



Institute of Actuaries of Australia

THE INSTITUTE OF ACTUARIES OF AUSTRALIA
A.C.N. 000 423 656

HANDBOOK TO DISCIPLINARY ACTION

APPLICATION

All members.

AUTHORITY

Article 62

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1. INTRODUCTION

- 1.1 In the public interest, most professional associations have the power to control the standards of their members' professional conduct. The Institute's Articles of Association make explicit its power over its membership in this regard. To the extent that there is any inconsistency between the provisions of this Handbook and the Articles, the latter shall prevail.
- 1.2 The requirements relating to disciplinary proceedings, taken as a whole, are intended to ensure fair treatment in relation to the interests of the Institute and the member against whom a complaint, allegation or representation has been made in accordance with Article 65. In this Handbook, the expression "the respondent" is used to refer to such a member. "The complainant" means the person who has lodged the complaint, allegation or representation and "complaint" refers to such complaint, allegation or representation.

- 1.3 This Handbook is a step by step guide to suggested procedures for use in the Institute's disciplinary process. However, it is a guide only, and does not override or replace the wording of the Articles on the issue of professional discipline.

2. AN OVERVIEW

- 2.1 The Institute's disciplinary procedures are under the control of a Professional Conduct Committee (PCC) and a Professional Conduct Tribunal, constituted as described in Section 3. Complaints against members are made to the Convenor of the PCC, who appoints investigating subcommittees as required. The subcommittee determines, after investigation and consultation with the respondent, whether or not disciplinary action is warranted and, if necessary, reports the complaint, with its findings, to the Tribunal. The Tribunal first decides whether or not a prima facie case of breach has been made out and then if required, conducts a formal hearing.
- 2.2 There are four types of disciplinary action that may be administered, namely - a warning, a reprimand, suspension and expulsion.
- 2.3 The lowest level of disciplinary action, a warning, may be administered by the investigating subcommittee of the PCC, subject to a right of appeal to the Tribunal. A warning may be administered by the Tribunal without reference to Council and with no provision for an appeal. The next most serious disciplinary actions, reprimand and suspension, are subject to appeal to Council. The ultimate disciplinary action, expulsion, requires confirmation by Council.
- 2.4 As an alternative to the action referred to in para 2.3, the investigating subcommittee may elect, in cases where it believes the conduct does not constitute unprofessional conduct but warrants the expression of some concern, to send a "letter of concern" to the respondent, but only after the respondent has been given an opportunity to make representations to the subcommittee as to why such a letter should not be sent.

2.5 There are five separate steps in relation to disciplinary proceedings. These steps are:

- (1) lodging a complaint;
- (2) investigation;
- (3) the hearing process;
- (4) the decision;
- (5) the referral or appeal process;

2.6 The complaint lodgement phase is discussed in detail in Section 4 of this Handbook. The second phase, the investigation stage, is a matter of gathering information and assessment of the complaint in order to decide whether or not unprofessional conduct has occurred. This phase is dealt with in Section 6. The hearing phase is covered in Section 7. It can loosely be compared to trial where questions of fact and the applicability of the Institute's governing principles and standards are at issue and to be determined. The hearing decision must be made formally. If the decision calls for reprimand or suspension it may be appealed against to Council and if expulsion the decision must be confirmed by Council. Relevant proceedings of Council are referred to in Section 11 of this Handbook.

3. CONSTITUTION OF THE PROFESSIONAL CONDUCT COMMITTEE AND THE TRIBUNAL

The Professional Conduct Committee

3.1 The PCC comprises seven voting members of the Institute, who must not be members of Council. Its members are appointed by Council, and the membership of the Committee is reviewed annually by Council, as in the case of other Institute committees. It is envisaged that the membership of the PCC will not, however, change frequently, as continuity and consistency of approach in professional disciplinary matters are seen as very important.

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- 3.2 Notwithstanding the above, any member of the PCC may retire by submitting appropriate notice in writing to the Secretary of the Institute. Council should appoint a replacement without delay.
 - 3.3 The Convener of the PCC is appointed by Council from the members of the Committee, and remains in office until he or she either resigns from it or is replaced by Council.
 - 3.4 Members of the PCC should be chosen from members who are able to bring maturity, detachment and a variety of experience to their task. Normally, it would be expected that members of the PCC would have been members of the Institute for at least ten years.

The Professional Conduct Tribunal

- 3.5 The Tribunal is constituted similarly to the PCC, but comprises five voting members of the Institute, who must neither be members of Council nor members of the PCC. The Chairman of the Tribunal is appointed in the same way as the Convener of the PCC, and similar arrangements apply to his or her replacement.

4. LODGING A COMPLAINT

- 4.1 A complaint against an Institute member may be made by another Institute member, a client, a governmental agency, an Institute committee, the Institute's Council or any other person or body. A subcommittee of the PCC when investigating a complaint may itself refer conduct or questions relating to the conduct of the respondent not specifically covered by the complaint to the Convener of the PCC. The Convener should then decide whether to refer such conduct to a separate investigating subcommittee or include it under the terms of reference of the existing subcommittee.
- 4.2 Though no particular form is required, complaints should be good faith allegations of facts which, if true, would indicate that the member is or may be guilty of actionable conduct (see Section 5).

- 4.3 The complaint should be directed to the Convener of the Professional Conduct Committee. If the complaint is lodged with any other officer of the Institute, or another Committee, it should be forwarded to the Convener of the PCC, paying due regard to the confidentiality requirements of the Articles (see Section 14 of this Handbook).
- 4.4 Obviously, the simple fact that a complaint has been made should not carry with it any implication of guilt. Statements by the complainant or others suggesting that a member's conduct is being investigated by the PCC breach the confidentiality requirements of the Articles, except in the special circumstances referred to in paras 14.2(1), (3), (4) and (5) of this Handbook.

5. ACTIONABLE CONDUCT

- 5.1 "Actionable conduct" is defined in Article 63 as "unprofessional conduct or conduct likely to bring discredit upon the Institute or the profession of actuary". Actionable conduct is not constrained within any legal definition of wrong-doing. Examples of actionable conduct include, but are not limited to:
- (1) conviction of any criminal offence which evidences a fraud, dishonesty or breach of trust;
 - (2) knowingly lodging or submitting false or unlawfully altered documents, affidavits, financial statements or other papers, whether to Government authorities or otherwise;
 - (3) knowingly making or making use of false or misleading representations or statements on professional matters or in the course of professional work, or knowingly failing to disclose material information required to render such representations or statements not misleading;
 - (4) unethical professional conduct, for example, maliciously injuring the professional reputation of another actuary;

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- (5) acting fraudulently or dishonestly in the course or conduct of professional work;
 - (6) acting with gross irresponsibility or gross negligence in the conduct of professional work.

Unprofessional work product

- 5.2 A further broad category of actionable conduct may be referred to as "unprofessional work product". Such conduct would comprise serious or repeated violations of or departures from provisions of the Code of Professional Conduct dealing with actuarial work and reports, or of the Institute's Professional Standards, or other generally accepted actuarial principles, standards or practice.
- 5.3 The Institute has adopted several Professional Standards, in addition to the Code of Professional Conduct. However it should not be thought that actuarial work can only be "unprofessional" if it breaches a provision of one of these written statements. Plainly there are, and will always be, notwithstanding the production of further Professional Standards, many aspects of actuarial work which are not covered by written statements.
- 5.4 Where the case in question does not involve departure from a written statement of the Institute, the onus is placed upon the PCC, the Tribunal and/or the Council (as the case may be) to decide for itself whether or not a "principle, standard, or practice" exists and has been broken. As the disciplinary bodies are themselves composed of members representative of the profession, their views on this question may be sufficient. Alternatively, or in addition, they may be entitled to rely upon authoritative writings, such as text books and papers, whether presented to the Institute or to other actuarial bodies, to demonstrate that the "principle, standard or practice" exists. The disciplinary bodies may need to call for information from recognised authorities, within the profession or outside it, in some cases.

- 5.5 It should be borne in mind that, in some areas, absolute standards do not, and cannot, exist. Furthermore, standards of good practice can vary over time. However vague the concept, a judgement must be made whether or not the work was such as to "bring discredit upon the Institute or the profession of actuary".

Legal opinions

- 5.6 While the seeking of advice on various aspects of complaints, investigations and hearings from the Institute's solicitors will be necessary from time to time, those participating in the Institute's disciplinary processes are duty-bound to make their own determination as to what constitutes actionable conduct. Good conduct on the part of actuaries is a question essentially to be determined according to the standards, practices and ethics of their peers of good repute and competence in the profession.

6. INVESTIGATION

- 6.1 Whenever a disciplinary complaint is brought to the attention of the Convener of the Professional Conduct Committee, the Convener has discretion to decide not to proceed with the complaint. The Convener would do so where he or she thought the complaint was frivolous or obviously groundless.
- 6.2 Situations could arise in which the Convener recognised that he or she had a conflict of interest. In such a case, the complaint should be referred to the other members of the PCC to make the decision referred to in the previous paragraph, and the Convener should refrain from participating further in the case.
- 6.3 For those complaints that are not rejected under para 6.1, the Convener should appoint an investigating subcommittee and refer the complaint to it. The Convener should nominate one of the members of the subcommittee to act as its chairman.

6.4 The subcommittee should normally comprise three members of the PCC. However, in exceptional circumstances the subcommittee may comprise only two members of the PCC plus a third member (a voting member of the Institute who must not be a member of the Tribunal or of the Council) who is not a member of the PCC. Examples of such circumstances might be:

- (1) the conduct complained of occurred in an area of professional work where few members of the PCC had expertise;
- (2) the respondent lived in an area remote from the places of residence of the members of the PCC;
- (3) several members of the PCC had a conflict of interest.

In the event that a non-member of the PCC had to be appointed to join an investigating subcommittee, such appointment would be made by the Convener of the PCC, and approved by the President of the Institute.

6.5 The subcommittee, as appropriate, may take any of the following steps:

- (1) Communicate discreetly with the respondent.
- (2) Communicate discreetly with the complainant.
- (3) Communicate discreetly with anyone else familiar with the facts.
- (4) Gather and examine all the evidence, including the records of any prior investigation and proceedings against the respondent, relevant to the complaint (see para 6.12). The subcommittee should obtain and consider evidence both for and against the substance of the complaint. It is entitled to take into account any delay by the complainant in lodging the complaint and

the reasons for the delay. In some situations it may be helpful to bring the respondent and the complainant together, particularly if they are both members of the Institute.

- (5) If necessary, seek expert opinions within the Institute as to the professional aspects of the case.
- (6) If necessary, seek legal opinion on the method of proceeding and on other legal issues in general.
- (7) Vote on a course of action.

6.6 The investigating subcommittee has the following courses of action open to it, on the conclusion of an investigation:

- (1) Determine not to pursue the complaint - on grounds such as that a prima facie case has not been made, or that the "offence" is trivial.
- (2) Decide that a letter of concern (see para 6.8) should be sent to the respondent.
- (3) If the investigating subcommittee believes that a case has been made that the respondent has been guilty of actionable conduct, then the subcommittee should decide either:
 - (a) that a letter of warning (see para. 8.1) should be sent to the respondent, or
 - (b) that a report should be made to the Tribunal.

All courses of action other than (1) require a majority of the subcommittee to vote in favour of the action. In the absence of a simple majority vote for any of these alternatives, the subcommittee is deemed to have determined not to pursue the complaint.

6.7 The Convener of the PCC should then issue the appropriate letter or letters, and/or lodge a report from the subcommittee with the Chairman of the Tribunal, as the case may require.

The chairman of the subcommittee should fulfil these functions, in the event that the Convener was unable to do so.

- 6.8 A letter of concern, in terms of para 6.6(2), would be written in such terms as "while your conduct in the opinion of the subcommittee did not constitute actionable conduct, the subcommittee is concerned that you should be aware of your responsibilities under the Institute's Code of Professional Conduct (or, aware of the conduct expected of a member of the Institute) and that you may lay yourself open to a charge of actionable conduct if such conduct is repeated". A letter of concern should be written only if the respondent has:
- (1) been informed by the subcommittee that it is considering writing such a letter, and
 - (2) been given the opportunity to make representations to the subcommittee why such a letter should not be written.
- 6.9 A respondent may appeal against a letter of warning issued by the investigating subcommittee by requiring that the complaint and the subcommittee's action be referred to the Tribunal for review at a hearing. In that event the subcommittee should submit a report to the Chairman of the Tribunal and the provisions of para 6.10 and Section 7 of this Handbook in that regard will then apply.
- 6.10 A report to the Tribunal under para 6.6(3) should be supported by reasons and, where appropriate, should refer to the Institute's Code of Professional Conduct or Professional Standards, or to other generally accepted actuarial principles, standards or practice.
- 6.11 The duties of the investigating subcommittee of the PCC are to be distinguished from those of the Tribunal. The following observations are relevant with regard to the investigating subcommittee:
- (1) The "natural justice" provisions referred to in para 7.6 apply generally at the hearing stage, but not at the investigation stage.

- (2) Though every effort should be made to appoint an impartial investigating subcommittee, there is no requirement that the members of the subcommittee (or of the Tribunal) receive the approval of the respondent or the complainant. Of course, members of the subcommittee (or of the Tribunal) who could be considered to have a relevant conflict of interest should avoid participation in any of the proceedings.
- (3) The investigating subcommittee should invite and receive submissions or evidence from the respondent and complainant.
- (4) The investigating subcommittee is not required to meet in person or to give notice (other than to its own members) if it does meet. The subcommittee is free to do its work in any manner it deems appropriate.

Relevant prior investigations

6.12 In forming their conclusions in any particular case, the PCC (and, subsequently, the Tribunal and the Council) are entitled to take into account any prior disciplinary action against the respondent which in their view constitutes evidence of repeated violations of or departures from the Institute's Code of Professional Conduct, Standards and so on. In the first instance, using such information as is available to it, the PCC must form a judgement on what prior matters are relevant to its investigation. The disciplinary records of the Institute must be maintained in such a way that the PCC:

- (1) is able to identify prior relevant matters, and
- (2) can then obtain information about them.

7. REFERRAL TO THE TRIBUNAL

Composition of Tribunal

- 7.1 All members of the Tribunal should take part in the proceedings except:
- (1) any members who are precluded from taking part because of bias or conflict of interest considerations, and
 - (2) any members unable to take part for other reasons (such as unavoidable absence).

If the Chairman of the Tribunal is unable to take part, the President of the Institute should appoint another member of the Tribunal to act as its Chairman for those proceedings.

- 7.2 For the Tribunal to be able to proceed in any matter, three members of the Tribunal must be able to take part. For this purpose, the Chairman of the Tribunal, with the agreement of the President of the Institute, may co-opt additional voting members of the Institute (who must not be members of the Council, the PCC or the investigating subcommittee) to be members of the Tribunal.

Prima facie case

- 7.3 In the event that an investigating subcommittee of the PCC makes a report to the Tribunal, the Tribunal should consider the report (without requiring the respondent to answer) and in the first instance, it should, by majority vote, decide either:
- (1) that no prima facie case of unprofessional conduct has been made out, or
 - (2) that a hearing should be held.

In the event of (1), the complaint is dismissed and the Tribunal should report its reasons for such dismissal to the PCC. A copy of this report should be sent to the respondent.

Notice of hearing

- 7.4 Having voted to proceed to a hearing, the Tribunal should draft and issue a notice of hearing. The wording of the notice of hearing should be approved by the Institute's solicitors. Signed by the Chairman of the Tribunal, the notice should clearly state the date, time and place of the hearing as well as the nature and particulars of the complaint against the respondent. The time period required in the Articles as to notice (28 days before the date of the hearing) must be observed unless a shorter notice period is agreed to by the respondent and the Convener. The notice itself should be sent by security post to the respondent.

Format of hearing

- 7.5 The respondent may elect to be represented at the hearing by a lawyer, or by another member, and should give the Chairman of the Tribunal notice of such representation at least seven days prior to the commencement of the hearing.

The Chairman may decide that a lawyer should be appointed to advise the Tribunal during the hearing phase.

- 7.6 If, after the notice of hearing has been issued, the matter is not resolved through a voluntary resolution (see Section 10 of this Handbook), the case proceeds to hearing. The Tribunal may lay down such procedures for the conduct of the hearing as it thinks fit. The key elements of "natural justice" to be observed are:

- (1) that the respondent is given adequate notice of the complaint and opportunity to state his or her case, and
- (2) that the Tribunal is unbiased and acts in good faith.

Specifically, the respondent has the right to:

- (a) receive notice, including an adequate statement of the issues and allegations involved in the complaint;

- (b) present evidence (both testimonial and documentary) and argument both as to the allegations involved in the complaint and the disciplinary action or penalty;
- (c) rebut adverse evidence through argument and other appropriate means;
- (d) appear with a lawyer or other member of the Institute (at the respondent's expense).

Decision

7.7 The Tribunal should decide (not necessarily on the day of the hearing) whether actionable conduct has occurred and, if so, whether to:

- (1) warn the respondent (or, confirm the investigating subcommittee's warning), or
- (2) reprimand the respondent, or
- (3) suspend the membership of the respondent for a specified period, or
- (4) recommend to Council that the respondent be expelled as a member of the Institute.

If such affirmative vote is not obtained, the Tribunal should dismiss the complaint or decide to send a letter of concern to the respondent.

7.8 Decisions under para 7.7 to reprimand, suspend or recommend expulsion of the respondent require at least 75% of the members of the Tribunal which heard the case to vote in favour of the particular action. A vote of more than 50% of the members is sufficient for a letter of warning or a letter of concern. If none of these actions can be taken, because the required majority cannot be obtained, the complaint must be dismissed.

8. DISCIPLINARY ACTION

8.1 The Articles of Association provide for four levels of disciplinary action: warning, reprimand, suspension or expulsion. These terms may be amplified as follows:

- (1) Warning: "You have committed actionable conduct, but you didn't realise it was wrong; you should now realise it; don't do it again."
- (2) Reprimand: "You have committed actionable conduct, and you knew full well (or you should have realised) it was wrong; continued violation will be very serious indeed."
- (3) Suspension: "Your violation of the rules of professional conduct is serious enough to call for public punishment; thus your membership is suspended for (a specified period)."
- (4) Expulsion: "Your violation is so serious as to judge you not fit to be a member of the Institute."

8.2 In assessing the appropriate disciplinary action, the Tribunal should primarily have regard to the nature and seriousness of the conduct. It should not be unduly influenced by factors such as:

- (1) the respondent has offered to resign or is about to retire;
- (2) the respondent's practice is generally limited and the error occurred in relation to a field in which the respondent did not normally practise.

9. DECISION

9.1 In all cases, after the hearing is completed, the Tribunal should record a formal decision on the matter in writing. The decision should:

- (1) summarise the nature of the complaint;
- (2) make specific findings of fact, if controverted, or summarise if not contested;
- (3) state the applicable principles or standards of conduct;
- (4) draw conclusions;
- (5) record the appropriate action.

9.2 Copies of the formal decision should be sent to the President of the Institute, the Convener of the PCC and the respondent [see para 14.1(3)]. At the discretion of the President, a copy may also be sent to the complainant.

10. MISCELLANEOUS HEARING CONSIDERATIONS

Voluntary resolutions

- 10.1 For best results, the disciplinary process must be viewed in a flexible manner. No two cases are identical, and different results in different cases are both desirable and inevitable. The goal of a disciplinary process is to screen out frivolous cases, check inappropriate behaviour, encourage future conformity and penalise members who have committed serious violations.
- 10.2 A voluntary resolution, simply put, is a negotiated resolution by consent of both sides (i.e. the respondent and the Tribunal) to a disciplinary proceeding. It is available at all post-investigative stages in the proceedings up until a final decision is entered by the Tribunal. The Tribunal should consider and, when appropriate, make use of voluntary resolution. Any voluntary resolution should be formalised in a written document.

Evidence and procedure at the hearing

- 10.3 The formal rules of evidence and procedure of the judicial system are not applicable to Institute disciplinary hearings. Instead, a relaxed set of rules applies. For example, hearsay evidence is admissible, although its hearsay character may be considered in the weight to be given to that evidence. Evidence which is not related to the matters under consideration (other than evidence concerning any prior investigation or proceedings against the respondent which has been considered to be relevant by the investigating subcommittee) should not be admitted.
- 10.4 Technical objections of a legal nature should not be permitted to dismay or confuse the Tribunal. The objections should be noted but generally all evidence related to the issues should be admitted.
- 10.5 A suitable method of presenting a case is to appoint a member of the investigating subcommittee to serve as the subcommittee's spokesman and/or lead witness at the hearing. That member should outline the evidence against the respondent and the respondent (or the respondent's representative) should then reply. This should be followed by evidence from witnesses and submissions by both parties.

11. INVOLVEMENT OF COUNCIL

Reprimand and suspension

- 11.1 The Articles provide that when the Tribunal, after hearing, decides that the respondent should be reprimanded or suspended from membership for a specified period, the respondent may appeal to Council against the decision.
- 11.2 In the event of a notice of appeal being received by the Institute's Secretary within the period laid down in the Articles (21 days after the dispatch of a letter to the respondent notifying the Tribunal's decision), a date, place and time of a special Council meeting to consider the matter should be promptly determined, as well as procedures for the hearing of the appeal.

- 11.3 The respondent should be notified of the details of the meeting as well as advised of his or her right to make a written submission and appear personally or by representative before the Council to argue against the suspension. The Tribunal should also be represented at the meeting.
- 11.4 Council's function is to:
- (1) review the evidentiary material and written submissions presented before the Tribunal;
 - (2) determine whether the Tribunal's findings are clearly established, and
 - (3) determine whether the action ordered by the Tribunal is the proper one in all the circumstances.
- 11.5 The Council is empowered to determine, after presentation of argument, to:
- (1) uphold the Tribunal's decision;
 - (2) impose lesser disciplinary action;
 - (3) refer the matter back to the Tribunal for a re-hearing, or
 - (4) dismiss the complaint.
- 11.6 Decisions under para 11.5 to reprimand or suspend the respondent require at least 75% of the members of the Council which heard the case to vote in favour of the particular action. A vote of more than 50% of the members is sufficient for a letter of warning or to refer the matter back to the Tribunal. If none of these actions can be taken, because the required majority cannot be obtained, the complaint must be dismissed.
- 11.7 The quorum for a special meeting of Council for this purpose is nine members present in person.

Expulsion

- 11.8 In the event that the Tribunal, after hearing, recommends expulsion of the respondent as a member of the Institute, the procedures set out above in paras 11.2 to 11.6 should be followed with such changes as are necessary and subject to the relevant provisions of the Articles of Association.

12. NOTIFICATION

- 12.1 As stated in the Articles, the requirement for notification is met by posting a letter to the person at his or her last known address. However it is recommended that personal delivery or security post should be used for formal notices in disciplinary matters, such as those referred to in paras 7.4 and 11.3, and for communications with the respondent when his or her conduct is under investigation.

13. TIMING

- 13.1 While it is important that all steps in the disciplinary process should be taken with care and, if necessary, after receiving appropriate legal advice, the proceedings should also be conducted as expeditiously as possible. The respondent has a right to expect that the complaint should be dealt with in a reasonable time and in normal circumstances the investigation phase should not take longer than three months. Members of the investigating subcommittees and the Tribunal should be chosen after considering their ability to devote the necessary time to their tasks as well as any conflict of interest factors.
- 13.2 The investigating subcommittee should not allow non-cooperation by the respondent unduly to delay its investigation. If necessary, the investigation may proceed without a submission from or assistance of the respondent and the subcommittee should draw its conclusions based on the information available to it.

14. COMMUNICATIONS, REPORTING AND CONFIDENTIALITY

14.1 The following communications with the respondent and the claimant are required:

- (1) When the Convener of the PCC has decided how a complaint should be dealt with, he or she should advise the complainant either that an investigating subcommittee has been established or that the complaint is not being proceeded with. In the latter case, the Convener should give brief reasons for the decision. If the complaint is to be investigated, the respondent should be informed of the nature of the complaint and that an investigating subcommittee has been established. While the Convener need not advise the respondent of a complaint against him or her which is not being proceeded with, in some circumstances such advice may be appropriate. An example might be a complaint dismissed on the grounds of lapse of time since the event.
- (2) When an investigating subcommittee has reached a conclusion on a complaint the Convener of the PCC should inform the respondent and the complainant of the decision. If the subcommittee decides that a case has been made that the respondent has been guilty of actionable conduct, the Convener should send the respondent a copy of the subcommittee's report.
- (3) When the Tribunal makes a determination on a report from a subcommittee of the PCC, the Chairman should advise both the respondent and the complainant. The respondent should be given a copy of the Tribunal's findings.
- (4) Finally, in cases where a complaint is finally decided by Council (on appeal against a Tribunal decision to reprimand or suspend a member, or when a decision to expel a member has been confirmed by Council), the President of the Institute should inform both the

respondent and the complainant of the outcome of Council's deliberations.

14.2 Article 78 sets out a framework for reporting on disciplinary proceedings. The following paragraphs enlarge upon the specific statements in the Article:

- (1) The PCC is required to report to Council on a regular basis the following details concerning each complaint received (including those rejected by the Convener) -
 - . names of the complainant and the respondent;
 - . an outline of the circumstances giving rise to the complaint;
 - . the manner in which the complaint was dealt with, including decisions of an investigating subcommittee and the Tribunal.
- (2) A report should be made annually to members, noting the number of cases dealt with during the year, their general nature and disposition, and, in cases where reprimand or a higher penalty was imposed, including a rather more complete statement of circumstances; this report would be prepared by the PCC, and approved by Council before distribution.
- (3) The Articles specifically provide that the names of members reprimanded, suspended or expelled should be made known to the membership and also cover wider publicity in such cases. Where an appeal is, or may be, involved, either:
 - . if the member has appealed, this fact would be included in any statement made to the membership, or more widely;
 - . if the member does not appeal, no statement would be made until after the time for lodging an appeal had lapsed unless the member had indicated that he or she would not appeal.

- (4) Subject to subparagraph (5) the Council on the recommendation of the President may decide to make known to the membership, or more widely, details of any disciplinary proceeding, including one where the complaint was ultimately dismissed. Naturally, in such a case the Council would have regard to any right of third parties concerned in the matter to have their affairs treated as confidential.
- (5) The names of members warned, or sent letters of concern, would not be made known to the membership except at the request of the member concerned.

14.3 Except as set out above, disciplinary proceedings should be kept confidential. However, this requirement should not be interpreted to prevent:

- (1) consultation between the Convener of the PCC and the President, and within the PCC, concerning membership of an investigating subcommittee;
- (2) discreet consultation between members of an investigating subcommittee and other members of the Institute whose views on a complaint might be helpful to the subcommittee;
- (3) consultation between the Chairman of the Tribunal and the President concerning the possible co-option of additional members to the Tribunal in the event of the inability of one or more members to act in a particular case;
- (4) consultation with the Institute's solicitors on any matter requiring their advice, or
- (5) Council being supplied with any material regarding any particular complaint which it may call for.

END OF HANDBOOK TO DISCIPLINARY ACTION

