the same.

#### **Principles of Good Practice**

2. Fundamental to good public relations practice are:

#### **Integrity**

- Honest and responsible regard for the public interest;
- Checking the reliability and accuracy of information before dissemination;
- Never knowingly misleading clients, employers, employees, colleagues and fellow professionals about the nature of representation or what can be competently delivered and achieved;
- Supporting the IPR Principles by bringing to the attention of the IPR examples of malpractice and unprofessional conduct.

## Competence

- Being aware of the limitations of professional competence: without limiting realistic scope for development, being willing to accept or delegate only that work for which practitioners are suitably skilled and experienced;
- Where appropriate, collaborating on projects to ensure the necessary skill base.
- Transparency and conflicts of interest
- Disclosing to employers, clients or potential clients any financial interest in a supplier being recommended or engaged;
- Declaring conflicts of interest (or circumstances which may give rise to them) in writing to clients, potential clients and employers as soon as they arise;
- Ensuring that services provided are costed and accounted for in a manner that conforms to accepted business practice and ethics.

## Confidentiality

- Safeguarding the confidences of present and former clients and employers;
- Being careful to avoid using confidential and 'insider' information to the disadvantage or prejudice of clients and employers, or to self-advantage of any kind;
- Not disclosing confidential information unless specific permission has been granted or the public interest is at stake or if required by law.

## Maintaining professional standards

3. IPR members are encouraged to spread awareness and pride in the public relations profession where practicable by, for example:

- Identifying and closing professional skills gaps through the Institute's Continuous Professional Development programme;
- Offering work experience to students interested in pursuing a career in public relations;
- Participating in the work of the Institute through the committee structure, special interest and vocational groups, training and networking events;
- Encouraging employees and colleagues to join and support the IPR;
- Displaying the IPR designatory letters on business stationery;
- Specifying a preference for IPR applicants for staff positions advertised;
- Evaluating the practice of public relations through use of the IPR Research & Evaluation Toolkit and other quality management and quality assurance systems (e.g. ISO standards); and constantly striving to improve the quality of business performance;
- Sharing information on good practice with members and, equally, referring perceived examples of poor practice to the Institute.

## Interpreting the Code

4. In the interpretation of this code, the Laws of the Land shall apply.

### Section B

#### Regulations governing complaints relating to professional conduct

##### 1. Definitions

For the purpose of these Regulations the following words and expressions shall have the meanings set against them, unless the context otherwise requires:

**committees** the Professional Practices Committee and the Disciplinary Committee;

**complaint** facts or matters, other than those which are sub judice, coming to the attention of the Secretary indicating that a member of the Institute may have become liable to disciplinary action in accordance with Articles 12-18 (Disciplinary Powers) of the Articles of Association of the Institute, whether the member works with a consultancy, a commercial organisation or otherwise;

**complainant** a person who brings a complaint;

**defendant** a member against whom a complaint has been lodged;

**member** a member of the Institute at the time the matter complained about occurred.

Note: It is a condition of membership that members remain subject to disciplinary proceedings in relation to their professional activities during such time as they are members, even though they may subsequently have ceased to be members;

**parties** (in relation to hearings of the Disciplinary Committee) the Professional Practices Committee and the defendant;

**professional practices committee representative** (in relation to hearings of the Disciplinary Committee) the person appointed to represent the Professional Practices Committee and to support the complaint.

Other words and expressions defined in the Memorandum and Articles of Association of the Institute shall have the meanings there assigned to them. The singular includes the plural and vice versa.

## **2. Professional Practices Committee and Disciplinary Committee**

- a. The Professional Practices Committee and the Disciplinary Committee constituted in accordance with the Articles of Association of the Institute shall meet as required to investigate and hear complaints against members.
- b. The quorum of the Professional Practices Committee shall be not less than four and of the Disciplinary Committee shall be not less than three.
- c. A member of either of the Committees retiring from that Committee shall, unless the Council otherwise resolves, continue to be a member of the Committee for the purposes of any proceedings before the Committee not completed at the date of his or her retirement.
- d. A member of either of the Committees shall abstain from taking part in the consideration of a complaint if he or she has had previous dealings with the defendant personally or professionally or has taken part in the previous consideration of the complaint or any aspect of the complaint.
- e. Before the date of any hearing before either of the Committees the defendant shall be informed of the identity of the members of the Committee and shall have the right to give notice to the Chairman objecting to any of the members, stating his or her objections.
- f. Upon receipt of the notice mentioned in paragraph (e) of this Regulation, the Chairman, if satisfied that the objection is properly made, shall require the member in question to abstain from taking part in the proceedings. The defendant shall be informed of the identity of any alternate appointed in the place of that member and shall have the like right to give notice of objection.
- g. The Chairman of each Committee shall be present throughout the hearing of a complaint before that Committee. If any other member of the Committee for any reason is absent from any part of the hearing of a complaint, he or she shall take no further part in the hearing.
- h. The proceedings of either of the Committees shall be valid notwithstanding that one or more of the members other than the Chairman becomes unable to continue to act, so long as the number of members present throughout the substantive hearing of the complaint is not reduced below the quorum and continues to include the Chairman.
- i. Any duty or function or step which, pursuant to the provisions of these Regulations, is to be discharged or carried out by the Chairman of either of the Committees may, if he or she is unable to act for any reason, be discharged or carried out by any other member nominated in writing by the President for any specific purpose.

### 3. Assessors

- a. The Chairman of either of the Committees may direct that in considering a complaint the Committee shall sit with a legally qualified assessor.
- b. Likewise, the Chairman of either of the Committees may direct that in considering a complaint, the Committee shall have the assistance of one or more technical assessors, who appear to the Chairman to have knowledge or experience which would be relevant to assisting the Committee in considering any particular complaint.
- c. No assessor shall be appointed who has taken part in any process of resolution under Regulation 6 (duty to conciliate).
- d. No assessor shall form part of either of the Committees. It shall be for each Committee alone to determine the issues before it.

### 4. Complaints

- a. Any person (whether a member of the Institute or not) or any committee of the Council, or the Council itself, may bring a complaint against a member.
- b. It shall be the duty of every member of the Institute, where it is in the public interest to do so, to bring a complaint against a member. In deciding whether it is in the public interest to bring a complaint, regard should be paid to such guidance as the Council may give from time to time.
- c. The Secretary shall maintain a register of all complaints received and the decision of the Professional Practices Committee and, if relevant, the Disciplinary Committee thereon.
- d. On receipt of a complaint the Secretary shall make such enquiries of the complainant as may be necessary in order to clarify any matters of uncertainty and to identify the specific clause or clauses in the Code of Professional Conduct to which the complaint has reference.
- e. The Secretary shall also ensure that the complainant is aware of these Regulations and the Institute's disciplinary powers and in particular the Secretary shall explain that the defendant will be notified of the complaint in order that he or she may exercise the right of reply. The Secretary shall also draw attention to the provisions of Regulation 5 (confidentiality).
- f. If the complainant wishes to proceed with the complaint, the Secretary shall send details of the complaint to the defendant and invite him or her to submit written observations. The Secretary shall draw to the defendant's attention the provisions of Regulation 5 (confidentiality).
- g. The defendant's written observations shall be forwarded to the complainant, and, unless the complainant with the consent of the defendant withdraws the complaint, to the Professional Practices Committee.
- h. Any complaint shall be placed by the Secretary before the Professional Practices Committee as soon as reasonably practicable but no later

than eight weeks after the complaint was received, except with the consent of both the complainant and the defendant.

## **5. Confidentiality**

- a. Once a complaint has been made and communicated by the Secretary to the defendant, the substance of the complaint and all related correspondence, statements and submissions of the complainant and the defendant and all proceedings before and findings of the Professional Practices Committee shall be treated with complete confidentiality by both the complainant and the defendant, and all public discussion and disclosure avoided.
- b. Any breach, or alleged breach, of paragraph (a) of this Regulation which comes to the notice of the Professional Practices Committee shall be considered by the Committee, which may cause further investigation to be made. Any breach, or alleged breach, may itself give rise to a further complaint being laid before the Committee.
- c. In any case where there has been public discussion or disclosure of the substance of a complaint before receipt of the complaint by the Professional Practices Committee, the Committee shall, in considering the complaint, take into account the nature of and justification for such public discussion or disclosure, which may itself give rise to a further complaint being laid before the Professional Practices Committee.
- d. The requirement of confidentiality extends to all members of the Professional Practices Committee without limit of time.

## **6. Duty to conciliate**

The Professional Practices Committee shall, in all proper cases, explore the possibility of resolving any grievance which has given rise to a complaint by conciliation, mediation, arbitration or otherwise, subject to the consent of the complainant and the defendant, and shall, whenever possible, make arrangements to provide the machinery for such resolution.

## **7. Power to demand information**

- a. Each of the Committees shall have power to call for, and it shall be the duty of every defendant to provide, such information, including papers and records, as the Committee considers necessary to enable it to discharge its functions.
- b. The power in paragraph (a) of this Regulation shall not extend to information relating to any process of resolution under Regulation 6 (duty to conciliate).

## 8. Professional Practices Committee and Disciplinary Committee

- a. If a complaint is not resolved by the Professional Practices Committee under Regulation 6 (duty to conciliate), the Committee shall consider whether a complaint discloses a prima facie case for disciplinary action. If it considers that it does, it shall:
  - i. refer the complaint to the Disciplinary Committee; or
  - ii. proceed as in Regulation 9 (consent orders); or
  - iii. proceed as in Regulation 10 (letters of advice); or
  - iv. order that no further action be taken on the complaint.

If it considers that the complaint does not disclose a prima facie case for disciplinary action, it shall order that the complaint be dismissed.

- b. Before taking any decision under clause (a) of this Regulation the Professional Practices Committee shall be satisfied that the defendant has been given an opportunity either of submitting written representations to it or, if the defendant desires to do so, of appearing before the Committee in person. The Committee shall have the power to require the defendant to attend before it and to request the attendance of witnesses. If the defendant fails to attend or otherwise avail him or herself of the rights of the defendant under these Regulations, the Committee may proceed in the absence of the defendant.
- c. If a complaint has not been resolved under Regulation 6 (duty to conciliate), a defendant appearing before the Professional Practices Committee may at the discretion of the Chairman be represented by a solicitor, counsel or friend and may at the discretion of the Chairman call witnesses on his or her behalf and examine and cross-examine any witnesses called to give oral evidence.
- d. The Professional Practices Committee may, at the discretion of the Chairman, adjourn its considerations from time to time to seek further information, or to give the defendant sufficient opportunity to consider and answer further information or to satisfy itself that all aggravating or mitigating circumstances have been taken into account, or otherwise.
- e. In deciding whether a complaint ought to be referred to the Disciplinary Committee the Professional Practices Committee shall be entitled to take into account any facts or matters which may have been considered by the Professional Practices Committee on previous occasions in relation to the defendant in respect of which no complaint was referred to the Disciplinary Committee.
- f. If the Professional Practices Committee refers a complaint to the Disciplinary Committee it shall do so by sending to the Disciplinary Committee a full statement of the offence or offences alleged, specifying the sub-section or sub-sections of Section A of the Code of

Professional Conduct alleged to have been infringed, together with a summary of the facts and matters which were before the Committee and a summary or copy of any representation made by the defendant to the Committee. A copy of the complaint referred to the Disciplinary Committee shall be given to the defendant.

## **9. Consent orders**

**a.** If the Professional Practices Committee decides that a prima facie case has been made out against a defendant in accordance with Regulation 8 and if, after considering all the circumstances including the past record of the defendant, the Professional Practices Committee further decides that the case is one which is appropriate to be dealt with under this Regulation, the Professional Practices Committee may, with the agreement of the defendant

- i. make one or more of the following orders:
  - A. that the defendant be reprimanded;
  - B. that the defendant be severely reprimanded;
  - C. if the complaint relates to work within a consultancy, that within such time as the Professional Practices Committee thinks fit, the defendant return to a client all or part of the fee which the client has paid or pay over to a client funds which have been retained by the defendant in or towards payment of a fee; and
- ii. include in any such order a direction that the defendant pay to the Institute a sum by way of costs arising subsequent to any attempt to resolve the complaint under Regulation 6 (duty to conciliate), such payment to be made within 28 days of the date the Professional Practices Committee so directs, unless some other date is determined by the Committee.

**b.** Before making any order under paragraph **a.** of this Regulation the Professional Practices Committee shall first give written notice to the defendant:

- i. specifying the order or orders which it is considering making and the direction it is considering giving with the defendant's agreement; and
- ii. stating that, if the defendant does not give his or her agreement to the proposed course within 21 days, the case shall be referred to the Disciplinary Committee, which, if it finds against the defendant, will have a wider range of orders available to it.

**c.** If within the period stated the defendant gives his or her written agreement to the Professional Practices Committee proceeding as proposed in the notice given under paragraph (b) of this Regulation, the Committee shall make the order or orders and give the direction specified in the notice. The Committee shall also report the decision to the Council, which shall cause it to be published in the same manner as a decision of the Disciplinary Committee.

**d.** If the defendant fails within the time stated to give written agreement to the Professional Practices Committee proceeding as proposed in the notice given under paragraph (b) of this Regulation, the Professional Practices Committee shall proceed to refer the complaint, formulated in accordance with paragraph (f) of Regulation 8, to the Disciplinary Committee, and report to the Council that it has done so.

**e.** The breach of any order under paragraph (a)(i)(C) or a direction under paragraph (a)(ii) of this Regulation may itself give rise to a further complaint being laid before the Professional Practices Committee.

## **10. Letters of advice**

- a. The Professional Practices Committee may decide to issue a letter of advice to a defendant if it considers that a complaint laid before it has arisen because of the inefficient management of the defendant's business or the business in which the defendant is employed. By this letter the Professional Practices Committee may require the defendant to obtain advice from such source or sources as the Professional Practices Committee may prescribe and (in the absence of good reason to the contrary) duly to implement the advice so obtained. Where relevant, the Committee may draw the attention of the defendant's employer to the contents of the letter of advice and seek the employer's assistance in the implementation of advice received by the defendant.
- b. Any breach of a requirement under paragraph (a) of this Regulation may itself give rise to a further complaint being laid before the Professional Practices Committee.

## **11. Joint consideration of complaints**

Either of the Committees may, at the discretion of the Chairman, consider together more than one complaint against the same member, and consider together complaints against more than one member.

## **12. Cases of urgency**

In cases where the Chairman of the Professional Practices Committee considers that the public interest demands a more urgent resolution of a complaint, he or she shall be entitled to exercise the powers of the Committee in demanding information and taking forward consideration and resolution of the complaint, in consultation with one or more members of the Committee, and shall report his or her actions to the Committee as soon as reasonably practicable.

### **13. Publicity in relation to the Professional Practices Committee**

- a. The Chairman of the Professional Practices Committee may at any time make such public announcement as he or she sees fit in relation to the consideration by the Committee of any complaint which in his or her opinion is a matter of public concern. Except as mentioned in paragraph (c) of Regulation 9 (consent orders), no other public announcement shall be made in relation to any matter before the Professional Practices Committee.
- b. No public announcement under paragraph (a) of this Regulation shall refer to anything disclosed in any process of resolution under Regulation 6 (duty to conciliate).

### **14. The Disciplinary Committee**

- a. The Disciplinary Committee shall meet as necessary to hear and determine complaints, formulated in accordance with paragraphs (f) of Regulation 8, referred to it by the Professional Practices Committee.
- b. Regulation 5 (confidentiality), adapted as necessary, shall apply equally to the Disciplinary Committee.
- c. In any case where the Disciplinary Committee considers it reasonable to do so, it may:
  - (i.) amend a complaint formulated by the Professional Practices Committee;
  - (ii.) formulate a new complaint relating to any information which comes to the notice of the Disciplinary Committee in the course of proceedings on any complaint referred to it;
  - (iii.) remit any complaint to the Professional Practices Committee for amendment or for the addition or substitution of any other complaint or complaints; provided that;
    - A. the Committee is satisfied that the defendant will not by reason of such an amendment suffer any substantial prejudice in the conduct of his or her defence; and
    - B. the Committee shall, if so requested by the defendant, adjourn for such time as is reasonably necessary to enable him or her to meet the complaint as so amended.

## **15. Further evidence and representation**

The Professional Practices Committee may after referring a complaint to the Disciplinary Committee instruct the Secretary to make such enquiries, assemble such evidence and request the complainant to supply such further information and documents relating to the complaint as it thinks fit and may instruct a solicitor and/or counsel to act as Professional Practices Committee Representative if it thinks fit.

## **16. Convening of the Disciplinary Committee**

- a. As soon as practicable after a complaint is referred to the Disciplinary Committee, the Committee shall issue a convening notice giving not less than eight weeks' notice to the parties of the date, time and place appointed for hearing the complaint.
- b. The convening notice shall also set out details of the procedure to be followed at any hearing and contain notice of the rights of the defendant to appear before the Disciplinary Committee in person and/or by a solicitor, counsel or friend, to submit evidence and to make other written submissions, to call witnesses on his or her behalf at the discretion of the Chairman and to examine and cross-examine any witnesses called to give evidence.
- c. The convening notice given to the defendant shall be accompanied by copies of any documents which the Professional Practices Committee intends to adduce in evidence.
- d. An application for postponement of a hearing which has not commenced shall be determined by the Chairman of the Disciplinary Committee in his discretion.

## **17. Pre-hearing procedures**

- a. Not less than 28 days before the date fixed for the hearing the Chairman of the Disciplinary Committee may direct the defendant to state in writing within such time as may be specified:
  - (i) whether the defendant accepts all or part of the allegations in the complaint and, if the defendant does not accept all of them, on what grounds he or she denies all or part of them;
  - (ii) whether the defendant accepts the facts as stated in the summaries referred to the Disciplinary Committee under paragraph (f) of Regulation 8 and, if not, the grounds on which such facts are disputed;
  - (iii) if the defendant accepts all or part of the allegations in the complaint, the grounds on which any plea for mitigation will be made; and
  - (iv) whether or not the defendant intends to attend and/or be represented at the hearing and the identity of any representative.
- b. The defendant's response to the direction referred to in paragraph (a) of this Regulation shall be drawn to the attention of the Disciplinary

Committee at the conclusion of the hearing, if relevant, on the question of costs.

- c. At least 21 days before the date fixed for the hearing, the defendant shall serve on the Disciplinary Committee two copies of a paginated and indexed bundle of all documents on which he or she intends to rely unless the documents have already been included among the documents served under paragraph (c) of this Regulation. The Disciplinary Committee shall forthwith send one copy of the bundle to the Professional Practices Committee Representative.
- d. Either party may inspect the documents served by the other party within 14 days of the service.
- e. Unless the Chairman of the Disciplinary Committee otherwise directs, no witness may be called nor document produced by either party without at least 21 days written notice being given to the Disciplinary Committee. In the case of witnesses, such notice shall include the name and address of the witness and a copy of the statement of his or her evidence, in order that the Chairman of the Disciplinary Committee may decide whether such evidence is material to the proceedings. The Chairman of the Disciplinary Committee shall as soon as practicable give a direction accordingly.
- f. Nothing in this Regulation shall preclude the reception by the Disciplinary Committee of the evidence of a witness a copy of whose statement has not been duly served, or of a document not duly served, provided the Disciplinary Committee is of the opinion that the defendant is not materially prejudiced thereby, or on such terms as are necessary to ensure that no such prejudice arises.
- g. At any time before the hearing the Chairman of the Disciplinary Committee may direct the defendant to:
  - (i) send an answer to the complaint in writing to the Disciplinary Committee within 14 days, subject to any extension of time if in the opinion of the Chairman of the Disciplinary Committee there is good and sufficient reason for an extension;
  - (ii) provide such further information and documents relating to the complaint as the Chairman considers necessary for the just and expeditious handling of the case;
  - (iii) appear in person at a pre-trial review in accordance with Regulation 18 or at the hearing before the Disciplinary Committee at the time appointed for the review or hearing.
- h. At any time before the hearing the Chairman of the Disciplinary Committee may direct that either of the parties indicate which of any information supplied by the other party is not accepted or whether either party wishes to challenge the authenticity of any document supplied by the other party.

## 18. Pre-hearing review

- a. The Chairman of the Disciplinary Committee either of his or her own motion or on the application of either party may direct that there be a pre-hearing review conducted by him or herself for the purpose of giving directions and of taking such other steps as he or she considers suitable for the clarification of the issues before the Disciplinary Committee and generally for the just and expeditious handling of the case.
- b. The directions to be given and steps taken by the Chairman of the Disciplinary Committee may concern, but not be limited to, the following matters:
  - (i) whether the hearing should be held in private or in public
  - (ii) whether more than one complaint should be considered together by the Disciplinary Committee
  - (iii) application to strike out allegations
  - (iv) attendance of witnesses
  - (v) admission of documents
  - (vi) admission of facts
  - (vii) the estimated duration of the hearing
  - (viii) such other matters as he or she deems expedient for the just and expeditious conduct of the hearing.
- c. The Chairman of the Disciplinary Committee shall cause a record to be served on the parties setting out the directions given, admissions made and steps taken at the pre-hearing review.
- d. The parties may, in advance of the date fixed for any pre-hearing review, agree upon the directions to be made and/or steps to be taken at the pre-hearing review and shall notify the Chairman of the Disciplinary Committee of such agreement. Following such notification the Chairman of the Disciplinary Committee may, if he or she thinks fit, make directions in the terms agreed and/or direct that no pre-hearing review is required.
- e. For the avoidance of doubt, the Chairman of the Disciplinary Committee may:
  - i) adjourn the pre-hearing review from time to time as he or she considers appropriate;
  - (ii) upon the application of either party or of his or her own motion, and either with or without further preliminary hearings, give such further directions or take such further steps as he or she considers necessary for the just and expeditious conduct of the proceedings, including extending or abridging any time limit governing the procedures of the Disciplinary Committee on such terms as he or she thinks just.

## **19. Procedures at hearings of the Disciplinary Committee**

The order in which a hearing before the Disciplinary Committee will normally proceed, subject to the discretion of the Chairman of the Committee, shall be as follows:

- i. The defendant will be called before the Committee.
- ii. The Chairman of the Committee will make the members of the Committee known to the defendant. If the defendant is accompanied by others he or she will make them known to the Committee, or the representative of the defendant will make him or herself and those with him or her known to the Committee.
- iii. The procedure to be followed will be explained by the Chairman of the Committee.
- iv. The complaint will be read and the defendant's written answer taken into consideration.
- v. The Committee will put to the defendant any questions arising out of the complaint and the evidence in support of the defendant's written answer which the Committee considers pertinent.
- vi. The defendant (or his or her representative) will be given the opportunity to address the Committee.
- vii. After the Committee has heard the defendant (or his or her representative) and any witnesses, the defendant and any persons with him or her will be asked to withdraw while the Committee makes its findings on the complaint.
- viii. The defendant (and those with him or her) will be recalled and the Chairman of the Committee will pronounce its findings on the complaint. If the finding is against the defendant, he or she (or his or her representative) will be invited to address the Committee in mitigation.
- ix. The defendant (and those with him or her) will again be asked to withdraw while the Committee decides on the nature of the report to be made to the Council.
- x. The defendant (and those with him or her) will be recalled and the decision of the Committee, to be embodied in a report to the Council, will be pronounced.

## **20. Adjournment**

- a. Subject to the provisions of the following paragraph, the Disciplinary Committee shall sit from day to day until it has arrived at a finding and, if any allegation has been found proved, until the decision of the Committee is pronounced.
- b. Notwithstanding the provisions of paragraph (a) of this Regulation, the Disciplinary Committee may, if the Chairman decides that an adjournment is necessary for any reason, adjourn the hearing for such period as he may decide.

## **21. Evidence and standard of proof**

- a. The proceedings of the hearing before the Disciplinary Committee shall be governed by the rules of natural justice, subject to which the Committee may:
  - (i) admit any evidence, whether oral or written, whether direct or hearsay, and without being bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before any court of law;
  - (ii) give such directions with regard to the conduct of and procedure at the hearing, and with regard to the admission of evidence thereat, as it considers appropriate for securing that the defendant has a proper opportunity of answering the charge or otherwise as shall be just;
  - (iii) exclude any hearsay evidence if it is not satisfied that reasonable steps have been taken to obtain direct evidence of the facts sought to be proved by the hearsay evidence.
- b. The standard of proof is satisfied on a balance of probabilities.

## **22. Hearing in private or in public**

The hearing before the Disciplinary Committee shall be in private unless either:

- i. at a pre-hearing review or otherwise it has been directed that the hearing shall be held in public; or
- ii. the defendant has made an application that the hearing shall be held in public, and the Chairman in his discretion does not consider that for any reason the circumstances and nature of the hearing make a public hearing undesirable.

## **23. Absence of defendant**

If the defendant does not attend at the time and place appointed for the hearing, the Disciplinary Committee may nevertheless proceed to hear and determine the complaint, provided that the Committee is satisfied that the relevant procedure has been complied with and the defendant has been duly served, in accordance with Regulation 29 (service of documents), with the documents required under paragraph (f) of Regulation 8 and Regulations 16 (convening of the Disciplinary Committee) and 17 (pre-hearing proceedings).

## **24. Non-compliance of defendant**

- a. If, having been required under these Regulations to answer a complaint in writing, to provide further information or to appear in person before the Disciplinary Committee, the defendant fails for whatever reason so to do, the Disciplinary Committee shall be empowered at its discretion to postpone its findings on the complaint and to report to the Council that it has decided that the defendant should be suspended for such period as the Disciplinary Committee thinks fit for conduct inconsistent with his or her status as a member.
- b. The power of the Disciplinary Committee to decide that a defendant should be suspended under paragraph (a) of this Regulation notwithstanding, a defendant who fails to comply with these Regulations or any direction under these Regulations may be deemed by the Disciplinary Committee to be conducting him or herself in a manner inconsistent with his or her status as a member and the proceedings may be determined by a report by the Disciplinary Committee to the Council that it has decided that one of the range of measures open to the Council under Article 12 should be exercised against the defendant without the formulation of any further complaint for that purpose.

## **25. The finding of the Disciplinary Committee**

- a. At the conclusion of the hearing, the finding of the Disciplinary Committee on each allegation included in the complaint shall be set down in writing and signed by the Chairman and all members of the Committee present.
- b. If the members of the Committee are not unanimous as to the finding on any allegation, the finding to be recorded on that allegation shall be that of the majority.
- c. If the members of the Committee are equally divided as to the finding on any allegation, the finding to be recorded on that allegation shall be that which is the most favourable to the defendant.
- d. The Chairman of the Committee shall then pronounce the Committee's finding on the allegation or allegations as stated in Regulation 19 (procedure at hearings of the Disciplinary Committee).

## **26. The decision of the Disciplinary Committee**

- a. If the Disciplinary Committee shall have found the allegation or any of the allegations included in the complaint proved, after hearing any representations by or on behalf of the defendant, the Committee shall set down in writing its decision as to how the Council should exercise its powers under Article 12.
- b. If the members of the Committee are not unanimous as to the decision, the decision to be recorded shall be that decided by the majority.
- c. If the members of the Committee are equally divided as to the decision, the decision to be recorded shall be that which is the most favourable to the defendant.
- d. The Chairman of the Committee shall then announce the Committee's decision in the form of a report to the Council, indicating how the Council should exercise its powers under Article 12 or that no action should be taken against the defendant.
- e. If the defendant has not been present throughout the proceedings, the report to the Council shall include a statement that the provisions of Regulation 23 (absence of defendant) have been complied with.

## **27. Costs**

- a. The Disciplinary Committee shall have power to make and report to the Council such decision as to direction for costs against a defendant as it shall think fit.
- b. Upon deciding on such direction, the Disciplinary Committee shall either itself determine the amount of such costs or appoint a suitably qualified person to do so on its behalf.
- c. Any costs directed to be paid by a defendant shall, unless some other date is determined by the Disciplinary Committee, be paid to the Institute within 28 days of the date the Council so directs.
- d. Subject as aforesaid, all costs and expenses incurred by the Committees in connection with these Regulations shall be borne by the Institute.

## **28. Record of proceedings**

Unless the Chairman of the Disciplinary Committee in his discretion decides in any particular case to make a record of the proceedings at a hearing in any other manner, he or she shall take a hand-written note of the proceedings. A copy of the Chairman's note of the proceedings (or of any other record of the proceedings made in the discretion of the Chairman) shall be made available to the defendant if he requests one within three months of the date of the hearing and reimburses the cost of supplying the same.

## **29. Service of documents**

- a. Any documents required to be served on a defendant arising out of or in connection with investigations or proceedings under these Regulations shall be deemed to have been validly served:
  - (i) if sent by registered post, or recorded delivery post, or receipted hand delivery to:
    - A. the address registered by the defendant with the Institute; or
    - B. an address to which the defendant may have requested in writing that such documents be sent (including the address of his or her legal adviser); or
    - C. in the absence of any such request, his or her last known address;
  - (ii) if actually served on the defendant;
  - (iii) if served in any way which may be directed by the Chairman of either of the Committees.
- b. For the purpose of this Regulation "receipted hand delivery" means a delivery by hand which is acknowledged by a receipt signed by the defendant.
- c. A copy of all notices and directions served and given by the Disciplinary Committee on and to either party shall be sent to the other party.
- d. The accidental omission to send or deliver a notice or other communication to, or the non-receipt of a notice or other communication by, either party shall not invalidate any investigation or proceedings to which such notice or communication relates.

## **30. Disposal of papers**

The record of each set of proceedings before each of the Committees, including a copy of all written representations made by the defendant, shall at the conclusion of the proceedings (whether the complaint is upheld or dismissed) be delivered to the Secretary's custody for disposal as and when the Council determines.

## **31. Curing of irregularities**

Any irregularity resulting from failure to comply with these Regulations during the course of any proceedings hereunder shall not of itself render the proceedings void, but the Chairman of either Committee may, and shall if he or she considers that either party to the proceedings may have been prejudiced, take such steps as he or she thinks fit before the conclusion of the proceedings to cure the irregularity, whether by the amendment of any document, the giving of any notice, the taking of any step or otherwise.

## **32. Disputes**

If any question or difference shall arise with regard to the interpretation or application of these Regulations or on any matter whatsoever concerning the conduct of the hearing of a complaint, it shall be referred to and settled conclusively by the President, who shall take whatever advice thereon considered necessary.