



Conduct Rules

(These Rules were adopted by Council 3 June 2019 and came into force on 3 June 2019)

1. Definitions

1.1 In these Rules the following expressions shall have the following respective meanings: -

Adverse Findings	includes any previous finding, Order or orders by a committee of the Association including the finding of a prima facie case whether or not followed by, sanction with or without costs;
Advisory Notice	A Notice issued by a member of the Association's monitoring team during or subsequent to a Visit to an IP recommending changes to the IP's conduct or practice. Such a Notice will expire after six years from the date it was issued;
Articles	the articles of association of the Association for the time being in force
Complainant	any person or persons who brings to the attention of the Secretary, any facts or matters which may amount to a Complaint as defined and will include the personal representatives of that person in the event he or she dies before the Complaint has been finally dealt with;
Complaint	any facts or matters which show the Relevant Person may have become liable to disciplinary action in accordance with Article 66. Facts or matters which cannot be supported by evidence will not be treated as a Complaint;
Consent Order	an Order made by the Committee in accordance with Rule 5 of these Rules;

Disciplinary Rules	the Rules made by the Disciplinary and Appeals Committee for disciplinary proceeding as adopted from time to time by Council
Formal Complaint	a Complaint referred by the Committee to a Disciplinary Tribunal under Rule 4.5.1;
Lay Member	any person who is not or has not been an Individual member of the Association or is currently not qualified to act as an Insolvency Practitioner;
Notice	any document, including a letter, to be given in writing required to be given, delivered or sent to a Member under or in connection with these Rules which may be given or sent by pre-paid post addressed to them at their Registered Address;
Registered Address	the address registered with the Association in accordance with Article 15.2;
Register of Members	the register of Members created and maintained in accordance with Article 15;
Relevant Person	the Member or (where applicable under Article 22A in the Articles) former Member or Student Member against whom the Complaint has been made;
Supervisory Authority	a Supervisory Authority under Regulation 7 of the Money Laundering Regulations 2017;
the Committee	the Regulation and Conduct Committee;
these Rules	the Rules as from time to time duly amended by the Committee.

1.2 Expressions which are defined in Article 1 in the Articles shall, when used in these Rules, have the same meanings herein as therein. Expressions defined in the Regulatory Rules (being the Rules approved from time to time by Council for regulatory purposes) shall, when used in these Rules, have the same meaning.

1.3 References to the Regulation and Conduct Committee, the Disciplinary and Appeals Committee, shall be to the committees from time to time appointed as such by Council pursuant to the Articles. Reference to a Disciplinary Tribunal and an Appeal Panel shall be to the Tribunal and Panel appointed from the Disciplinary and Appeals Committee. These Rules apply to any steps or decisions taken under Investigation Committee Rules, the Membership and Authorisation Committee Rules (repealed on 3 June 2019) and any steps or decisions taken under those rules are deemed to be taken under these Rules as necessary.

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- 1.4 No objection will be upheld to any technical error or defect in the process leading to the Regulation and Conduct Committee's decisions or the terms of any decision or Order made by it provided the Relevant Person has not been treated unfairly or suffered prejudice.

2. Complaints Procedure

- 2.1 Every Member shall promptly report to the Secretary any conduct on the part of another Member which they consider may constitute misconduct within the meaning of Article 66.1 of the Articles and bring discredit upon a Member or the Association or its Members or any part of its membership or the profession of Insolvency Practitioner. Each such report shall be considered in the first instance in accordance with Rule 2.2.
- 2.2 Where facts and matters come to the attention of the Secretary he will in the first instance consider whether they indicate the Member may have become liable to disciplinary action. If there is such an indication, he will treat the matter as a Complaint and each such Complaint shall be referred to and determined by the Committee. Where there is no such indication the person providing the facts and matters will be informed and subject to Rule 2.3, the matter closed.
- 2.3 Any dispute relating to a decision by the Secretary made under Rule 2.2 that facts and matters should not be treated as a Complaint shall be referred to and determined by the Committee in accordance with Rule 2.4.
- 2.4 If a dispute is referred to the Committee under Rule 2.3 the Secretary shall put before the Committee a summary of the material facts and matters together with any relevant documentation.
- 2.4.1 The Committee will decide on the dispute and whether the Member may have become liable to disciplinary action.
- 2.4.2 If it is the Committee's opinion that the facts and matters do not indicate that the Member may have become liable to disciplinary action, the matter will be closed.
- 2.4.3 If it is the Committee's opinion that the Member may have become liable to disciplinary action the matter will be treated as a Complaint.

3. The Regulation and Conduct Committee

- 3.1 The Committee shall consist of not less than five persons comprising:
- 3.1.1 at least two Individual Members; and
- 3.1.2 at least three Lay Members.
- 3.2 In addition to the persons appointed pursuant to Rule 3.1, Council may from time to time appoint persons who are members of another relevant professional body as co-opted members of the Committee, each such person to be appointed for such term as Council may in each case determine and during such period of appointment, each such person shall be

a member of the Committee but shall not be relevant for the purposes of determining whether a quorum is present or be entitled to vote at meetings of the Committee.

- 3.3 The quorum for meetings of the Committee shall be three and the meeting shall not be quorate unless the number of lay members in attendance exceeds or is equal to the number of individual members in attendance.

4. Conduct of Investigations

- 4.1 The Committee shall have power by Notice served on the Relevant Person, to call for and it shall be the duty of every Relevant Person to provide and if so requested by the Committee to use best endeavors to procure that any third party stipulated by the Committee shall provide within such time as may reasonably be prescribed by the Committee, such further information including books, papers and records, as the Committee considers necessary, to enable it to decide whether or not there is a prima facie case against the Relevant Person. Every such Relevant Person shall also, if so, requested by the Committee, provide access where possible to premises at which any such books, papers and records may be kept.
- 4.2 Where a request is made under Rule 4.1 and the Relevant Person fails to comply with any such request within the time prescribed by the Committee, such failure may be treated as a Complaint under Rule 2.2.
- 4.3 The Committee may, at its discretion and with or without notice to the Relevant Person, approach third parties and request information from them where it considers that information to be relevant and necessary to the exercise of its functions under these Rules.
- 4.4 Before reaching a decision as to whether or not there is a prima facie case against the Relevant Person, the Committee shall give the Relevant Person the opportunity of making final written representations with regard to any or all of the facts, matters or information whatsoever which the Committee may consider in reaching such decision and may in its absolute discretion give the Relevant Person a reasonable opportunity of being heard before it.
- 4.5 If the Committee is of the opinion on the information then before it that a prima facie case has been made out against the Relevant Person, it shall consider all the relevant circumstances surrounding the Complaint and any previous Adverse Findings made against the Relevant Person, and then it shall in its absolute discretion as soon as reasonably practicable, either:
- 4.5.1 refer the whole or any part of the Complaint as a Formal Complaint to a Disciplinary Tribunal; or
 - 4.5.2 make a Consent Order pursuant to Rule 5; or
 - 4.5.3 write a warning letter to the Relevant Person in such terms as the Committee shall determine; or
 - 4.5.4 order that no further action be taken on the Complaint, or on any specified part of it.

- 4.6 If the Committee finds that the Complaint does not disclose a prima facie case, it shall dismiss the Complaint.
- 4.7 The Committee may appoint any person or persons as its agent for the purposes of carrying out a review of any of the information requested by the Committee pursuant to Rule 4.1 or to initiate any other investigations which the Committee considers to be necessary.
- 4.8 The Committee may appoint a solicitor, barrister or member of staff to represent the Committee at any stage and before any Disciplinary Tribunal.
- 4.9 Where the Committee finds that a prima facie case has been made out and takes action under Rules 4.5.3 or 4.5.4, it may also order that the Relevant Person pay a specified sum in respect of the costs incurred in the investigation of the Complaint subject to the following:
- 4.9.1 any costs order will only be made under this Rule when the Committee is satisfied that it would be reasonable in all the circumstances to make such an order taking into account acts or omissions on the part of the Relevant Person in their approach and response to the Complaint; and
- 4.9.2 the Relevant Person has been given an opportunity to provide written representations to the Committee on why such an order should not be made.

5. Consent Orders

- 5.1 If the Committee is of the opinion that a prima facie case has been made out against the Relevant Person, and that the case is one which is appropriate to be dealt with under this Rule it may with the agreement of the Relevant Person, make a Consent Order, which shall specify that the Relevant Person be subject to:
- 5.1.1 any one or more of the orders in Rules 35.e to 36 of the Disciplinary Rules;
- 5.1.2 an order for payment of costs to the Association in such an amount as the Committee may in its discretion decide.
- 5.2 Before making any Consent Order under Rule 5.1, the Committee shall first give written Notice to the Relevant Person which shall be in, or substantially in, such form as the Committee may approve and shall:
- 5.2.1 invite the Relevant Person to agree in writing to an order being made against them;
- 5.2.2 specify the order or orders which the Committee proposes to make;
- 5.2.3 state the sum to be paid in respect of costs and the date by which that sum must be paid;
- 5.2.4 state whether (if the Relevant Person is a Member of Council) they are required to

- tender their resignation to Council;
- 5.2.5 explain that if the Relevant Person declines to give their agreement to the proposed course, or fails to do so within the period of time specified in the Notice, a Formal Complaint may be referred to a Disciplinary Tribunal and in the event a Tribunal finds the Formal Complaint proved in whole or in part, it would have available to it the complete range of orders set out in Rules 5.3 and 5.4 of the Disciplinary Rules;
- 5.2.6 draw the attention of the Relevant Person to the provisions of Rule 5.4; and
- 5.2.7 state that the Consent Order will be published.
- 5.3 If within the period stated in any Notice sent under Rule 5.2 the Relevant Person gives their written agreement to the order in the terms set out in the Notice, the Committee shall make the Consent Order.
- 5.4 If within the period stated in the Notice sent under Rule 5.2 the Relevant Person provides further information in writing to the Committee delivered to the Office that Notice shall be deemed to be withdrawn and of no effect.
- 5.5 If the Committee, having regard to the further information provided is of the opinion:
- 5.5.1 that the proposed Consent Order should be varied it will so decide and issue a further Notice in accordance with Rule 5.2; or
- 5.5.2 that the terms of the Complaint should be varied it will so decide and reconsider the varied Complaint and having done so act in accordance with Rule 4.5 or Rule 4.6; or
- 5.5.3 that a prima facie case has been made and that the Complaint is not suitable to be dealt with by a Consent Order it will so decide and act in accordance with either Rule 4.5.1 or Rule 4.5.3 or Rule 4.5.4; or
- 5.5.4 that there is no prima facie case it will so decide, and it shall dismiss the Complaint; or
- 5.5.5 that its original decision was correct, and the proposed Consent Order should be reoffered it will so decide and issue a further Notice in accordance with Rule 5.2
- 5.6 If the Committee decides after reconsideration of the Complaint as varied under Rule 5.5.2 to proceed under Rule 5.1 then it shall issue a further Notice in accordance with Rule 5.2.
- 5.7 The provisions of Rule 5.4 shall not apply to a further Notice issued under Rule 5.5 or Rule 5.6.
- 5.8 If the Relevant Person declines or fails, within the time fixed by the Committee to give their written agreement to the Committee proceeding as proposed in the Notice sent under Rule 5.2, the Committee shall refer the matter including the Complaint to a Disciplinary Tribunal as a Formal Complaint.

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- 5.9 The Committee shall cause the name of the Relevant Person and the terms of each Consent Order to be published as soon as reasonably practicable and in such manner as it thinks fit.

6 Reference to a Disciplinary Tribunal

- 6.1 If the Committee decides to refer the whole or any part of a Complaint to a Disciplinary Tribunal, the secretary of the Committee will inform the Relevant Person of that decision in writing as soon as reasonably practicable after that decision has been taken.
- 6.2 Every Formal Complaint shall be in such form as determined by the Committee and sent to the Disciplinary Tribunal and to the Relevant Person with a summary of the material facts which were considered by the Committee together with a summary or copies of any representations made by the Relevant Person.
- 6.3 The Formal Complaint and the summary referred to in Rule 6.2 shall be prepared by the secretary of the Committee and approved by the Committee.

7. Rejection of Prima Facie Case

If the Committee is of the view that a prima facie case has been made out against the Relevant Person and it has decided to take steps in accordance with Rule 4.5.3 or 4.5.4 but, within 20 business days of the date of the letter informing the Relevant Person of the Committee's decision, the Relevant Person rejects the finding of a prima facie case, the Committee may reconsider the Complaint and if it remains of the view that there is a prima facie case, refer the whole or any part of the Complaint as a Formal Complaint to a Disciplinary Tribunal under Rule 4.5.1 and in accordance with Rules 6.1, 6.2 and 6.3.

8. Service on a Member's Registered Address

Any Notice or document required to be served under these Rules may be served personally or by first class post on the Relevant Person at the last known address appearing in the register of Members in accordance with Article 15.2. Where documents are served by post, service is deemed to have been effected 48 hours after posting for the purposes of Rule 5.2 and all such rules where a Notice or document must be served on the Relevant Person. In any case where the Relevant person has agreed in writing to service by electronic means, any notice or documents may be served electronically and the date on a read receipt will confirm date of service.

9. Assistance and Information

- 9.1 If the Committee is of the opinion that facts or matters coming to its attention indicate that a Member may be performing or managing their practice inefficiently, it may by Notice in writing to that Member require them to obtain at their or its own expense advice from such source as the Committee may prescribe and any such Member shall not unreasonably refuse to implement such advice.
- 9.2 In exercising its powers under these Rules, the Committee will treat all information obtained by it in the course of its activities as confidential but may in such circumstances as it deems appropriate disclose any such information:

- 9.2.1 to any individuals appointed to review complaints arising out of the Association's functions as a Recognised Professional Body or as a Supervisory Authority under the Money Laundering Regulations 2017; or
 - 9.2.2 to the Secretary of State or his officials and the Department for Business, Energy & Industrial Strategy, (or any successor Department); to the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) (or any successor body under the Financial Conduct Authority (FCA)); any Recognised Professional Body and any self-regulating organisation which Council determines for the purposes of this Rule to be a relevant professional body; or
 - 9.2.3 as required by law; or in pursuit of a criminal investigation
 - 9.2.4 in connection with and for the purpose of the transfer of appointments to other Insolvency Practitioners; or
 - 9.2.5 to the Secretariat; or
 - 9.2.6 so far as is necessary for the proper performance by the Association of its statutory or regulatory duties; or
 - 9.2.7 to its legal advisers as and when necessary.
- 10.** For the avoidance of doubt information including documents in whatever form which comes to the attention of the Committee may be shared with the Association's staff to the extent necessary and for the purposes of the efficient exercise by the Committee of its functions under these Rules.