

# **Disciplinary Proceedings against an Institute Member**

## **Background**

Clause 4.3(a) of the Institute's Disciplinary Scheme requires a Member to disclose any Member Disclosure Matter to the Institute in writing within seven days after the occurrence of the event.

Clause 4.1(a) of the Disciplinary Scheme defines a Member Disclosure Matter to include a matter where a Member "is or has been convicted of a criminal offence."

The Institute became aware of a case where a Member had been convicted of a criminal offence of which the Institute had not been informed.

In line with the Institute's Disciplinary Scheme, an Investigating Sub-Committee (ISC) was formed to investigate and determined in June 2023 that there was a prima facie case of Misconduct (as defined in Clause 3.2 of the Disciplinary Scheme) having been committed by this Member. The ISC reported its findings to the Convenor of the Conduct Committee.

The Convenor of the Conduct Committee then provided a copy of the Sub-Committee's report to the Convenor of the Tribunal Panel who, in turn, established a Tribunal to examine the matter and the evidence presented.

## **Tribunal proceedings and findings**

The members of the Tribunal were Dr David Knox AM (Chair), Ms Narelle Bell (legal professional), Mr Andrew Boal (Institute member), Mr Craig Calder (lay participant) and Ms Helen Rowell (Institute Member).

The Tribunal met on 21 September 2023 and received submissions and heard evidence from Mr Aaron Bruhn (ISC Convenor), the Member and the Member's legal counsel.

The Tribunal unanimously determined that the Member's lack of action in informing the Institute of the Member's criminal conviction represented Misconduct under Clause 3.2 of the Disciplinary Scheme. The Tribunal also noted that the criminal conviction occurred in a foreign jurisdiction and that the same conduct would not give rise to a criminal conviction in Australia.

The Tribunal unanimously determined that the Member should be given a Reprimand (Level 1) in relation to the conduct set out above (pursuant to Clause 8.3 (b)(ii) of the Disciplinary Scheme).

The Tribunal also determined, by a majority of 4 to 1, that due to the exceptional circumstances present in this case, that the name of the Member not be disclosed (pursuant to Clause 8.4(c) of the Disciplinary Scheme) in their published report. The full reasons for the Tribunal's decision, including a summary of the information relied on and a brief analysis of the information, will not be published and remain confidential to the CEO, the Member, the Convenor of the Conduct Committee and the Appeal Board (should an appeal be lodged).



Dr David Knox AM, Tribunal Convenor

3 October 2023