

**National Register of Public Service Interpreters**

**DISCIPLINARY FRAMEWORK AND PROCEDURES**

**Framework and Procedures for Enforcing the Code of Professional Conduct for Registrants on the National Register of Public Service Interpreters maintained by NRPSI**

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**DEFINITIONS**

*National Register of Public Service Interpreters*

The National Register of Public Service Interpreters means the register of public service interpreters maintained and operated by NRPSI.

*NRPSI*

The private limited company registered as NRPSI.

*NRPSI registrant*

A person registered on the National Register of Public Service Interpreters.

*Registrant*

A person registered on the National Register of Public Service Interpreters.

*Board*

Unless otherwise indicated, the Board means the Board of NRPSI.

*Code of Professional Conduct ("the Code")*

The Code of Professional Conduct of NRPSI that is currently in force.

*Complaint*

The utterance or delivery of an allegation of professional misconduct in relation to the Code, or the allegation itself.

*Allegation*

An allegation of professional misconduct in relation to the Code (see also complaint, above).

*Complainant*

A person or other legal entity making a complaint. A Complainant may be an individual, a company or other corporate body or institution or an individual representing a company or other corporate body or institution.

*Defendant*

A person who is the subject of a complaint.

*Friend*

A person nominated by the Complainant or by the Defendant to assist them at a hearing. The context will determine whether reference to Friend of the Complainant or Friend of the Defendant is intended.

*Executive Manager*

The person occupying the role of Executive Manager of NRPSI.

*Working day*

Any day from Monday to Friday excluding public holidays in England and Wales, and days when NRPSI is closed.

**SECTION A – INTRODUCTION**

- A.1 NRPSI is committed to the highest possible standards of professional conduct. To this end it has adopted a Code of Professional Conduct and the disciplinary framework and procedures set out herein.
- A.2 The Code of Professional Conduct is binding on all NRPSI registrants.
- A.3 All persons subject to the Code are also expected to have due regard to any Guide to Good Practice and further guidelines issued by NRPSI from time to time.
- A.4 Any alleged misconduct brought to the attention of the NRPSI, by whatever means, will be dealt with through the procedures set out herein.
- A.5 The framework and procedures set out herein will remain in force until further resolution of the Board.
- A.6 The framework and procedures may be amended by resolution of the Board. Reasonable notice of such amendment shall, other than in very exceptional circumstances (as shall be determined by the Board), be given to the persons who are subject to the Code of Professional Conduct by means of the website of NRPSI or otherwise, as appropriate.

**SECTION B – PROCEDURAL PRINCIPLES**

- B.1 The procedures set out here shall be followed as far as is practicable. The Chair of a committee or panel may vary these procedures when he or she deems this to be necessary. Such variation shall be recorded in the written record of the proceedings.
- B.2 Disciplinary committees and panels shall consist as far as is practicable of an uneven number of members. Decisions shall be by majority of votes; the Chair shall have a second, casting vote in the case of equality of votes.
- B.3 The deputy Chair of a committee may act in place of the Chair when appropriate. In the following, the term Chair shall mean the deputy Chair when that person is acting as Chair.
- B.4 A panel shall act with the authority of the committee from which the panel was constituted in regard to the complaint for which it was convened.
- B.5 No person may serve on more than one committee or panel in regard to a particular complaint.
- B.6 No person may be appointed to panel when that person has a connection with the Defendant or Complainant or a person who is party to the complaint such as would be likely to prejudice fair consideration of the complaint, or when there is any conflict of interest, bias or other factor such as would be likely to prejudice or to appear to prejudice fair treatment of the complaint to be considered.

- B.7 Discretion will rest with the Chair of a Committee when appointing a panel to decide whether conflict of interest or other relevant factor exists in regard to intended panel members. In the case of dispute the Chair of the Board shall decide the issue and his or her decision shall be final.
- B.8 Where a lay person is appointed to a committee designated herein, he or she shall be selected by open advertisement or by reference to an appropriate independent organisation. A lay person for these purposes is a person who is not a registrant or an employee, Board member or officer of NRPSI, and has no significant connection with any of these.
- B.9 The appointment of lay members is subject to the same conditions of appointment as other committee members except that lay members may be remunerated at the rate determined by the Board.
- B.10 In the event that neither the Chair nor the deputy Chair of a committee or panel is able to serve on a particular occasion, the Chair shall delegate the responsibility to another member of the committee or panel. In case of objection to such delegation by any member or members, an alternate Chair shall be appointed by the Chair of the Board.
- B.11 Disciplinary hearings are conducted in private and are confidential. Hearings will be recorded and the recording will be retained as part of the record of the complaint.
- B.12 The outcome of proceedings in respect of an allegation that is upheld will be made public by NRPSI, on its website or otherwise. A copy of the proposed report shall be sent to the Defendant in advance, and the Defendant shall be offered the opportunity to comment on the content and/or the wording within 10 working days. Due note shall be taken of any comment made by the Defendant. No report will be published in respect of an allegation that is not upheld.
- B.13 The record of an allegation that is upheld will be held on the registrant's file subject to the provisions of the Data Protection Act.
- B.14 The conclusions of a panel or committee shall be written by the Chair or another member of the panel or committee delegated by the Chair. No administrative officer of NRPSI shall be present during the deliberations of a panel or committee or during the writing of its report.
- B.15 The Executive Manager will be responsible for the administration of disciplinary procedures, including the compilation and distribution of statements and other documentation, arrangements for hearings and meetings, note taking, record keeping and correspondence on behalf of panels and committees. The Executive Manager may delegate some or all of these duties to other staff members as appropriate.
- B.16 Members of disciplinary committees will be reimbursed travel and subsistence expenses at the rate agreed by the Board. Other than lay members, as prescribed in B.8 and B.9, members of committees within this framework will not be remunerated.
- B.17 Remuneration may be made to members of the Professional Conduct Committee and Disciplinary Committee who take part in the complaint process. Such remuneration shall be subject to the approval of the Board or of the Chair of the Board acting on its behalf.

- B.18 The Defendant may appoint a person as Friend to accompany him or her at hearings of the Disciplinary Committee or the Disciplinary Appeals Committee.
- B.19 NRPSI may appoint a lay person to represent it at hearings of the Disciplinary Committee or the Disciplinary Appeals Committee in relation to a particular allegation. This person shall stand in the same relation to NRPSI as the Friend does to the Defendant (B.18). The costs involved will be a matter for NRPSI.
- B.20 NRPSI will not reimburse either the Complainant or the Defendant in respect of any legal or other costs incurred in preparing or presenting the complaint or defence; nor will NRPSI reimburse any costs relating to travel or subsistence in connection with a hearing.
- B.21 Committees and panels may consult external advisers or specialists, and invite external advisers or specialists to attend as witnesses, when this is considered necessary. Such persons shall not take part in the discussion of the committee's or the panel's findings. The travel and subsistence expenses of external advisers and specialists shall be paid. Reasonable professional fees may be paid, as necessary.
- B.22 A complaint involving a practitioner based overseas may be considered entirely upon the basis of written submissions, at the discretion of the relevant committee.
- B.23 A complaint may be considered entirely upon the basis of written submissions if this is requested by the Defendant and the Complainant agrees.
- B.24 Members of committees are expected, whenever practicable, to undertake such training and briefing on relevant matters as may be organised by NRPSI from time to time.

### **SECTION C – POWERS OF COMMITTEES**

- C.1 The Professional Conduct Committee may determine, in regard to a complaint:
- (a) that there is no evidence, or insufficient evidence of a breach of the Code, such that no further action should be taken and the parties should be so advised; the committee may, if it deems appropriate, offer guidance to one or both parties; or
  - (b) that there is evidence of a breach of the Code but that it is not of sufficient severity to necessitate referral to the Disciplinary Committee; the Committee may at its discretion decide that advice or warning should be given to the practitioner; or
  - (c) that the matter should be referred to the Disciplinary Committee.
- C.2 The Disciplinary Committee may determine, in regard to an allegation:
- (a) that the allegation is not upheld and the complaint is dismissed; or
  - (b) that the allegation is upheld or partly upheld and that one of the following measures should apply:
    - (ii) that the Defendant be admonished;
    - (iii) that the Defendant be suspended from registration for a period determined by the Committee;
    - (iv) that the Defendant be excluded from registration, with the possibility of application for reinstatement after a period determined by the Committee

- and subject to conditions determined by the Committee; the minimum period of exclusion under this clause shall normally be two years;
- (c) that the complaint was malicious; if the Committee so decides it shall determine what action, if any, should be taken against the Complainant.

- C.3 The Disciplinary Appeals Committee may determine:
  - (a) that the conclusion of the Disciplinary Committee be quashed and the allegation be dismissed; the Disciplinary Appeals Committee may, at its discretion, offer advice or guidance to one or both parties; or
  - (b) that the conclusion of the Disciplinary Committee is confirmed, but that the penalty imposed be amended in such manner as the Committee shall determine; or
  - (c) that the conclusion of the Disciplinary Committee and the penalty imposed be confirmed.

## **SECTION D – DISCIPLINARY COMMITTEES**

### **Appointment of Committees**

- D.1 The disciplinary committees of NRPSI are the Professional Conduct Committee, the Disciplinary Committee and the Disciplinary Appeals Committee.
- D.2 The Chairs, deputy Chairs and members of the committees are appointed annually by the Board, to hold office until the corresponding meeting the following year. Chairs and members of disciplinary committees may be re-appointed provided that they continue to satisfy the criteria for appointment.
- D.3 In the case of need to fill a casual vacancy, an appointment may be made by the Board, or by the Chair of the Board. An appointment made by the Chair of the Board will be reported to the Board at its next subsequent meeting and will continue to be valid after that date only if endorsed by the Board.
- D.4 A member of a committee who wishes to resign must notify the Chair of the Board in writing, if possible with at least six weeks' notice, through the Executive Manager.

### **Professional Conduct Committee**

#### *Terms of Reference of the Professional Conduct Committee*

- D.5 The Professional Conduct Committee will investigate complaints laid against NRPSI registrants to assess whether there is evidence of a breach of the Code of Professional Conduct such as would justify consideration by the Disciplinary Committee.
- D.6 A complaint referred to the committee will be considered by a panel of three persons selected from the members of the committee by the Chair of the committee or, in the event that the Chair is unavailable or deems it inappropriate for whatever reason that he/she should act in a particular instance, by the deputy Chair. In selecting and appointing members to a panel the provisions of B.6 and B.7 above shall be observed.
- D.7 The committee may refer its findings to the Disciplinary Committee, or take other appropriate action, as below.

*Composition of the Professional Conduct Committee*

- D.8 The committee shall consist of six persons:
- (a) the Chair, who shall be appointed by the NRPSI Board;
  - (b) two persons who are NRPSI registrants
  - (c) two lay members, as defined in B.9 above.
  - (d) Two members of the NRPSI Board
  - (e) The Chair and Deputy Chair should be lay members
- D.9 The committee shall be able to act notwithstanding the existence of a vacancy or vacancies in its membership, provided that at least three persons are currently members of the committee, including the person appointed in category D.8 (a).

*Procedures of the Professional Conduct Committee*

- D.10 The procedures of the committee are as described in Section H.

**Disciplinary Committee**

*Terms of reference of the Disciplinary Committee*

- D.11 The Disciplinary Committee will consider allegations of professional misconduct referred to it by the Professional Conduct Committee and make such decisions as fall within its powers.

*Composition of the Disciplinary Committee*

- D.12 The committee shall consist of at least five and not more than seven persons who are not members of the Professional Conduct Committee:
- (a) the Chair of the Board who shall be Chair of the Committee,
  - (b) the deputy Chair, who shall be a member of the NRPSI Board,
  - (c) one or two other NRPSI registrants,
  - (d) one or two lay members, as defined in B.9 above.
- D.13 The committee shall be able to act notwithstanding the existence of a vacancy or vacancies in its membership, provided that at least three persons are currently members of the committee including the persons appointed in categories D.12 (a) and (b).
- D.14 A complaint referred to the committee will be considered by a panel, normally consisting of three persons, selected from its members by the Chair. If the Chair deems this to be necessary a panel of five persons may be convened.
- D.15 The Chair shall endeavour to ensure so far as is practicable that an appropriate panel is selected on each occasion, in relation to the complaint. A committee member may not serve on a panel when he or she has any connection with the Defendant or Complainant or a person party who is to the complaint, or where there is the possibility of bias or the appearance of bias.
- D.16 The Chair shall endeavour to ensure, as far as is practicable, that a reasonable rotation is maintained among members of the committee.

*Procedures of the Disciplinary Committee*

- D.17 The procedures of the committee are as described in Section H.

### **Disciplinary Appeals Committee**

#### *Terms of reference of the Disciplinary Appeals Committee*

- D.18 The NRPSI Disciplinary Appeals Committee will decide on appeals against the decisions and/or actions of the Disciplinary Committee.

#### *Composition of the Disciplinary Appeals Committee*

- D.19 The committee shall consist of five persons who are not members of the Professional Conduct Committee or the Disciplinary Committee.
- D.20 The committee shall be able to act notwithstanding the existence of a vacancy or vacancies in its membership, provided that at least three persons are currently members of the committee.
- D.21 A panel of three persons from the above will be appointed by the Chair to consider a particular appeal.

#### *Procedures of the Disciplinary Appeals Committee*

- D.22 The procedures of the committee are as described in Section I.

## **SECTION E – MAKING A COMPLAINT**

- E.1 A complaint against a NRPSI registrant alleging professional misconduct such as might constitute a breach of the Code of Professional Conduct, may be made by an individual, a company or other corporate body or institution or an individual representing a company or other corporate body or institution who believes there are grounds for complaint. This shall include provision for a complaint to be made following a decision of the Board that a possible breach of the Code be investigated (see E.3) or as a result of relevant concerns coming to the notice of the Executive Manager (E.5).
- E.2 A complaint should be submitted as soon as possible after the alleged misconduct becomes known. A complaint made more than six months after the alleged offence must include an explanation of the delay in its submission and will be admissible only when the reasons for the delay are deemed acceptable by the Chair of the Professional Conduct Committee.
- E.3 If it appears to the Board that a breach of the Code may have been committed, the Board will, other than in exceptional circumstances, require the matter to be investigated and will instruct the Executive Manager accordingly. The decision of the Board that a possible breach of the Code be investigated shall not prejudice nor be deemed to prejudice the independence of the ensuing procedures nor the conclusions reached.
- E.4 In the case of a complaint arising from a decision of the Board as above, the Board will designate one of its number or, if it sees fit, a member of staff of NRPSI to act as Complainant in its behalf in disciplinary proceedings.

- E.5 In addition to the provisions above, if it comes to the notice of the Executive Manager, by whatever means, that a breach of the Code may have occurred, the Executive Manager shall cause investigations to be made and if after investigation it appears appropriate shall refer the matter to the Professional Conduct Committee. In such circumstances the Executive Manager will, subject to consultation with the Chair of the Board, act as Complainant or will delegate this to a member of staff.
- E.6 A complaint must be in writing under confidential cover and addressed to the Executive Manager at the registered office of NRPSI.
- E.7 A complaint must include the name and address of the Complainant and set out the matter of the complaint and any relevant circumstances including the relationship, if any, between the Complainant and the Practitioner against whom the complaint is made. A standard complaint form will be available, though use of the form will not be obligatory.
- E.8 The Complainant will be informed of the procedures, including the fact that the complaint will be shown to the subject of the complaint.
- E.9 If in the judgement of the Executive Manager it does not appear appropriate to invoke the discipline procedures to resolve a complaint he or she shall advise the Complainant accordingly. Provision to contest this assessment is set out below (E.13).
- E.10 If it appears to the Executive Manager that mediation as described in Section G may be a satisfactory way of dealing with the complaint, he or she shall offer the Complainant and the Defendant this option.
- E.11 The refusal by the Complainant or the Defendant to enter into mediation shall not prejudice subsequent proceedings as set out herein.
- E.12 If the Executive Manager considers that the complaint may be malicious or vexatious the Executive Manager may, at his or her discretion, refer the matter to the Professional Conduct Committee for possible disciplinary proceedings.
- E.13 If the Complainant does not accept that the response of the Executive Manager is satisfactory he or she may re-submit the complaint. In such circumstances the Executive Manager shall refer the complaint to the Professional Conduct Committee.
- E.14 When, following the above procedures, a complaint is referred to the Professional Conduct Committee; the subject of the complaint will be informed, with full particulars of the complaint, and invited to respond in writing within 20 working days. At the discretion of the Chair of the Professional Conduct Committee a copy of this response may be sent to the Complainant and written comment may be invited.
- E.15 A case file including all correspondence will be prepared by the Executive Manager for the Professional Conduct Committee.
- E.16 The Executive Manager may delegate all or any of the above responsibilities to an appropriate member of staff of NRPSI.
- E.17 The Complainant and the person who is the subject of the complaint are expected to ensure that the complaint or information or correspondence regarding the complaint,

including any report arising from the complaint, are not circulated or publicised other than as permitted in these procedures.

## **SECTION F – PROCEDURES OF COMMITTEES**

### **Professional Conduct Committee**

- F.1 A complaint brought to the attention of the committee will be considered by a panel of three of its members, selected by the Chair. The Chair shall endeavour to ensure as far as is practicable that an appropriate panel is selected on each occasion, in relation to the allegation and the category of person against whom it is made.
- F.2 The panel may conduct its business by correspondence, including e-mail, or meet to consider the complaint as it sees fit.
- F.3 The panel will ensure that the person against whom the complaint is made has been informed of the complaint in due form, and has been given the opportunity to submit a statement in defence or mitigation. The panel will defer its proceedings when it appears to it that it is necessary to do so in order to ensure this.
- F.4 The panel will consider the written and documentary evidence available to it, including the statement setting out the complaint submitted by the Complainant, and any statement submitted by the person against whom the complaint is made.
- F.5 The panel will not hold hearings and will not involve third parties. The panel may, however, seek clarification of any aspect of the complaint or the defence if necessary.
- F.6 The panel will endeavour to reach a conclusion on a complaint within thirty working days of notification of the complaint, or of the failure of mediation as described in Section G.
- F.7 The conclusion of the panel may be that:
- (a) there is no evidence, or insufficient evidence, of a breach of the Code, such that no further action should be taken and the parties should be so advised; the committee may, if it deems appropriate, offer guidance to one or both parties;
  - (b) there is evidence of a breach of the Code but that it is not of sufficient severity to necessitate referral to the Disciplinary Committee; the Committee may at its discretion decide that advice or warning should be given to the practitioner;
  - (c) admonish the practitioner; however the practitioner must agree to the admonishment. If the practitioner does not agree to be admonished then the case will need to be referred to the Disciplinary Committee.
  - (d) the matter should be referred to the Disciplinary Committee.
- F.8 The parties concerned will be informed of the conclusion of the panel in writing within ten working days.

### **Disciplinary Committee**

- F.9 A complaint referred to the committee will be considered by a panel of three persons selected from the members of the committee by the Chair or, in the event that the Chair is unavailable or deems it inappropriate for whatever reason that he/she should act in a particular instance, by the deputy Chair. In selecting and appointing members to a panel the provisions of B.6 and B.7 above shall be observed.
- F.10 The committee will proceed by means of a hearing, as described in Section H. As far as is practicable the panel will hear the case within 30-45 working days of its referral.
- F.11 The panel will endeavour to reach a conclusion immediately after the hearing. In the event of unavoidable delay, the panel will normally agree its conclusion and decision within ten working days; a further meeting of the panel may be called if necessary, or the panel may reach its conclusion by correspondence.
- F.12 The panel may decide in respect of an allegation as follows:  
(a) that the allegation is not upheld and the complaint is dismissed; or  
(b) that the complaint was malicious; in such circumstances the Committee shall determine what action, if any, should be taken against the Complainant; or  
(c) that the allegation is upheld or partly upheld.
- F.13 In the case that an allegation is upheld or partly upheld the panel may, taking into account the seriousness of the breach of the Code and any associated or mitigating factors, decide that one of the following measures should apply:  
(a) that the Defendant be admonished;  
(b) that the Defendant be suspended from registration for a period determined by the Committee;  
(c) that the Defendant be excluded from registration, with the possibility of application for reinstatement after a period determined by the Committee and subject to conditions determined by the Committee; the minimum period of exclusion under this clause shall be for a period not exceeding two years.
- F.14 The Defendant will be informed of the decision of the panel, in writing, normally within five working days.
- F.15 The panel may at its discretion inform the Complainant of its decision, subject to prior notification to the Defendant of its intention to do so and the offer of the opportunity to submit comments on the decision and the wording of the notification. The panel shall take due notice of any comment submitted in any report to the Complainant.
- F.16 The panel shall decide the date on which any penalty imposed shall take effect, subject to the provisions of F.21 below.
- F.17 The Defendant will be advised of the right of appeal and the appeal procedures (Section I). An appeal will be admissible only on the grounds that:  
(a) there is new evidence that was not available to the Disciplinary Committee; or  
(b) there was a material flaw in the conduct of the Disciplinary Committee hearing.
- F.21 Any action decided by the Disciplinary Committee shall be held in abeyance pending resolution of an appeal. When the Chair of the panel considers this appropriate, however, the Practitioner may be suspended pending resolution of the appeal.

**Disciplinary Appeals Committee**

- F.22 The procedures of the committee are as described in Section I.

**SECTION G – MEDIATION**

- G.1 As indicated above (E.10), if it appears to the Executive Manager that this may be a satisfactory way of dealing with the complaint, he or she shall offer the Complainant and the Defendant the opportunity of mediation. The refusal by the Complainant or the Defendant to enter into mediation shall not be prejudicial to subsequent proceedings as set out herein.
- G.2 Mediation is intended to deal with a complaint and reach a conclusion satisfactory to both parties without resort to formal disciplinary proceedings.
- G.3 Mediation will be conducted by a person invited by the Executive Manager to carry out this role. Suitable persons will be NRPSI registrants of sufficient standing and length of registration.
- G.4 Mediation may be carried out by correspondence or may involve a meeting of the parties with the mediator. If a meeting is deemed necessary this will not be a formal hearing, will not involve witnesses and the parties will not be entitled to be accompanied by a Friend, in contrast to the procedures for hearings set out in Section H.
- G.5 The mediator will be reimbursed travel and subsistence expenses. The Complainant and Defendant will be responsible for their own costs.
- G.6 If an agreement is reached through mediation that is accepted by both the Complainant and Defendant the complaint will be considered to have been resolved.
- G.7 If agreement is not reached through mediation the matter will be referred to the Professional Conduct Committee.

**SECTION H – HEARINGS**

- H.1 The procedures described in this section shall be followed by the Disciplinary Committees and the Disciplinary Appeals Committees, except as indicated. The Chair of a committee or panel may vary the procedures at his or her discretion where this is judged to be necessary.
- H.2 The Complainant and the Defendant shall be given not less than 30 working days' written notice of the hearing, stating the date, time and place of the hearing, together with a copy of the allegation, and a copy of these procedures.
- H.3 Not less than 10 working days before the date of the hearing the Defendant shall inform the Executive Manager or the designated administrative officer, in writing, whether he or she intends to contest the allegation; whether he or she intends to be present at the

- hearing; whether he or she will be accompanied by a Friend (see H. 4) and, if so, the name of the Friend.
- H.4 The Defendant may at his or her discretion appoint a Friend to assist him or her in hearings. The Defendant shall be responsible for forwarding relevant information to the Friend.
- H.5 If the Defendant intends to contest the allegation, he or she will be entitled to provide a written statement in defence or mitigation, additional to the statement in response to the original notice of complaint that was considered by the Professional Conduct Committee.
- H.6 A Defendant may choose whether or not to attend a hearing. A hearing may proceed despite the absence of the Defendant. Only in exceptional circumstances and with the agreement of the Chair, however, may a person acting as Friend of the Defendant attend and represent the Defendant at a hearing if the Defendant is not present.
- H.7 NRPSI will normally be represented at hearings by a person appointed as Friend.
- H.8 The Complainant is expected to be present and to be willing to be called as a witness. The hearing may, at the discretion of the Chair, proceed despite the absence of the Complainant. Refusal by the Complainant to attend or to be called as a witness will be taken into account by the panel and may be prejudicial to the cause of the Complainant.
- H.9 Witnesses may be called by or on behalf of the Complainant and the Defendant.
- H.10 The Defendant shall provide the name and address of any witness(es) he or she intends to call. The Defendant is responsible for informing such witnesses of the time and place of the hearing.
- H.11 The Friend of NRPSI and the Friend of the Defendant:  
(a) may present and/or sum up the allegation and the defence respectively;  
(b) may be questioned directly by the panel;  
(c) may ask questions of and cross-examine witnesses, including the Complainant and the Defendant;  
(d) may not respond for the Complainant or the Defendant in cross-examination.
- H.12 The Defendant shall have the right to object to any panel member if he or she can demonstrate a clear conflict of interest or any bias that is likely to prejudice the proceedings. If the Chair considers such objection to be reasonable he or she shall adjourn proceedings and take steps to constitute a new panel at the earliest convenient moment.
- H.13 The hearing will proceed as follows:  
(a) introduction by the Chair, outlining the procedures to be followed;  
(b) oral presentation of the allegation by or on behalf of the Complainant followed by an oral statement by or on behalf of the Defendant;  
(c) questioning, by the panel, of either or both parties, or the Friend of either party;  
(d) cross-examination by or on behalf of the Complainant and the Defendant (as noted in H.11, the Complainant and the Defendant are required to respond directly to cross-examination, not through the Friend);

- (e) further questioning as necessary by the panel of either party or the Friends of either party;
  - (f) summing up by or on behalf of the Complainant and by or on behalf of the Defendant;
  - (g) explanation by the Chair of how the panel will reach a conclusion, how the conclusion and any action decided will be notified to the parties concerned, and the expected timetable.
- H.14 Either party may request an adjournment. A hearing may be adjourned at the discretion of the Chair following such request or for reasons that he or she deems acceptable. The Chair shall determine the date for resumption of the hearing which shall, whenever possible, be within twenty working days.
- H.15 No persons other than the panel members shall be present when the panel discusses its findings and decides what action to take. Decision is by majority vote (the Chair shall have a second, casting vote, in case of equality of votes). In the case of a contrary minority opinion this shall be recorded in the report of the panel's findings.
- H.16 The Chair of the panel, or a member of the panel delegated by the Chair, shall write a report of the panel's conclusions, its decisions as to action to be taken and/or guidance to be offered. The report shall explain briefly the basis for the panel's conclusions, with reference to the part or parts of the Code of Professional Conduct deemed to have been breached.
- H.17 The report should if possible be written at the end of the hearing. When this is not practicable the report must be circulated to all panel members (including any contrary minority opinion) for agreement. The report must normally be signed by all members. Any variation from this must be endorsed by the Chair of the relevant Committee.

### **SECTION I – APPEAL**

- I.1 A Defendant will have the right to appeal against a decision of the Disciplinary Committee on the ground either that there is new evidence that was not available to the Disciplinary Committee or that there was a material flaw in the conduct of the Disciplinary Committee hearing. No other ground will be admissible.
- I.2 Notice of intention to appeal must be lodged in writing with the Executive Manager within fifteen working days of notification of the decision of the Disciplinary Committee.
- I.3 Any action decided by the Disciplinary Committee shall be held in abeyance pending resolution of an appeal. When the Chair of the panel conducting the hearing considers this appropriate, however, the registrant may be suspended from registration pending resolution of the appeal.
- I.4 There is no prescribed appeal form. The notice of intention to appeal must set out the grounds for the appeal in sufficient detail for the admissibility of an appeal to be assessed.

- I.5 The Chair of the Disciplinary Appeals Committee will decide whether there are grounds for appeal, as defined above, normally within fifteen working days.
- I.6 If the Chair determines that there are not grounds for appeal he or she shall inform the Defendant in writing, and shall give reasons for the decision.
- I.7 If the Chair determines that there are grounds for appeal he or she shall inform the Defendant and the Complainant in writing, and a panel of the Disciplinary Committee will be convened to consider the appeal.
- I.8 Whenever possible an appeal will be heard within 30 working days of the decision that there are grounds for appeal.
- I.9 The Disciplinary Appeals Committee will conduct an appeal through a hearing, as described in Section H.
- I.10 The committee may reach one of the following conclusions:
- that the conclusions of the Disciplinary Committee be quashed and the allegation be dismissed; the committee may, at its discretion, offer advice or guidance to one or both parties;
  - that the conclusions of the Disciplinary Committee be confirmed, but that the penalty or penalties imposed be amended, in such manner as the committee shall determine;
  - that the conclusions of the Disciplinary Committee and the penalty or penalties imposed be confirmed.
- I.11 The Defendant will be informed in writing of the decision of the committee within ten working days.
- I.12 The committee may, at its discretion, inform the Complainant of its decision, subject to prior notification to the Defendant of its intention to do so and the offer of the opportunity to submit comments on the decision and the wording of the notification. The committee shall take due note of any comment submitted by the Defendant, in any report on its findings that it makes to the Complainant.
- I.13 Subject to the normal remedies available under civil law, the decision of the Appeals Committee is final.

As at 01 December 2011