

**SOCIETY OF CHARTERED SURVEYORS IRELAND
MEMBERS PROFESSIONAL CONDUCT RULES MONITORING AND
INVESTIGATION PROCEDURES DISCIPLINARY RULES AND
PROCEDURES**

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1 PART 1 - INTRODUCTION

1.1 Preamble.

These Rules of Conduct (hereinafter referred to as the "Rules") apply to all members of the Society (as defined below) The Rules and accountability procedures are designed to establish trust in the Society and its members, to protect the public, and uphold the reputation of the profession. They cover those matters for which individual members of the Society are responsible and accountable in their professional lives and also those matters which are the responsibility of Firms. The Rules provide a strong foundation for the Society and its members, and are designed to protect the public and uphold the reputation of the profession. The Rules and procedures set out herein focus on our regulatory goals and adopt the six principles of better regulation:

- Necessity
- Effectiveness
- Proportionality
- Transparency
- Accountability
- Consistency

The Rules together with all Applicable Standards (as defined below) set out the principles by which members of the Society should be guided. For this reason, and to assist Members requiring further guidance, the Society from time to time prepares practice standards, guidance notes, codes of conduct, information notes and help sheets for use by Members. These can be found at www.scsi.ie.

The Rules are made by the Board of Directors under Article 10 of the Articles of Association March 2017 and Bye-Law 15 of the Bye-Laws.

The Rules set out the standards of professional conduct and practice expected of members of the Society. They are additional to Members' legal obligations, for example in the areas of discrimination, employment, data protection and health and safety.

The Rules will apply from 18th September 2018.

1.2 Definitions

The definitions contained in the Articles of Association of the Society and the Bye-Laws of the Society with the following additions shall apply to these Rules unless the context otherwise requires;

"Allegation" means an allegation or complaint in writing which raises a question as to whether a Member may be liable to disciplinary action;

"Appeal Board" means a board established pursuant to the Rules to hear appeals against decisions taken pursuant to these Rules.

"Appellant" means any Person seeking an appeal or review under Part 7 of these Rules;

"Applicable Standards" means any practice standards, guidance notes, codes of conduct, information notes and help sheets prepared by the Society;

"Attached Classes" means persons as defined by the Bye-Laws;

"Bye-Laws" means Bye-Laws of the Society for the time being in force pursuant to Article 10 of the Articles of Association of the Society;

"Complaint" means a complaint in writing made against a Member;

"Complainant" means, as the context may require, any person making a Complaint, Allegation or a provider of Relevant Information;

"copies" includes photocopies, electronic or digital copies, printed out material from computer or microfiche records and faxed or scanned copies, whichever is the most appropriate in the circumstances;

"CPD Policy" means the policy adopted by the Society, from time to time, that sets out the obligations of all Members of the Society to undertake appropriate continuing professional development of at least a prescribed minimum number of hours per annum as set out in the Society's guidance documentation relating to CPD; to maintain records of compliance with such policy; and the consequences for any Member for failure to comply with the CPD Policy.

"Firm" means:

- (i) the whole or part of any body corporate; or
- (ii) a partnership; or
- (iii) a limited liability partnership; or
- (iv) an unincorporated practice of a sole practitioner.

"Fixed Penalty" means a Penalty imposed in accordance with Rule 5 of these Rules or the Sanctions Policy approved by SCoR;

"Information" means information which is provided in support of a Complaint or Allegation or which is received by the Society which raises a question as to whether a Member may be liable to disciplinary action;

"Interim Measures" means measures that may be taken by the Society or any duly constituted Committee of the Society pursuant to the Bye-Laws or these Rules including but not limited to temporary suspension or a requirement that a Member refrains from practising all or part of the role of a surveyor pending the outcome of the Society's enquiry or that of another regulatory or judicial body;

"Lay Member" means a person who has never been a Member or a member of the Attached Classes;

"Mandatory Standards" means those practice standards, guidance notes and codes of conduct notified from time to time by the Society to its members and compliance with which is stated to be mandatory for Members;

"Member" shall include a member of any class in the Society, with the exception of Registered Quantity Surveyors and Registered Building Surveyors who are not members of the Society. The generic terms 'Member' or 'Members' are used hereinafter to refer to all of these categories of membership of the Society;

"Parties" means the Member whose case is being considered and the Complainant (if any);

"Proceedings" means any proceedings whether of a regulatory, civil or criminal nature which relate to a Member and which might reasonably be regarded as relating to the events included in the Complaint or Allegation;

"Professional Conduct Committee" means the committee of the Society as may from time to time be established pursuant to the Rules to investigate conduct of a Member;

"Regulations" means regulations of the Society for the time being in force pursuant to Article 10 of the Articles of Association;

"Relevant Information" means information which discloses the basis for an investigation in relation to the conduct of a Member under the disciplinary procedures;

"Required documents" means such documents and records as the Society has reasonably required to be supplied to the Society pursuant to Applicable Standards or as may be required in connection with any investigation under these Rules;

"Required information" means such information as the Society has reasonably required to be supplied to the Society pursuant to Applicable Standards or as may be required in connection with any investigation under these Rules;

"Reviewer" means any person appointed under Rule 10.11 of these Rules;

"Sanctions Policy" means the policy developed by SCoR relating to sanctions which may be imposed on Members, as the same may be amended from time to time;

"SCoR" means the Society's Standing Committee on Regulation;

"Society" means the Society of Chartered Surveyors Ireland;

"Special Post" means a method of delivery by which the delivery of the post can be confirmed, or a method of delivery specifically agreed between the Member or Applicant and the Society;

"The Director of Regulation" shall mean the person so appointed from time to time by the Society, and shall where the context so requires include any person who shall be authorised by the Director General of the Society or the Director of Regulation to carry out any of the functions conferred on the Director of Regulation by the Society.

1.3 Interpretation

In these Rules, unless the context otherwise requires:

- (a) words denoting the masculine gender include the feminine and neuter genders and
- (b) vice versa;
- (c) words in the singular include the plural and words in the plural include the singular; and
- (d) references to "days" relate to calendar days.
- (e) Any Special Post shall be sent to the Member or Applicant's last known address recorded or known by the Society.

2 PART 2 – RULES OF CONDUCT

Members are subject at all times to the Bye-Laws and without prejudice to the generality of the Bye-Laws including Bye-Law 15 this Part 2 sets out the Rules and procedures which apply to Members in relation to their practice as a Member. Failure by a Member to comply with the Bye-Laws and/or the Rules may lead to action by the Director of Regulation and Professional Conduct Committee under these Rules.

Personal and Professional Standards

2.1 Ethical and professional behaviour

Members shall at all times act with integrity and avoid conflicts of interest and avoid any actions or situations that are inconsistent with its or their professional obligations.

2.2 Conduct

Members are expected to conduct themselves in accordance with the Rules.

A non-exhaustive list of conduct which is regarded as a breach of the Rules entitling the Society to impose disciplinary sanctions on a Member is set out in Clause 17 of the Sanctions Policy.

2.3 Competence

Members shall carry out their professional work with due skill, care and diligence and with proper regard for all technical standards, Applicable Standards and Mandatory Standards.

The failure by a Member to comply with a Mandatory Standard may lead to action by the Director of Regulation and the Professional Conduct Committee under these Rules.

2.4 Service

Members shall carry out their professional work in a timely manner and with proper regard for standards of service and customer care which may reasonably be expected of them.

2.5 Continuing Professional Development ("CPD")

Members shall plan, undertake, record and evaluate appropriate continuing professional development in accordance with the CPD Policy and, on request, provide the Society with evidence that they have done so in accordance with the Society's CPD Policy and in accordance with Part 5 of these Rules.

2.6 Solvency

Members shall ensure that their personal and professional finances are managed appropriately. An undischarged bankrupt cannot continue as a member of the Society after the date he becomes an undischarged bankrupt, but he may reapply for membership of the Society upon becoming discharged from bankruptcy.

Where a Member has entered into a personal insolvency arrangement pursuant to the Personal Insolvency Act 2012 he shall notify the Society of entering into such arrangement and this may be referred by the Director of Regulation to the Professional Conduct Committee for investigation under these Rules.

2.7 Duty of Confidentiality

A Member shall keep confidential all matters coming within his relationship with his clients. These matters may only be disclosed with the consent of the client, where required by law or by direction of a Court.

2.8 Information to be provided to the Society

Members shall submit any required information in a timely manner and in such form as SCoR may reasonably require.

2.9 Co-Operation

Members shall co-operate fully with the staff of the Society and any person appointed by the Director of Regulation. Any failure to co-operate with the provisions of these Rules is a matter which may render a Member liable to disciplinary action. Members shall also co-operate fully with any person appointed by SCoR.

Conduct of Business

2.10 Training

Members who operate as a Firm shall have in place the necessary procedures to ensure that all its staff are properly trained and competent to do their work in accordance with these Rules and all applicable legislation. This shall include ensuring that systems are in place to facilitate professional staff in attending courses and completing professional development in compliance with the CPD Policy.

2.11 Complaints handling

Members who operate as a Firm shall have in place an internal complaints procedure, which shall be committed to writing and be furnished to any client making a complaint to the relevant Member or the Member's Firm. Such Members shall ensure that an individual is appointed to handle complaints within their Firm and that the written internal complaints procedure identifies that individual and that a log is maintained of all complaints. The internal complaints procedure shall advise clients of their right to complain to the Society or any other named relevant authority or body.

2.12 Client Moneys

Members shall preserve the security of client moneys entrusted to the care of the Member or a Member's Firm in the course of its practice or business and shall comply with all legislation in relation to the holding of and safekeeping of client moneys. This obligation shall not apply to a

Member who is not required by virtue of his role in an organisation to comply with legislation in relation to the holding of and safekeeping of client moneys.

2.13 Professional Indemnity Insurance

Members shall ensure that all previous and current professional work is covered by adequate and appropriate professional indemnity insurance cover which meets standards approved by SCoR. This obligation shall not apply to a Member who is not required by virtue of his role in an organisation to take out and maintain professional indemnity insurance cover.

2.14 Advertising

Members shall advertise or promote their services only in a truthful, tasteful and appropriate manner having reference and regard to all relevant advertising standards, codes and practices.

2.15 Incapacity etc.

Members who operate as a Firm which has a sole principal (i.e. a sole practitioner or a sole director in a corporate practice) shall have in place appropriate arrangements in the event of that sole principal's death or incapacity or other extended absences.

3 PART 3 - MONITORING AND INSPECTION PROCEDURES IN RELATION TO MEMBERS

The Director of Regulation shall be entitled on behalf of the Society to monitor compliance by Members with the requirements of the Society and to carry out inspections of Members' business premises under these Rules.

3.1 The Role of the Director of Regulation

The Director of Regulation may require a Member to;

- 3.1.1 give required information whether or not such information has been submitted to the Society already;
- 3.1.2 provide evidence of compliance with the Society's CPD Policy.
- 3.1.3 produce to the Director of Regulation the original or copies of any documents;
- 3.1.4 produce to the Society or its representative any required documents. Where originals are removed by the Society's representative copies shall be provided to the Member;
- 3.1.5 supply an explanation in relation to required information or required documents.

3.2 CPD Policy

The Director of Regulation shall have the right, as provided for in Part 5 of these Rules, to impose a Fixed Penalty on any Member for failure to comply with the CPD Policy.

3.3 Inspections

- 3.3.1 The Society shall be entitled to inspect a Member's business premises for the purpose of monitoring a Member's compliance with the Rules or in connection with any investigation of a Member pursuant to these Rules. The Society's policy for inspections includes provision for regular inspections but the Society shall operate a system which prioritises inspections in accordance with risk.
- 3.3.2 The Society may arrange to inspect a Member's business premises or such other location as it may reasonably require to access. Such inspection may either be:
- (a) at a time and place agreed or notified by the Director of Regulation; or
 - (b) upon production of a letter of authorisation from the Director of Regulation, an unannounced inspection at the place where the Member carries out their professional work.
- 3.3.3 As soon as possible at or after an inspection, the Society shall confirm in writing to the Member details of the information or documents supplied or inspected, and a brief account of any explanation given at the inspection.
- 3.3.4 Where appropriate the Director of Regulation or his representative may prepare a report on the inspection which may be used for regulatory purposes including as evidence of noncompliance with the Society's Rules in any disciplinary proceedings or where required by law be passed to other regulatory bodies and/or An Garda Síochána.

4 PART 4- INVESTIGATION PROCESS

The Society is entitled to investigate Complaints or Allegations against Members and to take action on receipt of Relevant Information. The Director of Regulation shall be entitled on behalf of the Society to investigate Complaints or Allegations against Members and to take action on receipt of Relevant Information. This Part 4 describes the procedure to be followed by the Director of Regulation on behalf of the Society upon the receipt of a Complaint or Allegation or receipt of Relevant Information.

4.1 Complaints Procedure

- 4.1.1 On receipt of a Complaint, Allegation or any Relevant Information the Director of Regulation shall:
- (a) make any further enquiries which he considers necessary;
 - (b) consider whether there exists other Proceedings relating to the alleged conduct of the Member and whether in those circumstances it is appropriate for the Society to investigate the conduct of the Member or whether such investigation should be stayed pending the outcome of such Proceedings;

- (c) if he shall so decide, stay any investigation pending the outcome of such Proceedings;
- (d) consider whether an alternative remedy exists, whether pursuant to a statutory framework such as the Property Services Regulatory Authority ("PSRA") or otherwise relating to the alleged conduct of the Member and if so provide information on a non-directive basis to the Complainant as to the remedies which may be available to him.

Proceedings shall not be regarded as finally determined for the purposes of this section until any appeal (including an appeal by way of case stated), rehearing or retrial in relation to those proceedings has been determined.

4.1.2 The Director of Regulation shall write to the Member against whom a Complaint or Allegation has been made or in respect of whom Relevant Information has been received:

- (a) informing him of the Allegation, Complaint or Relevant Information;
- (b) providing him with copies of any documentation received or obtained by the Society which the Director of Regulation considers to be relevant;
- (c) inviting him to provide a written response to the Allegation, Complaint or Relevant Information within a period specified by the Director of Regulation; and
- (d) advising him that any response may be disclosed to the maker of the Allegation, Complaint or provider of the Relevant Information (if any) for comment.

4.1.3 Having considered any representations (whether written or oral) made or provided by the Member and having made any further enquiries he considers necessary (including seeking comments from any person deemed relevant to the preliminary investigation) the Director of Regulation shall:

- (a) consider whether the matter is appropriate for a Fixed Penalty, in which event he shall be entitled to issue a Fixed Penalty for such matters as are specified in Part 5 of these Rules or in the Sanctions Policy;
- (b) decide, having regard to the matters alleged in the Allegation, Complaint or Relevant Information and the public interest, whether or not to refer the Allegation, Complaint, or Relevant Information to the Professional Conduct Committee for further action under these Rules;
- (c) inform the Member and any Complainant of the decision and his reasons for making such decision, this may include as the context so requires informing

the Member and any Complainant of the right to have the decision reviewed under Rule 4.1.4.

- 4.1.4 A Member and any Complainant shall be entitled to have any decision of the Director of Regulation made under Rule 4.1.3 (a) and (b) reviewed by a Reviewer in accordance with Rule 8.

5. Part 5 – Continued Professional Development

This Part 5 sets out the policy and procedures to be followed by the Director of Regulation in regulating the CPD Policy;

5.1 Members Obligation and Consequences for failure to comply with CPD Policy

Failure by any Member to comply with the mandatory CPD requirement under the Society's CPD policy will lead to automatic sanction by the Director of Regulation in accordance with Rule 5.2 and may, at the discretion of the Director of Regulation, lead to possible further referral by the Director of Regulation to the Professional Conduct Committee under these Rules.

5.2 Sanction for breach of CPD Policy

5.2.1 **on a first breach**, the Director of Regulation shall caution the member against repeating the breach of the CPD Policy. The caution will be maintained on the Member's file for a period of five years from the date of issue.

In addition, if a member fails to rectify their failure to comply with the CPD policy within 28 days from the date on which they are advised of the failure to comply with the CPD Policy and issued with a caution, a Fixed Penalty will be levied against the Member in the amount of €150.

Failure to discharge the Fixed Penalty within the time prescribed for payment will lead to an automatic increase in the level of the Fixed Penalty to €300.

If the member rectifies their failure to comply with the CPD policy within 28 days from the date on which they are advised of the failure to comply with the CPD Policy, the monetary fine will not be levied against the Member, but the first breach caution will still remain on the members record.

5.2.2 **on a second breach**, which occurs within five years of the first breach, a Fixed Penalty will be levied in the amount of €250. Failure to discharge the Fixed Penalty

within the time prescribed for payment will lead to an automatic increase in the level of the Fixed Penalty to €500.

5.2.3 **on a third breach**, but within five years from the first breach, the Director of Regulation shall refer the complaint to the Professional Conduct Committee for further action under these Rules.

5.3 Right to be advised of decision

The Director of Regulation shall inform the Member of the decision to impose a sanction under this Part 5 and his reasons for making such decision, this may include as the context so requires informing the Member of the right to have the decision reviewed under Rule 5.6.

5.4 Correction of Members record on administrative error on part of Society

Where there is an administrative mistake, on the part of the Society, any caution registered in such a situation may be expunged from the Members record and any monetary Fixed Penalty paid, returned to the Member.

5.5 Obligation on Member to make good any shortfall in CPD requirement

In all situations, where a Member has failed to comply with the CPD Policy, the Member must make good and authenticate the shortfall in CPD in advance of the next CPD audit, which is carried out annually, having being requested to do so by the Director of Regulation.

5.6 Right to have decision reviewed

A Member shall be entitled to have any decision of the Director of Regulation made under this Part 5 reviewed by a Reviewer in accordance with part 8.

6 PART 6 - PROFESSIONAL CONDUCT COMMITTEE RULES AND PROCEDURES.

This Part 6 describes the role and responsibility of the Professional Conduct Committee and its rules and procedures.

6.1 Role of the Professional Conduct Committee

The Role of the Professional Conduct Committee shall be to investigate complaints, hear disciplinary cases and exercise the disciplinary powers of the Society as set out in the Bye-Laws, Rules and Regulations in accordance with the powers and procedures set out in these Rules.

6.2 Investigation of a complaint by the Professional Conduct Committee:

6.2.1 Where the Director of Regulation refers a matter to the Professional Conduct Committee for consideration under these Rules, the Professional Conduct Committee:

- (a) shall consider the Complaint, Allegation or Relevant Information; and any documentation provided to it by the Director of Regulation following his investigation, including any responses received from the Member or the Complainant;
- (b) shall make such further enquiries it considers appropriate (to include enquiries with any relevant authorities);
- (c) may arrange any investigation meeting as the Professional Conduct Committee considers appropriate or required with the Complainant, Member or any relevant witness whether to make further enquiries or to seek to establish any relevant facts.

6.2.2 Having considered the Complaint, Allegation or Relevant Information, the Professional Conduct Committee:

- (d) may dismiss the Complaint, Allegation or Relevant Information on grounds that it is frivolous or vexatious; or does not disclose a prima facie case of breach of these Rules;
- (e) impose a appropriate sanction on the Member concerned, including a Fixed Penalty, where, following investigation the Professional Conduct Committee has determined that facts have been established or admitted and that in the circumstances a hearing is not warranted or required; and/or
- (f) convene a disciplinary hearing with the Member concerned in relation to the Complaint, Allegation or Relevant Information.

6.2.3 Notice of any investigation meeting or disciplinary hearing of the Professional Conduct Committee will be provided by the Society to the Complainant, Member concerned and any relevant witness, as the case may be, by Special Post.

6.3 Proceedings of the Professional Conduct Committee

6.3.1 Where an investigation meeting or disciplinary hearing has been convened by the Professional Conduct Committee the investigation meeting or disciplinary hearing shall be held on the date and at the time and place specified in the notice convening the meeting or hearing.

6.3.2 The Professional Conduct Committee shall have the right to consider requests for adjournments from any party, and, at its absolute discretion, to postpone or

reschedule some or all of any part of an investigation meeting or disciplinary hearing as it determines having regard to any such request or the circumstances.

- 6.3.3 The Professional Conduct Committee shall determine its own procedures and shall conduct any investigation meeting or disciplinary hearing in the manner which it determines, at its absolute discretion, having regard to the rights of all Parties and with due regard to the principles of natural and Constitutional justice. This may include calling for submissions (whether written or oral) from the Complainant or the Member and from any witnesses who it considers to be relevant to the matters under consideration.
- 6.3.4 Where the Professional Conduct Committee is of the opinion that the attendance of a witness is necessary to establish factual matters in dispute or for the fair disposal of any matter the witness shall be so advised and that the non-attendance of any such witness may lead to the Complaint, Allegation or Relevant Information being dismissed.
- 6.3.5 The Professional Conduct Committee will usually convene a hearing in private when considering the possibility of Interim Measures.
- 6.3.6 The Professional Conduct Committee shall usually convene a hearing in private when considering the possibility of all measures other than Interim Measures but shall have the right, at its absolute discretion to convene a hearing in public.
- 6.3.7 The Professional Conduct Committee shall consider the submissions and evidence presented to it and representations made to it prior to making its decision. The decision of the Professional Conduct Committee will be made in the absence of the Parties. The Professional Conduct Committee shall communicate its decision in writing to the Parties in accordance with Rule 9.5 of these Rules.
- 6.3.8 If the Professional Conduct Committee is satisfied, having regard to the seriousness of the Allegation, Complaint or Relevant Information and the public interest or the interests of a Member, that Interim Measures are required:
- (a) the Professional Conduct Committee may impose Interim Measures.
 - (b) where there has been a change of circumstances, on the application of the Member, or of his own volition, the Director of Regulation shall refer a case back for review of a decision to impose Interim Measures by a Professional Conduct Committee.
 - (c) the Professional Conduct Committee shall have the power at its discretion to conclude Interim Measures in any case.
- 6.3.9 Where Interim Measures have been imposed by the Professional Conduct Committee the Committee shall be entitled to convene a further hearing to consider whether further action is required in relation to the Complaint, Allegation or Relevant Information.

6.3.10 If the Professional Conduct Committee is satisfied that the alleged breach has been established and, if so, that it warrants a disciplinary sanction to be imposed on a Member pursuant to these Rules, the Professional Conduct Committee may impose a sanction in accordance with Rule 6.4.

6.3.11 The decision of the Professional Conduct Committee shall take effect on the date specified in any letter notifying the Member of the decision. In the event of an appeal by the Member no fine shall become payable until the determination of the Appeal but all other penalties shall continue until the determination of the Appeal.

6.4 Sanctions which may be imposed by the Professional Conduct Committee

6.4.1 The Professional Conduct Committee may determine that any of the following sanctions may be imposed on a Member:

- (a) caution the Member against repeating the conduct or action which has resulted in the liability to disciplinary action;
- (b) reprimand the Member;
- (c) suspend the Member for a period not exceeding 12 months;
- (d) require the Member to give one or more undertakings as to future conduct;
- (e) fine the Member up to a maximum figure specified in the Sanctions Policy – Fines, Costs and Administration Fees approved by SCoR;
- (f) impose conditions on the Member's continued membership of the Society;
- (g) expel the Member from membership of the Society;
- (h) make an order requiring a Member to take a specified action (which shall include but shall not be limited to directing that the Member makes restitution in such manner and to such person as the Professional Conduct Committee directs), and stating the penalty imposed if the Member fails to comply with that action.

The Professional Conduct Committee may impose more than one of the sanctions listed above.

6.4.2 The Professional Conduct Committee may cancel any action taken in relation to a Member under these Rules upon the death of a Member who has been subject to investigation.

7 PART 7 - APPEALS

This Part 7 sets out the procedures to be followed in the event of an appeal against a decision made by the Professional Conduct Committee.

7.1 The role of the Appeal Board shall be to hear appeals arising from Professional Conduct Committee decisions in accordance with the powers and procedures set out in the Rules.

- 7.2** A Member may appeal to the Appeal Board against any finding of or penalty or sanction imposed by a Professional Conduct Committee.
- 7.3** An appeal shall only be accepted by the Society if it is:
- (a) in writing in the form prescribed by the Society from time to time;
 - (b) specifies the grounds relied on in support of the appeal or review; and
 - (c) is received by the Society within 28 days of the date on which the decision being appealed has been notified to the Member.
- 7.4** A Member may withdraw his notice of appeal at any stage. In such circumstances the Appeal Board may make an award for costs against the Member in accordance with the Sanctions Policy.
- 7.5** The Appeal Board shall usually sit in public except when reviewing a decision relating to Interim Measures.
- 7.6** The Member who may be liable for disciplinary action or the Director of Regulation may request that an Appeal Board hearing in whole or in part shall be held in private. The Appeal Board may only grant such a request in whole or in part where it considers that exceptional circumstances apply which justify that decision.
- 7.7** The Parties may not provide new evidence to the Appeal Board which was not presented to the Professional Conduct Committee in relation to the decision under appeal without leave of the Appeal Board.
- 7.8** The Appeal Board shall determine its own procedures and shall conduct its hearings in the manner which it determines, at its absolute discretion, having regard to the rights of all Parties and with due regard to the principles of natural and Constitutional justice. This may include calling for submissions (whether written or oral) from the Complainant or the Member and from any witnesses who it considers to be relevant to the matters under consideration.
- 7.9** The Appeal Board shall make its decision in relation to the Appeal and in relation to costs in the absence of the Parties and shall communicate its decision in writing in accordance with Rule 9.5 of these Rules.
- 7.10** Only where the Appeal Board considers that the Professional Conduct Committee erred in its decision or that the penalty or sanction imposed was disproportionate may the Appeal Board allow the appeal.
- 7.11** Where the Appeal Board allows the appeal or the review it may either:
- (a) set aside the Professional Conduct Committee finding that the Member was liable to disciplinary action;
 - (b) vary the penalty or sanction imposed by the Professional Conduct Committee to one of greater or lesser severity;
 - (c) refer the matter back to a Professional Conduct Committee for a new hearing or consideration.

- 7.12** All decisions of an Appeal Board shall take effect from the date specified by the Appeal Board in the notice communicating its decision.

8 PART 8 – REVIEWERS

This Part 8 sets out the rules and procedures applicable to a Reviewer pursuant to these Rules:

- 8.1** The role of a Reviewer shall be to review administrative decisions by the Director of Regulation made under Rule 4.1.3(a) and (b), and Part 5 in accordance with the powers and procedures as set out in the Rules.
- 8.2** A Member or any Complainant may request a review by a Reviewer of a decision by lodging his request for a review on the prescribed form within 14 days of service on the Member or any Complainant of the notification of the decision of the Director of Regulation.
- 8.3** Any request for review of a Fixed Penalty shall be lodged with the Society together with the appropriate administration fee as set out in the Sanctions Policy.
- 8.4** A request for review of a Fixed Penalty shall be referred to the Reviewer who shall, having reviewed the matter, either confirm the penalty or propose modifications to the penalty and may make an order as to the costs of the review.
- 8.5** Where a Member or any Complainant has requested a review of a decision of the Director of Regulation (other than a review of the decision to impose a Fixed Penalty) the Reviewer shall consider that request and shall make such enquiries as he considers appropriate (including of the Member or any Complainant and the Director of Regulation).
- 8.6** The Reviewer may set aside or vary the decision of the Director of Regulation or, of his own initiative, refer the matter to the Professional Conduct Committee for further consideration.
- 8.7** The Reviewer shall issue his decision in writing to the Member and any Complainant and the Director of Regulation and the decision shall take effect from the date specified in the notice to the Member and any Complainant. The decision of the Reviewer shall be final.

9 PART 9 - RULES AND PROCEDURES APPLICABLE TO ALL PROCEEDINGS

This Part 9 sets out the rules and procedures applicable to all proceedings by the Professional Conduct Committee or Appeals Board under these Rules.

- 9.1** If there is a referral to a Professional Conduct Committee or Appeal Board in relation to a person who lives and practises his profession outside the Republic of Ireland, the provisions of these Rules shall be modified so far as is necessary to ensure that the case is heard and conducted fairly. In varying the provisions of these Rules in such cases the Chairman or Vice Chairman of the Professional Conduct Committee and Appeal Board, shall have regard to cost, communications and local conditions.
- 9.2** The costs of any hearing shall be as set out in the Sanctions Policy.
- 9.3** Where a Professional Conduct Committee or Appeal Board is required to decide an issue:

- (a) the matter shall be put to a vote;
- (b) no member shall be allowed to abstain from voting on a matter; and
- (c) the matter shall be decided by a simple majority.

9.4 A Professional Conduct Committee or Appeal Board may make such order for costs against the Member or the Society as it considers fair and reasonable in accordance with the Sanctions Policy.

9.5 All Professional Conduct Committee or Appeal Board decisions under these Rules shall be notified by the Society to the Member by Special Post within 14 days of the conclusion of the relevant hearing.

9.6 Publication of all decisions under these Rules shall be in accordance with the SCoR publication policy as set out in the Sanctions Policy.

9.7 All Professional Conduct Committee decisions under these Rules shall be recorded on the Member's record in accordance with the provisions of the Sanctions Policy.

10 PART 10 - CONSTITUTION OF PROFESSIONAL CONDUCT COMMITTEE AND APPEAL BOARD

This Part 10 sets out the role of SCoR and constitution of the Professional Conduct Committee and Appeal Board pursuant to these Rules.

Establishment and Constitution

10.1 SCoR shall ensure that the Professional Conduct Committee and Appeal Board are appointed and maintained in accordance with these Rules.

10.2 All appointments to the Professional Conduct Committee and Appeal Board shall be made in accordance with criteria set by SCoR.

10.3 The period of office for members of the Professional Conduct Committee and Appeal Board shall be three years from the date of appointment or the remainder of such period, if filling a casual vacancy.

10.4 Members of the Professional Conduct Committee and Appeal Board may be re-appointed for a further consecutive period of up to three years.

10.5 No member of the Council or of SCoR may be appointed to any of the Professional Conduct Committee and Appeal Board for the purposes of these Rules.

10.6 No member of any of the Professional Conduct Committee and Appeal Board may sit in adjudication on a hearing of any case if he has:

- (a) previously been appointed as a Reviewer on that case; or
- (b) sat as a member of any other committee, panel or board in relation to that case; or
- (c) has adjudicated on the case elsewhere in any other capacity.

10.7 All appointments to panels or appointments of a Reviewer to determine individual cases will be made by the Society's staff, from the lists maintained at Rule 10.8 following selection criteria set by SCoR.

SCoR

10.8 SCoR shall be responsible for securing the appointment to, and the maintenance of:

- (a) lists of panel members to sit on the Professional Conduct Committee and Appeals Board;
and
- (b) a list of Reviewers from the Professional Conduct Committee and Appeals Board.

10.9 SCoR shall oversee the delivery of programmes of education and training for the Professional Conduct Committee and Appeals Board.

Professional Conduct Committee

10.10 A Professional Conduct Committee shall be appointed from the lists kept for the purposes of Rule 10.8 (a) and shall comprise a chair and two other panellists, at least one of whom shall be a Lay Member.

Reviewers

10.11 A Reviewer shall be appointed to consider reviews from the list kept for the purposes of Rule 10.8 (b).

Appeal Board

10.12 An Appeal Board shall be appointed from the list kept for the purposes of Rule 10.8 (a) and shall comprise a Lay Member as chairman and two other panellists.

Complaints

10.13 Any complaint about the conduct or performance of a member of the Professional Conduct Committee Appeal Board or a Reviewer shall be referred by the Society for consideration by the Chairman of SCoR.

Validity of Proceedings

10.14 The validity of any proceedings of any of the Professional Conduct Committee, Appeal Board or a decision of a Reviewer shall not be affected by any vacancy among any of the members of the Professional Conduct Committee or Appeal Board or, by any defect, in the election or appointment of any such member, panellist or Reviewer.

11 PART 11 - GENERAL AND MISCELLANEOUS PROVISIONS.

11.1 Communication with Members

The Society may communicate with Members by any of the following:

- (a) post
- (b) fax
- (c) electronic or digital communication
- (d) telephone
- (e) in person

11.2 Delivery and Service of Documents and Notices

Documents will be considered to have been delivered and served upon a Member or Applicant where they are

- (a) given to him personally; or
- (b) sent to him by post to his last known address recorded or known by the Society (documents sent by post shall be properly addressed and pre-paid); or
- (c) sent to him by Special Post