

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

**Contents:**

<b>1</b>	<b>PART 1 - INTRODUCTION</b>
1.1	Preamble
1.2	Definitions
1.3	Interpretation
<b>2</b>	<b>PART 2 - RULES OF CONDUCT</b>
2.1	Ethical and professional behavior
2.2	Conduct
2.3	Competence
2.4	Service
2.5	Continuing Professional Development
2.6	Solvency
2.7	Duty of Confidentiality
2.8	Information to be provided to the Society
2.9	Co-Operation
2.10	Training
2.11	Complaints Handling
2.12	Client Moneys
2.13	Professional Indemnity Insurance
2.14	Advertising
2.15	Incapacity etc.
<b>3</b>	<b>PART 3 - MONITORING AND INSPECTION PROCEDURES</b>
3.1	Role of Director of Regulation
3.2	CPD Policy
<b>3.3</b>	<b>Inspections</b>
<b>4</b>	<b>PART 4 - INVESTIGATION PROCESS</b>
4.1	Complaints Procedure





**"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:**

- 1.2.1 the whole or part of any body corporate; or
- 1.2.2 a partnership; or
- 1.2.3 a limited liability partnership; or
- 1.2.4 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;













### 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 priorities 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 Garcia Siochana.

## 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;





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 practices 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:















- Accountability - The need to demonstrate to the Society and to other Members that the Society takes appropriate and proportionate action in order to protect the public interest and promote regulatory compliance.
- Consistency with the principles of Natural justice and Constitutional justice.

## **8 Reasons for penalty**

- 8.1 In every case reasons should be given in writing for the decision made in relation to a particular penalty or sanction.

## **PART D - FIXED PENALTIES**

### **9 What is a Fixed Penalty and when is it applicable**

- 9.1 A Fixed Penalty is a fixed fine payable and/or caution imposed in accordance with the Rules by the Member for a breach of the Rules.
- 9.2 A Fixed Penalty is only applicable to a breach of the following Rules:
- Rule 2.5 and Part 5 - Continuing Professional Development.
  - Rule 2.8 - Information to be provided to the Society.

This list will be reviewed by the Society from time to time and may be amended as the Society considers appropriate.

### **10 How Is a monetary Fixed Penalty Calculated**

- 10.1 Please refer to Section 2 of the Sanctions Policy: Fines, Costs and Administration Fees for further details about the level of Fixed Penalties and how they are calculated.

### **11 Review/Modification of a Fixed Penalty**

- 11.1 A Member may request a review of the imposition of a Fixed Penalty.
- 11.2 A Reviewer may review and, where appropriate modify a Fixed Penalty. Where this occurs the Fixed Penalty may be modified in such manner as the Reviewer may determine.
- 11.3 If the Member has paid a monetary Fixed Penalty but is referred to the Professional Conduct Committee because of a continuing breach of the Rules then the Professional Conduct Committee should have regard to the fact that the Society has received payment for the monetary Fixed Penalty when it is considering imposing any fine.
- 11.4 If the Member has not paid a monetary Fixed Penalty and continues to be in breach of the Rules, and is referred to the Professional Conduct Committee then the Professional Conduct





- Persistent and/or serious failure by a Member to co-operate with the Society or its staff;
- Breach by a Member and/or failure to comply with a required undertaking previously given to the Society, or failure to give an undertaking without reasonable excuse;
- Gross mismanagement of finances by a Member;
- Misappropriation of clients' money by a Member; or
- Actions likely to damage the Society's reputation.

17.2 The above list at Clause 17.1 is not an exhaustive list and each case must be considered on its own facts. The Relevant Decision Maker is given discretion to apply the most appropriate sanctions in any particular case.

18 The Professional Conduct Committee may impose more than one penalty

18.1 The Professional Conduct Committee (or Appeal Board on appeal) may impose more than one of the penalties provided for in the Policy or the Rules. Where the Member is expelled, the Professional Conduct Committee (or Appeal Board on appeal) may also impose a fine, undertaking or conditions.

## **19 The penalties which the Appeal Board can impose**

19.1 If the Appeal Board allows an appeal by the Member and varies either the Professional Conduct Committee's finding or penalty, it may impose the same range of penalties as the Professional Conduct Committee. It may vary the penalty imposed to one of greater or lesser severity than that previously imposed.

19.2 In addition, the Appeal Board may refer the matter back to the Professional Conduct Committee for a new hearing or re-consideration.

## **PART F-COSTS**

### **20 Payment of Costs**

20.1 In addition to any fine or penalty, the Relevant Decision Maker may also require that the Member pay the Society the costs reasonably and necessarily incurred by it in the matter. The Society may set rates from time to time and may publish them on the Society's website.







**THE SANCTIONS POLICY**  
**SECTION 3**  
**PUBLICATION OF REGULATORY/DISCIPLINARY MATTERS**

**1 Introduction**

1.1 This section sets out the Society's approach to the circumstances in which and the proceedings in relation to which regulatory/disciplinary matters may be published.

**2 Policy Approach**

2.1 The Society believes that there are circumstances in which it is essential for members of the public, Members' clients and potential clients to be aware of an individual Member's disciplinary record. There are, however, other circumstances where it is appropriate to record regulatory breaches without identifying the individual concerned.

2.2 Where a Member has breached the CPD Policy on two occasions, within a five-year period, as provided for in Rule 5.2, the Society will publish on the Society's website a list of members who are non-compliant for a second time. This publication to remain on the website for a period of one year from imposition of sanction.

2.3 The Society, at its discretion, may arrange to publish any decisions of the Professional Conduct Committee and/or the Appeals Board in such a manner as the Society may think fit.

2.4 All proceedings and deliberations of the Professional Conduct Committee and the Appeals Board unless made in public shall be confidential and Members shall, as a matter of professional obligation, maintain such confidentiality.

2.5 Where a case is to be heard in public before the Professional Conduct Committee or the Appeals Board a notice will be placed on the Society's website and if appropriate a notice may be placed in the national press and a press release may also be issued. Such notice will include the date, time and location of the hearing as well as a brief summary of the complaint. It will not include the name of the Member against whom the complaint has been made.

2.6 Decisions or orders of the Professional Conduct Committee and the Appeals Board may be disclosed, at the discretion of the Society and depending on the gravity of the breach, to other regulatory, disciplinary or law enforcement bodies either pursuant to a reporting obligation or where it is considered necessary to do so and the disclosure is not unlawful.

2.7 Sanctions and/or penalties imposed by the Professional Conduct Committee and/or the Appeals Board will be published as soon as practicable provided the Professional Conduct Committee and/or the Appeals Board has not directed otherwise, and the time allowed under the Rules for



appealing the decision of the Professional Conduct Committee and/or the Appeals Board has elapsed.

2.8 Without prejudice to the generality of clause 2.7 in the event that, following a decision of the Professional Conduct Committee and/or the Appeals Board, a Member is to be suspended or excluded from membership of the Society such suspension or expulsion shall be published.

2.9 Unless provided otherwise publication may be by way of one or more of the following:

- Inclusion on the website of the Society
- Notice in the Surveyor Journal;
- Notice in a national or local newspaper;
- Press release; or
- Inclusion on a public register;

## **Regulatory Matters**

### **3 Fixed Penalties**

3.1 A list setting out the number of Fixed Penalties (publication for breaches of the CPD Policy are provided for at Section 3, point 2.2 of this Policy) issued during the previous quarter, including the subject matter thereof will be placed on the Society's website. This information will remain on the Society's website for 12 months from its date of publication on the Society's website and individual Members will not be identified.