

# DISCIPLINARY AND APPEALS PROCEDURE

## **Preamble**

Professional conduct is governed by the Society's Code of Professional Conduct (the Code). Alleged breaches of the Code may prove to be founded in fact and deserving of sanction and each must be investigated on behalf of the Executive Board. The principles of the investigation, and any subsequent disciplinary proceedings, are that:

- no one is guilty until so found
- any enquiry will be open and fair
- proven breaches of the Code shall attract sanctions commensurate with the seriousness of the breach.

## **Disciplinary Procedure**

1. The Disciplinary Panel shall have delegated authority from the Executive Board to examine complaints, and to decide their justification, but only to recommend appropriate sanctions if it finds the complaints justified.
2. The Disciplinary Panel shall comprise a standing chairman (who shall chair all meetings during his/her quinquennium) and two others from a pool of six members or former members of the Society, all elected by the Executive Board for a period of five years.
3. The Panel shall be serviced by the Society's Office Manager.
4. On receipt of a complaint, the Office Manager shall inform the Chairman of the Panel and the person complained about (the defendant), and shall seek what elaboration, evidence and answers are considered necessary by the Panel.
5. The Office Manager shall also inform the Executive Board that a complaint has been received and that an investigation is being undertaken but shall not divulge any personal details.
6. When enough information is available, the Chairman shall convene a meeting of the Panel to consider the complaint and the supporting information. At the discretion of the Chairman, a lay representative may be invited to sit on the Panel to provide impartial advice.
7. At the discretion of the Chairman, the meeting of the Panel may take the form of a virtual meeting, using telephone or electronic technology, as set out in the Society's Regulations.
8. The Disciplinary Panel shall review the evidence submitted by both sides and decide whether the information provided is sufficient to make a determination without the presence of the complainant and the defendant, or whether a disciplinary hearing is appropriate and necessary. Full supporting evidence for the complaint is required before a disciplinary hearing can be held. A complaint relating to the quality of an index would be unlikely to justify a hearing, but an altercation over professional issues between Society members more likely would.
9. If a hearing is required, the Panel Chairman may seek authorisation from the Executive Board to invite a non-participating lawyer to attend to advise on process but not to vote on the decision.

10. Defendants shall be entitled to bring to the hearing a next friend who may be a lawyer whom they will pay to represent them.
11. Hearings shall comprise a statement (by the complainant or a representative appointed for the purpose, who may but need not be the Society's Secretary or a solicitor) of the complaint and evidence to support it (with any cross-examination of witnesses), followed by a rebuttal (by the defendant or his/her representative), with evidence (which is also open to cross-examination). Additionally, some evidence may be received by means of written statements at the Disciplinary Panel's discretion.
12. At the conclusion of the hearing, or when the determination by the Disciplinary Panel is complete, the Disciplinary Panel shall announce its decision on the justification or not of the complaint.
13. On a finding of 'no case to answer', the complaint will be dismissed and the Executive Board informed. Similarly, a withdrawal of a complaint will be reported to the Executive Board. A record will be maintained (consistent with the Data Protection Act 1998) for audit purposes but no personal details will be passed to the Executive Board.
14. If the complaint is accepted, the Disciplinary Panel shall report its findings to the Executive Board and recommend an appropriate sanction, having heard any mitigation.
15. Only the Executive Board of the Society has the authority to implement any such recommendations, but these will normally be accepted by Executive Board without challenge.
16. Depending on the severity with which the Code has been breached, sanctions may vary from exclusion from membership, exclusion from the Society's Directory and suspension of membership, to reprimand, retraining, or some other sanction that may be deemed appropriate.
17. If the complaint is admitted, the only steps are for the Disciplinary Panel to hear mitigation and to decide the recommended sanction.
18. The Disciplinary Panel shall prepare reports for the complainant and defendant and the Office Manager will inform both parties accordingly, notifying them of a right to appeal.

### **Appeal Panel**

19. If leave to appeal is sought, it must so be done within a month of the publication of the decision of the Disciplinary Panel. The right to appeal shall depend only upon new evidence becoming available or an apparent injustice during the investigation.
20. The Executive Board, if it grants the right of appeal, shall constitute an Appeal Panel comprising three members, of which at least two should normally be past Chairs of the Society and one may be a lay person, each of whom has had no contact with the matters under appeal beforehand. The Appeal Panel shall elect its own chair.
21. The Office Manager shall service the Appeal Panel.
22. Appeals may take whatever form the Appeal Panel shall decide in its discretion. Its decision may be to uphold or dismiss the original decision or to order a rehearing of the complaint by the Disciplinary Panel. It shall not itself conduct such a rehearing.

23. If the decision of the Disciplinary Panel is upheld, the Appeal Panel, in its discretion, may recommend that the defendant pay the costs of holding the Appeal Panel.

24. The decision of the Appeal Panel shall be communicated to the Executive Board and to the parties concerned by the Office Manager..

END OF DISCIPLINARY AND APPEALS PROCEDURE