

**THE CHARTERED INSTITUTE OF MANAGEMENT ACCOUNTANTS****DISCIPLINARY COMMITTEE RULES 2020**

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## **Introduction**

1. These Rules set out the procedure to be followed in dealing with complaints referred by the Investigation Committee to the Disciplinary Committee.

## **Interpretation**

2. In these Rules, unless the context requires otherwise, words and phrases used have the same meanings as in CIMA's Royal Charter, Bye-laws and Regulations, and

'business days' means calendar days of the week excluding weekends and public holidays;

'Chairman of the Disciplinary Committee' means the Chairman or the Vice-Chairman of the Disciplinary Committee;

'Charge' means the allegations against the Respondent which are formally set out in the Notice of Hearing (or, in the case of a meeting under Rule 4(2) of these Rules, in the Notice of Meeting)

'Complainant' means any person or body who makes a complaint against the Respondent and thereby has an interest in the outcome of the proceedings;

'days' means calendar days of the week including weekends and public holidays;

'Disciplinary Committee' means the Disciplinary Committee created under Regulations Part II 1

'Hearing' means a hearing by a Panel;

'Institute' means The Chartered Institute of Management Accountants;

'Investigation Committee' means the Committee created under Regulations Part II 1 charged with preliminary consideration of complaints

'Laws of the Institute' has the meaning ascribed to it in the Bye-laws

'Legal Assessor' means a barrister or solicitor appointed to advise the Disciplinary Committee and/or a Panel;

'Meeting' means a meeting by a Panel held in accordance with Rule 4(2) of these Rules

'misconduct' has the meaning ascribed to it in the Bye-laws

'Panel' means a panel of the Disciplinary Committee which considers the Charge against the Respondent;

'Parties' means the Presenting Officer and the Respondent (or the Respondent's legal representative) at the Hearing and specifically excludes the Complainant;

'Presenting Officer' means the Solicitor, Counsel and/ or staff of the Institute responsible for preparing and/or presenting the Institute's case at the Hearing;

'Professional Conduct Staff' means the staff of the Institute charged with administrative responsibility for the Hearing;

'the Public' includes members of the press and the public generally, but excludes the Parties, their legal representatives, and employees of the Institute whose presence is necessary for the administrative functioning of the Hearing;

'Referral Decision' has the meaning given to it in Rule 3 ii below;

'the Respondent' means a Member or Registered Student of the Institute who is the subject of the disciplinary proceedings. If the Respondent does not attend but is represented, 'the Respondent' will include their representative.

### **Jurisdiction**

3. Cases shall only be considered by the Disciplinary Committee where
  - i the Investigation Committee has first determined that there is a prima facie case to answer; and
  - ii the complaint has been referred to the Disciplinary Committee by or on behalf of the Investigation Committee (the "Referral Decision")

## **PRELIMINARY MATTERS**

### **Notification of referral**

4. (1) The Professional Conduct Staff shall notify the Parties in writing of the Referral Decision in accordance with Investigation Committee procedure as soon as reasonably practicable after the Referral Decision is made.

### **Meeting of the Disciplinary Committee without the Parties**

- (2) The Disciplinary Committee may meet without the parties at the request of the Chairman, whether in relation to a complaint or any other matter relevant to its jurisdiction and, subject to Regulations and these Rules, the Committee may determine its own procedure for such meetings. Such meetings will be at the discretion of the Chairman. In particular, the Disciplinary Committee (or a Panel of the Committee) may, with the agreement of a Respondent who admits the factual allegations, meet in private for the purpose of resolving the matter without a formal hearing. A Legal Assessor shall be present.

### **Fixing the Hearing date and postponements**

- (3) Unless the matter has been disposed of under (2) above, the Professional Conduct Staff shall, after the Presenting Officer has consulted with the Respondent or the Respondent's legal representative where practicable, fix the Hearing date and the time estimate for the Hearing.
- (4) The Hearing date shall be fixed as soon as practicable after the Referral Decision.
- (5) In the event that the Hearing date is no longer practicable due to the overrunning of another hearing or due to another administrative reason, the Professional Conduct Staff may, after consultation with the Parties where practicable, ask the Chairman of the Disciplinary Committee to postpone the Hearing to a later date.
- (6) Where either Party wishes to make an application that the Hearing should be postponed, such application should be submitted in writing to the Chairman of the Disciplinary Committee c/o of the Professional Conduct Staff. The Party making such application shall serve a copy of the application on the other Party, together with any supporting documentation. The Party served with the application may submit a written response to the Chairman of the Disciplinary Committee and, if it does so, that Party must serve a copy of its written response on the other Party.
- (7) The application shall be considered by the Chairman of the Disciplinary Committee who shall take into account the submissions of both Parties.

- (8) If a hearing is postponed, the Professional Conduct Staff shall inform the Parties and the Complainant (if any) of the new Hearing date, as soon as possible.

#### **Pre-hearing review**

- (9) In order to facilitate the effective running of the Hearing the Chairman of the Disciplinary Committee may grant a pre-hearing review on the request of either party, or may invite the Parties to attend a pre-hearing review. Arrangements will be made through the Professional Conduct Staff. The pre-hearing review will be in private before the Chairman of the Disciplinary Committee, with a Legal Assessor present. The Chairman may issue directions to the Parties, including in respect of any preliminary matters, or resolve issues of law before the Hearing. A pre-hearing review may take place prior to the Hearing date being fixed.

#### **Joinder of cases**

- (10) i. In order to facilitate the efficient and consistent determination of complaints and subject to the requirements of a fair Hearing, where complaints against multiple respondents arise out of the same (or sufficiently related) facts, the Chairman may, upon an application by the Institute, decide to consolidate the complaints into a single procedure with a single Hearing on the basis that this is a fair and efficient way of determining the complaint(s).

ii. The Respondents shall have the opportunity to make representations on the Institute's application within 14 days of dispatch.

iii. The Chairman may make their decision alone and in the absence of the parties. A Legal Assessor may be consulted if the Chairman considers it necessary.

iii. Factors the Chairman may take into account in reaching their decision include but are not limited to:

(a) the requirements of a fair hearing;

(b) the risk of inconsistent decision-making;

(c) the time and cost of determining the complaint(s); and

(d) the potential stress and inconvenience to witnesses.

- (11) Directions issued under (9) and/or (10) above shall be binding on the Parties.

#### **Notice of Hearing and service of documents**

5. (1) At least 35 days before the Hearing date, the Presenting Officer shall despatch a formal Notice of Hearing to the Respondent or to any legal

representative on record as acting for the Respondent in relation to the disciplinary proceedings against the Respondent (the "Notice of Hearing").

- (2) The Notice of Hearing shall set out the date; time; and venue of the Hearing, and specify the Charge against the Respondent.
- (3) The Notice of Hearing shall include the information in Annexe 1 (and any other information considered appropriate by the Presenting Officer), and shall be sent with the documents set out in Rule 6(1). In addition the Presenting Officer shall inform the Respondent or their legal representative in the Notice of Hearing that under Regulations Part II 12, the Respondent may be required to pay all, or part, of the costs of the proceedings.
- (4) The Panel shall have discretion to disregard defects in the Notice of Hearing which do not in the opinion of the Panel cause injustice.
- (5) The Notice of Hearing and documents referred to in Rule 6(1) may be sent by courier, special delivery, recorded or ordinary post to the Respondent's address on the Institute's database or, if different, to the Respondent's last known address. The Notice of Hearing and documents referred to in Rule 6(1) may alternatively be sent by email to the Respondent's email address on the Institute's database, or, if different, to the Respondent's last known email address. Alternative means of delivery may be agreed with the Respondent.
- (6) The Notice of Hearing and documents referred to in Rule 6(1) shall be deemed served on the same day if sent by email and on the second business day after being sent if sent by any of the other methods set out in Rule 5(5).
- (7) The service of the Notice of Hearing or any other document under these Rules may be proved by:
  - i. a confirmation of posting issued by or on behalf of the postal operator or delivery service;
  - ii. a confirmation of delivery of the notice or document sent by email; or
  - iii. a signed statement from any person serving the notice or document confirming that the notice or document was delivered to, sent to or left at the recipient's proper address.
- (8) The Presenting Officer shall send a copy of the Notice of Hearing together with the documents set out in Rule 6(1) to the Professional Conduct Staff.
- (9) The Respondent may agree to despatch of the Notice of Hearing less than 35 days before the Hearing.

## Documentation and pre-hearing procedure

6. (1) The following documents shall be enclosed with the Notice of Hearing:
  - i. copies of the relevant Charter, Bye-laws and Regulations, Code of Ethics and Disciplinary Committee Rules of the Institute;
  - ii. an index of documents which the Presenting Officer wishes to place before the Panel;
  - iii. copies of any documents (not already provided to the Respondent), on which the Presenting Officer intends to rely including the names and signed witness statements of any witnesses the Presenting Officer intends to call;
  - iv. a draft statement of facts;
  - v. copies of any documents which undermine the Presenting Officer's case, or assist the case of the Respondent;
  - vi. an estimate of the Institute's costs in relation to the Hearing; and
  - vii. a copy of the relevant Indicative Sanctions Guidance and Annexe 1 thereto.
  
- (2) No later than 21 days after the date of deemed service of the Notice of Hearing referred to in Rule 5 (1), the Respondent or their legal representative shall:
  - i. inform the Presenting Officer which documents listed in the index, and any further documents (if any) the Respondent wishes to place before the Panel;
  - ii. inform the Presenting Officer which documents the Respondent objects to being placed before the Panel (if any) and give reasons for any such objection;
  - iii. inform the Presenting Officer of any documents which undermine their case, or assist the case of the Presenting Officer;
  - iv. provide copies of any additional documents to the Presenting Officer;
  - v. Inform the Presenting Officer of the names of any witness(es) they intend to call including themselves, and provide the Presenting Officer with copies of their signed statement(s)
  - vi. inform the Presenting Officer which parts of the Charge are admitted (if any);

- vii. inform the Presenting Officer which documents and witness statements can be agreed (if any) and which witnesses they wish to cross-examine;
  - viii. provide the Presenting Officer with a CV and report of any expert on which they intend to rely;
  - ix. inform the Presenting Officer whether the draft statement of facts is agreed in whole or in part and, if in part, which parts are agreed;
  - x. provide the Presenting Officer with details of their financial means, if they intend to contest any costs order on the basis of their ability to pay;
  - xi. inform the Presenting Officer of any applications which at this stage they wish to make to the Panel at the Hearing in relation to the conduct of the Hearing and give reasons for any such application.
- (3) The Presenting Officer shall provide a copy of the documents referred to in Rule 6(2) to the Professional Conduct Staff.
- (4) In compliance with duties of disclosure, the Presenting Officer, within 7 days of receipt of the documents set out in Rule 6(2), shall:
- i consider whether there is any further material which might be reasonably expected to assist the Respondent's case, and shall send copies of any such material to the Respondent;
  - ii inform the Respondent of any further material the Presenting Officer wishes to rely on;
  - iii. where applicable, inform the Respondent which documents and witness statements can be agreed (if any) and which witnesses (including the Respondent) the Presenting Officer wishes to cross-examine; and
  - iiii where applicable, indicate to the Respondent whether the Presenting Officer agrees to any of the applications in relation to the conduct of the Hearing which the Respondent wishes to make at the Hearing and if not, give reasons for the Presenting Officer's position.
- (5) The Presenting Officer shall send copies of any documents sent to the Respondent pursuant to Rule 6(4) to the Professional Conduct Staff or confirm to the Professional Conduct Staff that there is no such further material.
- (6) Save as provided for in Rule 6(7), the Presenting Officer shall send to the Panel in advance of the Hearing copies of the Notice of Hearing,

any documents referred to in Rules 6(1) (excluding the estimate of costs and any documentation provided for under Rule 6 (2) (x)), 6(2) and 6(4) and such further documents as the Parties may agree.

- (7) The Presenting Officer shall not send to the Panel in advance of the Hearing any documents to which the Respondent objects, but if there is no objection by the Respondent to the Presenting Officer under Rule 6 (2) (ii), then the Presenting Officer shall be entitled to assume that the Respondent has no objection to submission of any of the documents to the Panel.

## **THE HEARING**

### **Quorum of the Panel**

7. The quorum for a Panel shall be 3 members of the Disciplinary Committee, and a majority of the Panel shall be persons who are not Members or Registered Students of the Institute.

### **Legal Assessor**

8. (1) A Legal Assessor shall be appointed to ensure that at all times the proceedings are conducted in accordance with the Laws of the Institute, and that the Respondent receives a fair hearing.
  - (2) The Legal Assessor shall be present at all stages of the Hearing.
  - (3) The Legal Assessor shall attend the Panel when it deliberates without the Parties present.
  - (4) At the invitation of the Panel, or on their own initiative, the Legal Assessor may tender relevant legal advice to the Panel at any time, provided that any advice tendered to the Panel in private shall be repeated in the presence of the Parties.
  - (5) The Parties shall have the opportunity to make representations on the content of the advice tendered by the Legal Assessor before such advice is acted on by the Panel.

### **Voting**

9. (1) Decisions of the Panel on the facts or on the question of misconduct; to impose any sanctions, or to award costs shall be taken by simple majority.
  - (2) The Legal Assessor shall not be entitled to vote on decisions to be taken by the Panel.

## Procedure at the Hearing

10. (1) Subject to the Laws of the Institute, the Rules herein, and the requirements of a fair Hearing, the Panel may decide its own procedures generally and may issue directions with regard to the just and expeditious determination of the proceedings.
- (2) Subject to Rule 14(1), the Hearing shall be conducted in 4 stages as follows:
  - Stage 1 - Findings of Fact
  - Stage 2 - Finding of Misconduct
  - Stage 3 - Mitigation and Sanction
  - Stage 4 – Consideration of Costs
- (3) Subject to Rules 10 (4) and (5) below, the Hearing shall be conducted in the presence of the Parties, and shall be held in public.
- (4) On the application of a witness or any of the Parties, or at the instigation of the Panel, the Chairman of the Panel may decide in exceptional circumstances that the Public should be excluded from the whole or any part of the Hearing. Provided always that:
  - i. a decision to exclude the Public causes no prejudice to either party;
  - ii. the particular circumstances of the case outweigh the public interest in holding a public hearing; and
  - iii. the decision is made after hearing representations from both Parties.
- (5) For the purpose of arriving at any decision relating to the Hearing, the Panel shall sit in private. However, the announcement of the Panel's decision shall be made in public.
- (6) A recording of the proceedings shall be made.
- (7) Subject to directions given by the Panel, and the requirements of a fair hearing, the Parties shall be entitled to:
  - i. attend the Hearing;
  - ii. provide evidence subject to the provisions of Rule 11;
  - iii. call witnesses (including expert witnesses);

- iv. question any witnesses; and
  - v. address the Panel on the evidence.
- (8) The Respondent shall be entitled to speak and give evidence to the Panel on their own behalf, or to be represented.
- (9) Where the Respondent is not legally represented they are deemed to be acting in person, in which case they may be accompanied and advised by a non legal representative. Such representative, however, shall not be entitled to address the Panel without prior permission of the Panel.
- (10) The Panel may exclude from the whole or part of the Hearing, any person whose conduct, in the opinion of the Panel, has disrupted or is likely to disrupt the Hearing.

**Evidence**

11. (1) Subject to the requirements of a fair hearing, and of relevance, the Panel may:
- i. admit evidence whether or not it would be admissible in a Court of Law; and/or
  - ii. exclude evidence in order to ensure fairness between the Parties and preserve the interests of justice.
- (2) The findings of fact of any UK Criminal Court shall be conclusive proof of the facts so found.
- (3) Findings of:
- i. any Court of competent jurisdiction (whether within the United Kingdom or elsewhere);
  - ii. any accountancy or financial services regulatory authority; or
  - iii. any statutory or professional body exercising a regulatory function,
- shall be prima facie evidence of the facts so found.

**General discretion of the Panel to seek further evidence**

12. Subject to the advice of the Legal Assessor, the Panel may of its own motion:
- i. request any witness to give evidence at the Hearing; and/or

- ii. request the Parties to provide such documentary information in their possession, or under their control, as the Panel considers reasonably necessary for the just and expeditious determination of the proceedings.

#### **Burden and Standard of Proof**

- 13. (1) Subject to Rules 11(2) and (3), the burden of proving the alleged facts (and the alleged misconduct) shall rest on the Institute.
- (2) The required standard of proof shall be the balance of probabilities.

#### **Adjournment of the Hearing**

- 14. (1) Subject to the requirements of a fair hearing, the Panel may adjourn the Hearing at any stage.
- (2) The Professional Conduct Staff shall, as soon as possible, notify the Parties and the Complainant (if any) of the date fixed for the Hearing to be resumed.

#### **Attendance at the Hearing**

- 15. (1) Where the Respondent fails to attend or be represented at the Hearing, the Chairman of the Panel shall:
  - i. require evidence that the Respondent has been served with the Notice of Hearing in accordance with these Rules, or that all reasonable endeavours have been made to inform them of the Hearing; and
  - ii. inquire whether any reasons for the Respondent's absence have been communicated to the Professional Conduct Staff or the Presenting Officer.
- (2) If satisfied that the Notice has been duly served on the Respondent or that all reasonable endeavours have been made to inform them of the Hearing, the Panel may hear and determine the case in the Respondent's absence.
- (3) Where the Respondent is present, the Chairman of the Panel shall ask the Respondent to confirm their name and CIMA membership details.
- (4) The Charge shall then be read out by the Presenting Officer.

#### **Amendment of the Charge**

- 16. (1) Subject to the requirements of a fair hearing, the Panel may amend the Charge at any stage of the Hearing.

- (2) The Panel shall first hear representations from the Parties, and take advice from the Legal Assessor, before deciding whether or not the Charge should be amended.

### ***Stage 1-Findings of Fact***

#### **Admissions**

17. (1) After the Charge has been read, the Respondent shall be asked whether or not they admit any facts in the Charge.
- (2) In respect of any convictions, the Chairman of the Panel shall ask the Respondent whether they admit the convictions of which evidence is adduced.
- (3) Where a Respondent is not present and is not represented at the Hearing, the Panel may consider whether the Respondent has communicated any admissions in correspondence prior to the Hearing.
- (4) The Chairman of the Panel shall announce that the facts which are admitted have been found proved.

#### **Presentation of the Institute's Case**

18. (1) In circumstances where facts are not admitted by the Respondent, the Presenting Officer shall then present the case to the Panel and adduce evidence in support of those facts which are not admitted.
- (2) Following any opening submissions, the Presenting Officer may call witnesses to give evidence.
- (3) The Panel may, on the application of the Presenting Officer, agree that the personal details of the witness are not revealed in public.
- (4) Witnesses shall be examined by the Presenting Officer and may then be cross examined by the Respondent. The Presenting Officer may then re-examine the witness.
- (5) Members of the Panel may then ask the witness questions.
- (6) The Parties may then question the witness on matters arising out of the Panel's questions.
- (7) Any further questioning of witnesses shall be at the discretion of the Panel.

- (8) The Panel may, of their own motion, decide that the circumstances of the case are such that an expert witness should be called to give evidence at the Hearing.

#### **Submissions that there is insufficient evidence**

19. (1) At the end of the evidence presented by the Presenting Officer the Respondent or their representative may make submissions that there is insufficient evidence on which the Panel may find all or any of the facts in the Charge proved.
- (2) The Panel shall consider submissions from both Parties on the above.
- (3) The Panel shall consider the submissions in private, and shall announce in public its decision as to whether the case should or should not proceed. If the Panel decides that the case should proceed, it shall not be required to give reasons for this decision.

#### **Respondent's Case**

- 20 (1) In circumstances where the Panel decides that the case should proceed in accordance with Rule 19, the Respondent shall then be entitled to adduce evidence to rebut those facts which are not admitted.
- (2) Following any opening submissions, the Respondent may call witnesses to give evidence.
- (3) The Panel may, on the application of the Respondent, agree that the personal details of the witness are not revealed in public.
- (4) Witnesses shall be examined by the Respondent and may then be cross examined by the Presenting Officer. The Respondent may then re-examine the witness.
- (5) Members of the Panel may then ask the witness questions.
- (6) The Parties may then question the witness on matters arising out of the Panel's questions.
- (7) Any further questioning of witnesses shall be at the discretion of the Panel.
- (8) The Panel may, of their own motion, decide that the circumstances of the case are such that an expert witness should be called to give evidence at the Hearing.

#### **Closing submissions**

21. The Panel may permit the Parties to make closing submissions, in which case in the order of the Presenting Officer first and the Respondent subsequently,

although either Party may waive the opportunity, and the Parties may agree to reverse the sequence.

### **The Decision**

22. (1) The Panel shall then decide in private whether the facts in the Charge have been proved on the balance of probabilities.
- (2) The Chairman of the Panel will then announce in public the Panel's decision on the facts. If insufficient facts have been found proved the case will be dismissed.

### ***Stage 2 - Misconduct***

23. (1) Where the Panel finds some or all of the facts proved, the Chairman of the Panel shall ask the Respondent whether, on the facts that have been proved, the Respondent admits that they are guilty of misconduct.
- (2) Where the Respondent admits that they are guilty of misconduct the Panel shall then decide on sanctions in accordance with Stage 3.
- (3) Where the Respondent denies misconduct, the Parties shall make representations to the Panel and may call evidence on the issue of misconduct.
- (4) The Panel shall consider in private whether the Respondent has committed misconduct, and in so considering the Panel shall have regard to guidance and standards issued by the Institute.
- (5) The Panel shall announce their finding on the issue of misconduct in public.
- (6) The Panel shall give reasons for their finding on the issue of misconduct.
- (7) If the Respondent is found not guilty of misconduct, the Hearing will be concluded.

### ***Stage 3 - Mitigation and Sanction***

#### **Mitigation**

24. (1) Where the Panel find that the Respondent is guilty of misconduct, the Chairman of the Panel shall require the Presenting Officer to provide the Panel with details of the Respondent's previous disciplinary record (if any).
- (2) The Chairman of the Panel shall explain to an unrepresented Respondent the sanctions available to the Panel.

- (3) The Respondent may then address the Panel in mitigation as to sanction and may provide details of their financial means if they so choose. The Respondent may call character witnesses and produce references and testimonials in support. If they do not attend the Hearing, the Respondent may provide such information in writing, in advance, to the Professional Conduct Staff, who shall provide that information to the Panel.
- (4) In the event that the Respondent's submissions in mitigation impact on the facts proved, the Panel may in its discretion permit the Presenting Officer to make submissions in response.

### **Sanction**

- (5) After hearing the Respondent, the Panel shall decide, in private, what sanction, if any, they should impose.
- (6) The Panel may impose any one or more of the following sanctions:
  - i. an admonishment;
  - ii. a reprimand;
  - iii. a severe reprimand;
  - iv. a fine (in the case of Members, unlimited), (in the case of Registered Students, limited to £2,000), payable within 30 days;
  - v. conditions imposed on membership of the Institute, or if a Registered Student, that registration be made subject to conditions;
  - vi. cancellation of registration as a member in practice and withdrawal of practising certificate;
  - vii. suspension of membership of the Institute for a period not exceeding two years, subject to the restoration provisions in the Regulations;
  - viii. expulsion from membership of the Institute;
  - ix. if a Registered Student, that registration be cancelled.
- (7) In deciding what sanctions are to be imposed, the Panel shall take into account the seriousness of the Respondent's conduct; the financial sums involved in the wrongdoing; the Respondent's financial means; and the issue of proportionality.
- (8) Where the Panel is of the opinion that a sanction set out in 24(6) v. or vii. should be imposed, they shall impose such sanction only for such

period of time as is fair, reasonable and proportionate, in all the circumstances of the case.

- (9) The Chairman of the Panel shall then announce in public the sanction that is to be imposed and shall give reasons for the decision.

#### **Stage 4 - Consideration of Costs**

- 25 (1) The Panel may decide that the Respondent be required to pay all or part of the costs of the proceedings.

Before deciding whether the Respondent should pay costs and if so, the amount of those costs, the Panel:

- i. shall require the Presenting Officer to present an estimate of the Institute's costs of the Hearing;
- ii. shall consider oral or written submissions from the Respondent or their representative.

The Panel shall announce its decision on whether the Respondent should pay costs.

- (2) If following a hearing, the complaint is not upheld and the Committee decides, whether on the application of the Respondent or otherwise, that the case was brought before it improperly, in bad faith or unreasonably, it may direct that the Institute pay all or part of the reasonable costs incurred by the Respondent under the Regulations.
- (3) The Panel shall normally fix the level of costs to be paid, but may refer this question to a costs draughtsman appointed by the Panel.
- (4) The Panel shall inform the Party which has been required to pay costs of the time limit (30 days after the level of costs has been fixed) in which to pay.
- (5) The Panel shall give reasons for its decisions on the question of costs.

#### **FOLLOWING THE HEARING**

##### **Notification of Decision**

26. (1) The Professional Conduct Staff shall send written notification of the Panel's decision to the Respondent, no later than 14 days after the decision of the Panel.
- (2) The written notification shall set out:
  - i. the Panel's decision;

- ii. the reasons for the decision;
  - iii. give notice of the appeal period (if appropriate);
  - iv. timescales for the Respondent to comply with any conditions on membership imposed by the Panel;
  - v. where a fine and/or costs has been imposed, notice that fines and/or costs should be paid within 30 days and shall be subject to a reasonable rate of interest thereafter; and
  - vi. where a fine and/or costs has been imposed, notice that non-payment after a period of 3 months may render the Respondent liable to further disciplinary action and legal action to recover the debt;
  - vii. where any of the sanctions in Rule 24 (6) (vi), (vii) and (viii) have been imposed on the Respondent, their membership certificate and/or practising certificate will be deemed withdrawn.
- (3) Where applicable the Professional Conduct Staff shall send copies of the written notification to:
- i. the Respondent's legal representative, if any;
  - ii. the Presenting Officer; and
  - iii. the Complainant(s).
- (4) The copy sent to the Complainant shall omit the Respondent's address.

### **Appeals**

27. (1) Within 28 days of receipt of the formal decision letter, the Respondent and/or the Complainant may appeal against
- (i) a decision by the Panel to uphold or not uphold the complaint as applicable; and/or
  - (ii) against the sanction imposed;
- And shall do so in the manner provided for in the Bye-laws and Regulations. The Chairman of the Appeal Committee may extend the 28 day period as provided for in the Regulations.
- (2) Receipt of the decision letter will be deemed to have been effected on the second business day after the letter was dispatched, or if sent via email, within 48 hours of dispatch.

- (3) Pending determination of an appeal, the Professional Conduct Staff shall take no steps to enforce sanctions, unless the Appeal Committee otherwise directs.

#### **Publication and Record of Decision**

28. (1) Unless the Panel has made an order its decision should not be published under Regulation II 31A, where the Panel has made a finding of misconduct and applied a sanction or sanctions, and after the expiry of the period allowed for appeal (or if the decision of the Panel is appealed, the appeal is unsuccessful), details of the Panel's decision shall be published in accordance with the Institute's Regulations.
- (2) Where no finding of misconduct has been made, at the request of the Respondent, the Panel's decision shall be published in the manner set out in Rule 28(1) above.

#### **Application for re-admission to the Institute**

29. Where a Member has been expelled from membership, or a Registered Student's registration has been cancelled by the Disciplinary Committee, the Member or Registered Student shall be entitled to apply to join the Institute again after a time period of 5 years has elapsed since the sanction was issued.

Respondent's Address

Date

Dear .....

### **NOTICE OF HEARING**

We act for The Chartered Institute of Management Accountants (“CIMA or the Institute”) as Presenting Officer in its disciplinary proceedings against you.

The Institute wrote to you on [insert date] advising you that the Investigation Committee has determined that the allegations made against you raise a *prima facie* case and that the matter should be referred to the CIMA Disciplinary Committee.

You are hereby given notice that on [date] a Hearing of the Disciplinary Committee will be held at [Insert the address of the venue] at [time] (the Hearing) when the following allegation(s) against you (the Charge(s)) will be considered:

#### **The Charge(s)**

#### **Attendance at the Hearing**

You are hereby invited to appear before a Panel of the Disciplinary Committee (the **Panel**) at the place and time specified above, for the purpose of answering the above mentioned Charge(s)

Pursuant to the Institute’s Regulations Part II 12, you may be required to pay all, or part, of the costs of the proceedings against you, an estimate of which is enclosed.

#### **Documents enclosed with this letter**

Please find enclosed the following documents:

1. an index of the documents which the Institute will seek to place before the Panel

2. a copy of the Institute's Disciplinary Committee Rules;
3. a draft Statement of Facts;
4. copies of the relevant Charter, Bye-laws and Regulations and Code of Ethics
5. a copy of the documents on which the Institute intends to rely;
6. a copy of the Institute's Indicative Sanctions Guidance; and
7. a schedule of the Institute's estimated costs.

### **Your rights at the Hearing**

At the Hearing, which will take place in public, you may appear in person or be represented by a legal representative. Should you elect to appear in person, you may be accompanied and advised by a non-legal representative who may only address the Panel if the Panel gives them permission to do so.

At the Hearing, you will be entitled to present your case, including by giving evidence in person, providing documents to the Panel, and calling witnesses (including expert witnesses), all subject to the provisions of Rule 10 of the Institute's Disciplinary Committee Rules. You may also, either in person or through your legal representative, question any witnesses called by the Institute and address the Panel on the evidence.

### **Failure to attend**

**The Panel has the power, if you do not appear, to hear and decide upon the above Charge(s) in your absence.**

### **Possible sanctions**

**Whether or not you attend the Hearing, the Panel has the power to impose any of the sanctions set out in Rule 24(6) of the Institute's Disciplinary Committee Rules and explained further in the Institute's Indicative Sanctions Guidance (and Annexe thereto), including cancellation of your registration as a Member in Practice and withdrawal of your Practising Certificate, suspension or expulsion from membership of the Institute] or [that your registration as a Registered Student be cancelled]. It may also award costs against you.**

**Please read the Indicative Sanctions Guidance (2015) and Annexe 1 to the Indicative Sanctions Guidance which sets out further detail regarding the**

**approach to sanctions and the types of factors a panel may consider as aggravating or mitigating.**

### **Circumstances in which an oral hearing may not be held**

Regulations Part II 10 provides that:

*".....The Committee may in particular meet in respect of any complaint referred to it by the Investigation Committee, for the purpose of resolving the matter, with the agreement of the respondent, who admits the relevant facts, without the need for a hearing under these Regulations....."*

Under Regulations Part II 10, if you wish to admit the relevant facts of this complaint as set out in the Charge, the Chairman of the Disciplinary Committee may consider that it would be appropriate for a Panel to meet in private to resolve the complaint against you based only on the papers before them, including your admission of the relevant facts. At such a meeting the Panel may consider whether there has been misconduct on the basis of the admitted facts and whether a sanction should be imposed or order for costs made. You will not have the right to appear in person, but the Panel will invite you to make written representations on these issues in advance of its meeting.

The principal advantage of a hearing on the papers is that some of the costs associated with a full oral hearing may be avoided. However, you will not have the right to appear in person and make oral submissions. The Panel nevertheless has the power to impose any of the sanctions set out in Rule 24(6) of the Institute's Disciplinary Committee Rules and it may also award costs against you.

We strongly advise you to seek legal advice before agreeing to a hearing on the papers.

### **What to do now**

Under Rule 6 of the Disciplinary Committee Rules, within 21 days of deemed service of this letter (i.e. by [insert date]), you or your legal representative **must**:

1. Inform the Presenting Officer of any further documents which you wish to place before the Panel at the Hearing and provide the Presenting Officer with copies of such documents.
2. Inform the Presenting Officer which documents you object to being placed before the Panel. (If you fail to do so it will be assumed that you have no objection to any of the documents being placed before the Panel.)

3. Inform the Presenting Officer of any documents which undermine your case, or assist the case of the Presenting Officer.
4. Inform the Presenting Officer of any documents and witness statements that can be agreed and which witnesses you require to attend the Hearing for purposes of cross examination.
5. Inform the Presenting Officer of the names of any witness(es) you intend to call including yourself, and provide the Presenting Officer with copies of their signed statement(s)
6. Should you intend to call an expert witness to give evidence on your behalf, supply the Presenting Officer with a copy of the expert report and a CV.
7. Advise the Presenting Officer whether you admit the Charge(s) set out in this notice whether in whole or in part.
8. Inform the Presenting Officer whether you agree with the statement of facts whether in whole or in part.
9. Provide the Presenting Officer with details of your financial means to pay any fine or costs. (In the absence of such details from you, the Panel may assume that you have sufficient means.)
10. Inform the Presenting Officer of any applications which you wish to make to the Panel at the Hearing (if any) and give reasons for any such application.

### **Postponement of hearing**

If you wish to make any application that the Hearing should be postponed or seek a pre-hearing review, you should send the application to the Institute as soon as possible, stating the grounds on which you request a postponement (see Rule 4(6), Disciplinary Committee Rules).

### **Who to contact**

Any information, admission or communication should be addressed to the Presenting Officer and copied to the Professional Conduct Staff at the Institute whose contact details are as follows: [            ].

Yours sincerely

**Presenting Officer**

cc: Professional Conduct Staff

Encl. documents referred to in "**Documents enclosed with this letter**" 1 – 5 above