

DISCIPLINARY RULES

1. Definitions

In these Rules:

‘Appeal Committee’ means the Committee of the Council of the Society from time to time constituted as such under Rule 7.1 to hear an appeal against a decision of the ISC;

‘Articles’ means the Articles of Association of the Society for the time being in force and any reference to an Article shall be to the corresponding Article in the Articles;

‘Board’ means the Board of Directors for the time being of the Society;

‘Branch’ and ‘Region’ are STEP geographical entities as defined in the Articles; for the purposes of the Disciplinary Rules a STEP ‘Chapter’ is included in the definition of a Branch;

‘Chairman’ means the Chairman for the time being of the Disciplinary Panel;

‘Complaint’ means either a statement made in accordance with Rule 2.1, or a statement from the Chair of the Professional Standards Committee that a situation regarding a Member’s conduct is unsatisfactory. This could include knowledge that the Member has been declared insolvent or knowledge of any conviction and/or knowledge of the decision of a Court or Tribunal, and/or knowledge of a disciplinary decision of any regulatory professional body in relation to such Member;

‘Council’ means the Council of Management for the time being of the Society;

‘DP’ means the Disciplinary Panel of the Society as from time to time appointed by the Council;

‘Hearing’ means any hearing before the Appeal Committee and any adjourned hearing or matter referred to the Appeal Council and any re-hearing;

‘ISC’ means the Investigation Sub-Committee of the Disciplinary Panel from time to time appointed as such under Rule 5.1;

‘Member’ means a member of the Society and includes past members;

‘Order’ (except in Rule 4) means any order made by the ISC or following an appeal including any finding, term or condition in consequence of or upon which the order is made;

'PSM' means the Professional Standards Manager for the time being of the Society;

'Representative' means any person or persons appointed by a Respondent to represent him or accompanying him at any Hearing;

'Respondent' means a Member of the Society against whom a Complaint has been referred to the Chairman;

'Rules' means the Rules hereby promulgated as from time to time amended by Council and any reference to a Rule shall be to the corresponding number in these Rules;

'Sanction' means any one or more of the sanctions listed in Rule 6.1.

'The Secretary' means the Secretary for the time being of the Society;

'The Society' means the Society of Trust and Estate Practitioners Limited;

In these Rules, where the context admits, the masculine shall include the feminine, the singular the plural and vice versa.

2. The Complaint

2.1 A Complaint or other information may be considered under these Rules if it involves any one or more of the following:

- (a) a lack of competence;
- (b) a conviction of whatever type in the United Kingdom, or an offence elsewhere, or otherwise one which if committed in the United Kingdom would be considered a criminal offence;
- (c) an adverse determination by a regulatory body or a professional body to which the Member may also belong;
- (d) misconduct;
- (e) a bankruptcy order or declaration of insolvency made against the Member;
- (f) entering into a voluntary arrangement with creditors;
- (g) disqualification as a company director or entering into a disqualification undertaking;
- (h) a failure to comply with the Code of Professional Conduct, these Rules or any other regulation or Code of practice of the Society;
- (i) any conduct which is or may be likely to bring the Society into disrepute.

2.2 Any person may make a Complaint. Complaints should be made in writing either by email or by post. Where possible, complainants should complete the STEP

Complaints Form. All Complaints should contain the following information:

- (a) the full name of the Member;
- (b) the Member's company/firm address and jurisdiction in which he works;
- (c) a full summary of the Complaint;
- (d) whether a complaint has been made to another body;
- (e) whether legal proceedings have been instigated;
- (f) the complainant's full contact details;
- (g) a list and/or copies of available evidence supporting the complaint.

2.3 If the Member is a member of a regulatory professional body to which a complaint has been made on the same or similar facts or the substance of any Complaint is the subject of criminal or civil law proceedings, no further action need be taken under these Rules until that complaint or those proceedings have been determined. Upon the determination of such proceedings, the ISC shall be entitled to issue a decision which is based on the same as or similar findings to those made in the course of the other proceedings or complaint without undertaking a full investigation of the documentary evidence.

2.4 Where the Complaint is made by virtue of the Member being declared insolvent by a competent tribunal, the Chairman shall not be required to investigate and may, if he considers it appropriate, recommend that the Respondent be suspended from membership of the Society until the insolvency is discharged and that his name be removed from the register of members for the period of suspension. Any readmission post suspension is subject to the Member meeting the then current requirements of membership of the Society.

3. **Notification of a Complaint**

3.1 Whenever the Society receives notice of a Complaint concerning a Member ('the Respondent') the substance of which, if proven, would establish that there had been a breach of the Code of Professional Conduct, these Rules or of any other regulation or code of practice of the Society and if upon review by the Chairman the case is neither frivolous nor vexatious nor without substance, he shall within 28 days of receiving such notice notify the Respondent in writing of the Complaint against him.

3.2 The notification to the Respondent shall include:

- (a) a summary of the Complaint;
- (b) a copy of any documents and/or evidence received by the Society;
- (c) a request that the Respondent submit a full written response to the Complaint within 28 days of such notification; and
- (d) information of the procedure to be followed in the investigation of the Complaint.

- 3.3 The Respondent should be made aware that his response may be disclosed to the Complainant for comment.

4. Interim Suspension Orders

- 4.1 The Chairman shall have power at his discretion to suspend the Respondent from membership of the Society for a period not exceeding six months from the date of written notice to that effect being sent to the Respondent if:
- (a) he deems it appropriate to do so, taking all the circumstances into account including (but not limited to) the nature of the Complaint; or
 - (b) the Chairman does not receive a response from the Respondent within 28 days of the issue of the notice specified in Rule 3.1; or
 - (c) he considers that the Respondent's response is unsatisfactory.
- 4.2 The Chairman may review or revoke an order made under Rule 4.1 if new evidence becomes available.
- 4.3 The Chairman may extend an Order made under Rule 4.1 for a further six months following a review. Subsequent reviews will take place at six monthly intervals until the investigation is concluded.

5. The Investigation Procedure

- 5.1 The Chairman shall as soon as practical after the receipt of a Complaint and any response from the Member, appoint an Investigation Sub-Committee (ISC). The ISC shall consist of at least three people of whom at least two, including the chairman of the ISC, shall be appointed by the Chairman and one by the Chairman of the Branch of which the Respondent is a member unless the Chairman (in his ultimate discretion) believes that such Member or Branch has a conflict of interest in which case all members of the ISC shall be appointed by the Chairman. If the Respondent is not a member of a Branch all of the members of the ISC, including the chairman shall be appointed by the Chairman.
- 5.2 The ISC shall review all of the information provided to it comprising the Complaint and the Respondent's response (if provided). The ISC may interview witnesses and obtain statements from them provided that the Respondent is given the opportunity to respond to all such statements. It shall be the duty of all Members of the Society, upon request, to provide such further information (if any) as is in their power to give as the ISC may consider necessary to enable it to investigate the Complaint.
- 5.3 With the agreement of the Chairman, the ISC may employ the services of such lawyers, accountants, investigation agents and other professional persons, whether or not they are members of the Society, as it considers necessary for the effective investigation of the case.
- 5.4 Following completion of its investigation, the ISC shall submit a written report to the PSM detailing its findings and recommendations. In determining whether or not a Complaint has been proved, the ISC shall have regard to the Code of Professional Conduct and any other regulation or code of practice, ethical or technical, affecting the Respondent laid down or approved by the Council from

time to time.

5.5 The potential findings are as follows:

- (a) that the Complaint is not upheld;
- (b) that there are valid grounds for the Complaint but that it has been resolved to the satisfaction of all interested parties and a Sanction is not appropriate;
- (c) that there are valid grounds for the Complaint but that it has not been resolved to the satisfaction of all interested parties however a Sanction is not appropriate;
- (d) that there are valid grounds for the Complaint and it has been resolved to the satisfaction of all interested parties however a Sanction is appropriate;
- (e) that there are valid grounds for the Complaint but it has not been resolved to the satisfaction of all interested parties and/or a Sanction is appropriate.

5.6 Where:

- (a) Rule 5.5 (a), (b) or (c) applies, the PSM shall inform the Respondent and all other interested parties whereupon the matter shall be regarded as closed and the ISC shall be dissolved. Any suspension previously imposed on the Respondent shall immediately be revoked.
- (b) Rule 5.5 (d) or (e) applies, the PSM shall inform the Respondent and all other interested parties of the findings and the Sanction. The ISC shall administer the appropriate Sanction subject to the Respondent having the right of appeal in accordance with Rule 7.

5.7 Decisions of the ISC shall be made by a majority.

5.8 The ISC may review its decision if new information becomes available within 28 days of the original decision having been made which would have enabled the committee to have reached a different conclusion.

6. Sanctions

6.1 If the ISC is of the opinion that the Complaint has been established, wholly or in part, it shall make a finding to that effect. In that event it may make any one or more of the following orders against the Respondent having regard to its views as to the nature and seriousness of the Complaint and any other circumstances which the ISC considers relevant:

- (a) that the Respondent be reprimanded;
- (b) that the Respondent be suspended from membership for a specified period of time decided by the ISC;
- (c) that the Respondent be suspended from membership until he undertakes such requirements or conditions of membership as are set by the chairman of the ISC (e.g. Continuing Professional Development);

- (d) that the Respondent be excluded from membership, and that his name be removed from the register of members;
 - (e) that the Respondent be fined a sum not exceeding £10,000 (or the equivalent).
- 6.2 Any order made under Rule 6.1 may be made upon such terms and conditions (if any) as the ISC may consider appropriate including, in the case of an order for suspension, a recommendation that no application for re-admission shall be entertained for such period as the ISC, shall by its order, stipulate.
- 6.3 An Order of the ISC shall take effect from the date of the Order. With approval from the Chairman, the PSM shall serve notice of the Order on the Respondent as soon as practicable and, unless appealed against, the Board. In any case where the ISC has either made no Order on the Complaint or has ordered that the name of the Respondent shall not be published the name of the Respondent shall not be included in the notice given to the Board.

7. The Appeal Committee

- 7.1 The Board shall from time to time appoint an Appeal Committee. The Appeal Committee shall consist of at least one person who is not a member of the Society and not less than two members or former members of the Council or the DP. The Chairman of the Appeal Committee shall be appointed by the Board or its appointed nominee.
- 7.2 No member or former member of the ISC who has been concerned with the formal Complaint which is the subject of the appeal shall be eligible for appointment to the Appeal Committee.
- 7.3 The Respondent may, within 28 days of service upon him of the Order of the ISC, give notice of appeal in accordance with these Rules. In exceptional circumstances the ISC may on the application of the Respondent (with adequate reasons) extend the 28 day period.
- 7.4 Any appeal shall be in writing addressed to the PSM and shall state in detail the grounds of appeal. The grounds so stated shall not thereafter be amended except with the permission of the Appeal Committee.
- 7.5 If for any reason any member of the Appeal Committee appointed to hear an appeal (other than the Chairman) is unable to attend the Hearing, or if during the course of the Hearing any member of such Appeal Committee (other than the Chairman) is unable to continue to attend such Hearing, the remaining members of the Appeal Committee may at their discretion proceed or continue with the hearing of the appeal.
- 7.6 If any of the events in Rule 7.5 apply or if at any time during the course of a Hearing the Chairman of the Appeal Committee is of the opinion that it is for any reason inappropriate for it to complete the Hearing or a determination cannot be reached by a majority of the Appeal Committee, he shall call another Hearing and may direct that the appeal be heard by a new Appeal Committee.
- 7.7 Whenever an appeal is re-heard pursuant to Rule 7.6, all or any one or more of the members of the original Appeal Committee shall be eligible to re-hear the appeal.

- 7.8 As soon as practicable after receiving a notice of appeal the PSM shall notify the Respondent in writing of the date, time and place fixed for the Hearing and such notice to be given at least 28 days before such Hearing.
- 7.9 The Appeal Committee shall give the Respondent the opportunity of being heard before it and shall, if the Respondent so desires, permit the Respondent to be represented before it by a Representative. The Respondent may elect to have the appeal dealt with based on the documents without need of an oral hearing.
- 7.10 If a party does not attend the Hearing then, provided that the Appeal Committee is satisfied that notice of that Hearing was served on that party, the Appeal Committee may proceed to hear the appeal in that party's absence.
- 7.11 If the Appeal Committee proceeds with the hearing in the absence of a party, then that party may, by notice in writing served on the PSM within 28 days after service of the Order upon it, apply to the Appeal Committee for the Hearing to be re-heard. The application shall be considered by the Appeal Committee which conducted the Hearing, which may in its absolute discretion grant or refuse the application. In considering any such application the Appeal Committee shall take into account the reasons advanced by the party for his being absent from the Hearing, and may in its absolute discretion give that party an opportunity of being heard before it. If the Appeal Committee grants the application, the Hearing shall be re-heard by the same Appeal Committee and the provisions of these Rules shall apply to such re-hearing as if it were the original hearing.
- 7.12 The DP may if it wishes appoint on behalf of the Society its Chairman, the Secretary or any employee or member of the Society to appear in any appeal, or may instruct a solicitor or brief counsel to appear or instruct a suitably qualified employee of the Society.
- 7.13 The Appeal Committee may instruct a solicitor to act, or to brief Counsel to act, as legal adviser to the Appeal Committee, or as an assessor to sit with the Appeal Committee and assist in its deliberations.
- 7.14 On any appeal the Appeal Committee shall take into consideration the record of the evidence given before and the documents produced to the ISC on its hearing of the formal Complaint, but may in its absolute discretion re-hear any witness called before the ISC and may (as to which the Appeal Committee shall be the sole judge) receive fresh evidence.
- 7.15 On any appeal the Appeal Committee may affirm, vary or rescind any order of the ISC made under Rule 6 and may substitute any other order or orders (on such terms and conditions, if any, as it thinks appropriate) which the ISC might have made under Rule 6 on the original formal Complaint (including in the case of an order for suspension from membership a recommendation that no application for re-admission shall be considered for such period as the Appeal Committee in its order shall stipulate) or may, if the Appeal Committee considers it appropriate, order that the Complaint be heard afresh by a different ISC.
- 7.16 Any order of the Appeal Committee shall take effect as from the date thereof unless the Appeal Committee, in its absolute discretion, directs that it shall take effect from some other date (not being earlier than the date of the Order appealed against). Where the Order appealed against is one made by the ISC to suspend the Respondent from membership and that his name be removed from the register of members and the Appeal Committee rejects such appeal, the

name of the Respondent shall on such date be removed from the register of members.

- 7.17 Notice of any Order of the Appeal Committee shall as soon as practicable be served on the Respondent and given to the Board, save that in any case where the Appeal Committee has either rescinded the Order and not substituted any other order or has ordered that the name of the Respondent shall not be published the name of the Respondent shall not be included in the notice given to the Board.
- 7.18 On any appeal the Appeal Committee may affirm, vary or rescind any order for costs as may have been made pursuant to Rule 9.1 and may substitute such other order as it shall think fit for the payment of costs.
- 7.19 The decision of the Appeal Committee shall be final and there shall be no further consideration of the matter unless the Chairman agrees to re-open the investigation following the Respondent or the Complainant producing new evidence which was not available at the time of the original investigation. Unless such a further decision is made, the decision of the Appeal Committee shall remain in effect and the re-opening of the investigation shall not affect the Society's ability to pursue any Sanctions made.
- 7.20 An appeal can be made on one or more of the following grounds:
- (a) procedural irregularity including significant administrative errors;
 - (b) evidence of bias or prejudice on the part of the ISC;
 - (c) a failure of the ISC to take account of all the available factual information or a decision based on misinformation or misunderstanding of the facts.
- 7.21 No appeal shall be made purely because either party to a Complaint does not accept the decision reached by the ISC.

8. Fines

- 8.1 A fine ordered by the ISC shall, unless some other later date is determined in the Order of the ISC, be payable within 28 days of the service of such Order on the Respondent, save that if notice of appeal is given such fine shall not be payable until the determination of the appeal and then shall be subject to any Order made by the Appeal Committee.
- 8.2 Unless otherwise directed a fine ordered by the Appeal Committee or a fine which, having been ordered by the ISC, is affirmed or varied as to the amount thereof by the Appeal Committee, shall be payable within 28 days of the date of the order of the Appeal Committee.
- 8.3 A Respondent who does not pay fine(s) ordered by the ISC or the Appeal Committee by the date the fine(s) is/are due shall be suspended from Membership. His membership shall not be reinstated until all outstanding fines have been paid.

9. Costs

- 9.1 Any Order made under these Rules, may direct that the Respondent pay to the Society all or part of the costs incurred by the Society in dealing with the

Complaint made in respect of the Respondent, including, in particular, any legal fees, shorthand writer's fees, accommodation costs or other disbursements incurred by the Society in connection with the final resolution of the Complaint.

- 9.2 Any such costs shall be paid within 28 days of the service of the Order upon the Respondent save that, subject to Rule 9.4, if notice of appeal is given such costs shall not be payable until the determination of the appeal and should then be subject to any contrary Order made by the Appeal Committee.
- 9.3 No appeal shall lie solely on the question of costs.
- 9.4 The Appeal Committee may in its Order affirm, vary or rescind any order for costs as may have been made pursuant to Rules 9.1 and 9.2. It may also, in addition to any order made by it under Rule 6.1, direct that the party making the appeal pay to the Society the costs of the appeal.
- 9.5 Any costs ordered by the Appeal Committee under Rule 9.4, together with any costs due under Rules 9.1 and 9.2, varied, if such be the case, by the Appeal Committee, shall be paid to the Society within 28 days of the service of the Order of the Appeal Committee upon the party due to make payment of the Costs, unless otherwise arranged with the Society.
- 9.6 A Respondent who does not pay costs ordered by the ISC or the Appeal Committee by the date the costs are due shall be suspended from membership. His Membership shall not be reinstated until all outstanding costs have been paid.
- 9.7 All sums due whether as fines or costs shall be a debt due and payable to the Society and shall bear interest calculated at the base rate of the Society's bankers from time to time plus 2 per cent.
- 9.8 A Respondent cannot claim for costs.

10. Publication of Findings and Orders

- 10.1 Whenever the ISC makes an Order under Rule 6.1 it shall, subject to Rule 10.4, cause its Order to be published as soon as practicable in such manner as it thinks fit, provided that if the ISC has ordered that no further action be taken on the Complaint the Order shall not be published unless the Respondent so requests.
- 10.2 The Appeal Committee shall likewise cause any Order made subsequent to a Hearing by it, to be published as soon as practicable in such manner as it thinks fit, provided that if the Appeal Committee has ordered that no further action be taken on the Complaint or the decision by the ISC be reversed, the Order shall not be published unless the Respondent so requests.
- 10.3 Unless the ISC or, as the case may be, the Appeal Committee, in its absolute discretion otherwise directs, any such publications shall state the name of the Respondent and the Order or Orders made against the Respondent, but need not include the name of any other person concerned in the Complaint or appeal.
- 10.4 No publication under Rule 10.1 shall be made until after the expiry of the 28 day appeal period referred to in Rule 7.3. If notice of appeal under that Rule is received by the PSM then, unless the appeal is abandoned, no publication under Rule 10.1 shall take place until publication shall be made under Rule 10.2.

11. Regional Panels and procedures

- 11.1 Subject to the approval of the Board, the DP may establish a regional or jurisdictional disciplinary panel (RJDP) for a Region and delegate to it the power to implement and administer these Disciplinary Rules and processes for Complaints where a Respondent practices in that Region or jurisdiction or when the DP finds it otherwise appropriate to refer a case to a RJDP.
- 11.2 The RJDP shall, in its Region or jurisdiction, in all instances have the same powers and authority as the DP.
- 11.3 Where an RJDP does not exist and the DP feels that its creation would be inappropriate, the DP shall have the power to co-opt members with appropriate jurisdictional expertise on a Complaint-by-Complaint basis.

12. General

- 12.1 Service where required under these Rules may be effected by registered or recorded delivery letter addressed to the addressee at his place of business or abode last known by or reported to the Society. Such service shall be deemed to have been effected on the second business day after such letter was posted if it was posted to an address in the United Kingdom, the Isle of Man or the Channel Islands, or on the fifth business day after such letter was posted in all other cases. Service may alternatively be effected by facsimile or electronic mail, in which case service shall be deemed to have been effected on the business day following such transmission subject to there being no rejection of the facsimile or electronic mail by the recipient's address.
- 12.2 Unless otherwise directed by the Chairman, the Investigation hearing of each Complaint and appeal shall be conducted in private.
- 12.3 The ISC and the Appeal Committee shall each have the power to make such regulations (not being inconsistent with the express provisions of these Rules) as may be considered by them necessary for the performance of their respective functions hereunder.
- 12.4 No person shall at the same time be a member of both the ISC and the Appeal Committee hearing the same Complaint.
- 12.5 The Board shall have the power to pay the reasonable expenses and such remuneration as it thinks fit of all members of any ISC and Appeal Committee, whether or not they are members of the Society.
- 12.6 For the avoidance of doubt, provided that the circumstances of a Complaint relate to a point in time when the Respondent was a Member of the Society, then irrespective of any subsequent resignation of membership by the Member, the Chairman, and or the ISC (as appropriate) may:
- (a) investigate a Complaint, or continue to investigate and prosecute a Complaint in which the Respondent may make and pursue an Appeal; whereupon
 - (b) these Rules shall continue to apply to such Complaint, and the Respondent in respect of such Complaint until its determination.