

## DISCIPLINARY CODE

1. This Disciplinary Code supports the Code of Conduct for Members of the Board of Trustees and the ECCO code of ethics and professional guidelines which apply to all members of the Institute.
2. The body charged with ensuring that disciplinary procedures are carried out properly and fairly shall be The Board of Trustees of The Institute.
3. The Board of Trustees' interpretation of the meaning of any articles in the Disciplinary Code shall in all cases prevail. This interpretation shall be established by decision of The Board of Trustees.
4. A Disciplinary Committee shall be constituted as follows:
  - i.) The Board of Trustees of The Institute shall appoint a Chair of the Disciplinary Committee and shall take reasonable steps to ensure that there is a person appointed to act in this capacity at all times. The Board of Trustees may at its own discretion determine to appoint another individual to assume the responsibilities of the Chair of the Disciplinary Committee if the designated Chair is unable to discharge these responsibilities in an timely and appropriate manner.
  - ii.) The Chair of the Disciplinary Committee shall be a Member of The Board Trustees and shall act in an honorary capacity. With the exception of its Chair the members of the Disciplinary Committee shall not be Members of The Board of Trustees.
  - iii.) The names of Members of The Institute who consent to serve as members of a Disciplinary Committee shall be presented to The Board of Trustees for consideration from time to time. The Board of Trustees of The Institute shall determine which of the nominated Members to include on the Disciplinary Register of The Institute.
  - iv.) All Members of The Institute nominated to the Disciplinary Register of The Institute shall make themselves available to serve on a Disciplinary Committee in an honorary capacity for a period not exceeding five years from their entry onto the register. At the end of five years their names shall be removed from the Disciplinary Register and The Board of Trustees shall not approve any nomination for their reinstatement onto the Disciplinary Register until a further period of three years has passed.
  - v.) Members of the Institute on the Disciplinary Register may resign from it at any time by indicating their intention to do so in writing to The Chief Executive of The Institute.
  - vi.) The Disciplinary Committee shall regulate its proceedings as it shall from time to time determine with a view to dealing with all cases promptly and judicially.
5. An Appeals Committee shall be constituted as follows:
  - i.) The Board of Trustees of The Institute shall appoint as Chair of the Appeals Committee a barrister or solicitor of not less than ten years' standing, who shall not currently be a Member of The Institute, nor previously have been a Member of The Institute.
  - ii.) The names of other suitable individuals who consent to serve The Institute as members of an Appeals Committee shall be presented to the Board of Trustees of The Institute for consideration from time to time. The Board of Trustees of The Institute shall determine which of the nominated individuals to include on the Appeals Register.
  - iii.) The Appeals Register shall consist of two categories, being respectively Members of The Institute, (subject to item 5.vi. below) and other individuals (subject to item 5.vii below).
  - iv.) The Board of Trustees of The Institute shall ensure that the Members added to the Appeals Register reflect a broad mix of the professional groups of which The Institute is comprised so that in all cases an appeal brought by a Member belonging to one professional category shall be heard by an Appeals Committee including a Member of The Institute who belongs to another professional category.
  - v.) All those who consent to have their name included on the Appeals Register thereby agree to serve on an Appeals Committee in an honorary capacity for a period not exceeding five years from their entry onto the register. At the end of five years their names shall be removed from the Appeals Register and The Board of

Trustees shall not approve any nomination for their reinstatement onto the Disciplinary Register until a further period of three years has passed.

vi.) Members of The Institute may be included on the Appeals Register by decision of The Board of Trustees of The Institute subject only to the following conditions:

- that they are not currently on the Disciplinary Register of The Institute
- that they have not been on the Disciplinary Register for at least three years
- that they are not a Member of The Board of Trustees of The Institute

vii.) Other individuals may be included on the Appeals Register by decision of The Board of Trustees subject only to the following conditions:

- that they are not and never have been Members of The Institute
- that they have no financial or business connection with The Institute

viii.) Individuals on the Appeals Register may resign from it at any time by indicating their intention to do so in writing to The Chief Executive of The Institute.

ix.) The Appeals Committee shall regulate its proceedings as it shall from time to time determine with a view to dealing with all appeals promptly and judicially.

6. All Members of The Institute and all members of staff employed by The Institute shall respond in a responsible and proactive manner to any indication that the Code of Ethics or the Code of Conduct for Trustees may have been breached. All members of staff and Members of The Board of Trustees shall deal with such information in a timely manner, having regard to the rights of the Members against whom the information is brought; the legitimate concerns of the informant and the good name and standing of The Institute.

7. Any staff member or Member of The Institute who believes that the Code of Ethics or Code of Conduct may have been breached by any Member of The Institute (referred to hereafter as 'the Member') shall pass this information to the appropriate member of staff as soon as possible. If the information concerns a Member of The Board of Trustees the appropriate member of staff is The Chief Executive of The Institute. If the information is about any other Member of The Institute the appropriate member of staff (referred to hereafter as 'the member of staff') is the staff member with senior responsibility for Membership matters under the Chief Executive.

8. The member of staff shall consider how best to deal with the information received. With the exception of such consultations as are necessary to determine the facts of the case, the information shall be kept confidential.

9. If the information brought to the attention of the member of staff indicates that there may be a case to answer against a Member, the member of staff shall then gather as much information as possible in as complete and timely a manner as circumstances may allow. This shall include: obtaining details in writing from the original informant and any other relevant sources. The member of staff shall notify the informant within 10 working days of receiving their information how, if at all, The Institute intends to act on the matter.

10. The member of staff shall make appropriate efforts to determine whether any statutory or regulatory body is already dealing with the case. If any such body is already dealing with the case The Chief Executive shall be advised of this and make a determination as to whether the matter should continue to be pursued within the disciplinary procedures of the Institute.

11. The member of staff may then determine to pursue the matter no further, as there is no substantive case for the Member to answer. In this case the informant shall be advised that the case is being closed, and the information provided shall be filed in the offices of The Institute.

12. If the member of staff decides to pursue the matter, he shall inform the appointed Chair of the Disciplinary Committee that a disciplinary case is to be heard, or, if appropriate, he shall inform the Member of the Board of Trustees designated to act in the place of the Chair, referred to hereafter as 'The Chair of the Disciplinary Committee'.

13. The member of staff shall provide the Member with written notice (by recorded delivery or appropriate alternative outside the UK) that information about them has been brought to the attention of The Institute. The Member shall also be informed at this point of:

- the nature of the case brought against them
- the process by which the case shall be heard
- the sanctions that may apply to them

14. The Member shall be invited to respond in writing within 21 days of the dispatch of this written notice from the Institute,

- providing details of any evidence upon which he intends to rely before the hearing of his case in accordance with any requirements set down from time to time by the Disciplinary Committee.
- advising the Chair of the Disciplinary Committee whether he intends to have another person accompany him to any Disciplinary hearing, the name of that person, and the capacity in which that person shall act during the course of any Disciplinary hearing

15. At the end of 21 days from the dispatch of the written notice to the Member, the member of staff shall pass the file (including the Member's response if this has been received) to the Chair of the Disciplinary Committee.

16. The Chair of the Disciplinary Committee shall then convene a Disciplinary Committee from those Members of The Institute whose names are on the Disciplinary Register. The Chair of the Disciplinary Committee shall at his own discretion appoint either two or four Members of The Institute from the Disciplinary Register to the Disciplinary Committee, the total membership of which shall therefore be three or five.

17. Before inviting any person on the Disciplinary Register to join the Disciplinary Committee, the Chair of the Disciplinary Committee shall determine that the person remains a Member of the Institute.

18. If a complaint is brought against a person who has already ceased to be a member, or if information comes to light in respect of such a person without a formal complaint being brought, the Board of Trustees shall decide, following a recommendation from the Chairman of the Disciplinary Board, whether that person should ever be readmitted to membership or not.

19. If a member resigns his membership of the Institute or allows it to lapse after a disciplinary process has been set in motion, the Chair of the Disciplinary Committee will use his best efforts to proceed with the full disciplinary process but if this proves unworkable shall make a recommendation to The Board of Trustees as to whether that member should be readmitted to membership in the future.

20. The Disciplinary Committee shall give the Member not less than fourteen days' notice of the time and place of the meeting at which the case against him is to be heard, and shall in such notice inform the Member

- of his right to attend the meeting and make representations to the Disciplinary Committee
- of his right to have a person of his choosing accompany him to the meeting at which the case against him is to be heard, but not appear in his absence
- of the sole discretion of the Chairman of the Disciplinary Committee to determine whether any person accompanying the Member to the hearing shall be allowed to make any representations on the Member's behalf during the hearing

The Member shall in all cases be offered a reasonable opportunity to appear in person before the Disciplinary Committee if he wishes to do so, but shall not be compelled to appear.

21. The case shall not be presented to the hearing of the Disciplinary Committee by the same member of staff who has prepared the file and investigated the case.

22. The Disciplinary Committee shall consider the case and reach a decision by majority vote on the culpability of the Member and on which sanctions, if any, it wishes to apply. The Disciplinary Committee may apply any of the following sanctions against the Member:

- Suspension from Membership for a period and forfeiture of any current Membership fees
- Expulsion from Membership and forfeiture of any current Membership fees
- Disbarring from service or any office, committee or panel of The Institute, either temporarily or permanently
- Reporting the name of the Member, together with details of the sanctions applied, to the public by any appropriate means

23. In its early decisions, the Disciplinary Committee shall have regard to the fact that it is establishing precedents against which future cases shall be measured. Where precedents for action and sanctions exist, the Disciplinary Committee shall have due regard to these in making its decisions.

24. In all cases the appropriate member of staff shall notify in writing any informants or complainants, as well as the Member, of

- The Disciplinary Committee's decision
- The Member's right of appeal to an Appeals Committee
- The complainant's right to make reasonable representations to the Appeals Committee

25. For a period of 30 days from the date on which written notification is sent to the Member of the decision of the Disciplinary Committee, the Member shall have a right to give notice of a wish to appeal against the decision of the Disciplinary Committee to an Appeals Committee. This notice shall be made to The Chief Executive of The Institute in writing and shall state the reasons for which the Member is not satisfied with the decision of the Disciplinary Committee and the basis on which the proposed appeal is to be made. If new evidence is to be relied upon such evidence shall be referred to in the said notice. On receipt of this notice The Chief Executive of the Institute shall invite the Chair of the Appeals Committee to convene the Appeals Committee.

26. During the period of 30 days from the date on which written notification is sent to the Member of the decision of the Disciplinary Committee any sanctions which it has decided to invoke against the Members shall not be applied. If at the end of the period of 30 days the Member has given no written notice of intention to appeal against the decision of the Disciplinary Committee the sanctions shall be applied without further delay and the Member shall have no further right of appeal. The Chair of the Disciplinary Committee shall inform The Board of Trustees of The Institute of the proceedings and decisions of the Disciplinary Committee.

27. If before the end of the period of 30 days the Member gives written notice to the Chief Executive of intention to appeal against the decision of the Disciplinary Committee any sanctions the Disciplinary Committee has decided to apply against the Member shall not be applied unless the Appeals Committee consents to their application.

28. The Chair of the Appeals Committee shall on receipt of notice of intention to appeal against a decision by the Disciplinary Committee convene an Appeals Committee. The Appeals Committee shall consist of:

- Its Chair
- One Member of the Institute in good standing whose name is on the Appeals Register who belongs to a different professional group from the Member and who is unconnected with the case under appeal.
- One other person on the Appeals Register and who is not and never has been a Member of The Institute and who is unconnected with the case under appeal.

29. The Appeals Committee shall in the first place determine whether it wishes to hear the Member's appeal. The Appeals Committee may determine to pursue the matter no further on the basis that there is no substantive ground for appeal. If the Appeals Committee makes such a determination it shall report this at once to The Chief Executive and the sanctions imposed by the Disciplinary Committee shall come into immediate effect. Thereafter the Member shall have no further right of appeal against the decision of the Disciplinary Committee.

30. If the Appeals Committee decides to hear the appeal, it shall give the Member notice in writing of not less than fourteen days of the time and place of the meeting of the Appeals Committee and shall in such notice inform the Member

- of his right to attend the meeting and make representations to the Appeals Committee.
- of his right to have a person of his choosing accompany him to the meeting at which the case against him is to be heard, but not appear in his absence
- of the sole discretion of the Chairman of the Disciplinary Committee to determine whether any person accompanying the Member to the hearing shall be allowed to make any representations on the Member's behalf during the hearing

The Member shall in all cases be given a reasonable opportunity to appear in person before the Appeals Committee if he wishes to do so, but shall not be compelled to appear.

31. The Member shall provide details of any evidence upon which he intends to reply in good time before the hearing of his appeal in accordance with any requirements set down from time to time by the Appeals Committee.

32. In its early decisions, the Appeals Committee shall have regard to the fact that it is establishing precedents against which future cases shall be measured. Where precedents exist, the Appeals Committee shall have due regard to these in making its decision.

33. If the Appeals Committee upholds the decision of the Disciplinary Board it may, at its entire discretion, vary the sanction imposed by the Disciplinary Committee against the Member.

34. If the Appeals Committee does not uphold the decision of the Disciplinary Committee the sanctions imposed by the Disciplinary Committee shall not be applied to the Member.

35. The Appeals Committee having made its determination shall immediately inform the Chief Executive of The Institute so that appropriate action may be taken. The Chairman of the Appeals Committee or a person designated by him shall report on the proceedings and decisions of the Appeals Committee to The Board of Trustees of The Institute.

36. In all cases the appropriate member of staff shall notify in writing any informants or complainants, as well as the Member, of the Appeals Committee's decision and of the sanctions, if any, applied against the Member.

37. The Board of Trustees of The Institute shall only note the proceedings and decisions of the Disciplinary Committee and the Appeals Committee.

38. All documentation on investigations and hearings involving alleged or actual breaches of The Institute's Code of Conduct shall be held in the offices of The Institute for a period of three years. Responsibility for ensuring that the appropriate confidentiality is assured shall rest with the staff of The Institute. The staff of The Institute shall also provide any relevant information on precedents to the Disciplinary and Appeals Committees.