



## DISCIPLINARY PROCEDURE

First adopted by the Council on the twenty eighth day of October 1999 to come into force with immediate effect. Revised by Council on the 9<sup>th</sup> October 2002, on the 30<sup>th</sup> January, 2005 and on the 30<sup>th</sup> January 2008, and by the Board of Trustees on the 8<sup>th</sup> October 2009. Further revised by the Board of Trustees on 10 April 2014 and on 20 April 2017. Revised with legal advice March 2018. Revised by IPEM PCC on 19<sup>th</sup> November 2018 and approved by the Board of Trustees on 24<sup>th</sup> January 2019.

### 1. Interpretation

In this Disciplinary Procedure the following words and phrases shall, save where the context otherwise requires, bear the following meanings:

Complaint:	Any circumstances identifying a Subject Member and set out in writing (including email) from a named person - an issue which falls to be dealt with under the Procedure outlined in 3.
Complainant:	The person making a complaint may be a member of the public, the Institute, an organisation or employer of the Subject Member.
Institute:	The Institute of Physics & Engineering in Medicine.
Secretary:	The CEO or Head of Operations and Finance for the time being of the Institute.
Professional Conduct Committee (PCC):	A committee of the Institute.
Investigating Panel:	A panel appointed by the chair of PCC and made up of members of PCC, to undertake the preliminary investigation of a complaint and determine whether or not it should be referred to a Health Panel or a Conduct Panel.
Health Panel or Conduct Panel:	A panel appointed by the chair of PCC and made up of members of PCC, except for its Chairman who shall not be a member of the Institute nor employed in or otherwise connected with health care or higher education.
Trustees:	The Board of Trustees of the Institute.
Subject Member:	A Member of the Institute who is the subject of a Complaint.

Chair: Chair of the PCC, or the Vice Chair deputising for the Chair.

Presenting Officer: The representative of the Institute instructed to present the case on their behalf at a Health Panel or a Conduct Panel or appeal hearing – this may include a solicitor or barrister.

Code of Conduct: The Institute Code of Professional and Ethical Conduct.

## **2. Code of Conduct**

2.1 The Institute shall agree the rules of the Code of Conduct to be observed by Members of the Institute.

## **3. Disciplinary Procedure**

3.1 A Complaint may be investigated in accordance with these procedures where circumstances relate to the conduct of a Member of the Institute who allegedly:

- (i) fails to comply with Institute's Code of Conduct, including by negligence, carelessness or inattention or intent.
- (ii) engages in or has engaged in any act or activity that brings the Institute into disrepute.
- (iii) when acting in an official Institute capacity or dealing with the Institute, fails to behave with probity or honesty or engages in fraud.
- (iv) is unable to comply with the Institute Code of Professional Conduct due to ill health.

## **4. Initiation and Investigation of Complaint:**

4.1 All Members of the Institute shall be under a responsibility to report any circumstances which could form the subject matter of a Complaint to the Secretary, or (if the Secretary is personally involved), to the Chairman of the PCC.

4.2 When any circumstances which could reasonably form the subject matter of a Complaint come to the notice of the Secretary or any member of the PCC, whether by receipt of a complaint from any person or otherwise, any such circumstances shall be reported as quickly as possible by the Secretary or PCC member to the chairman of the PCC and shall then constitute a Complaint.

4.3 The Chairman, with the assistance of the Secretary, shall appoint an Investigating Panel of at least three members, to undertake a preliminary investigation to establish whether the circumstances giving rise to the Complaint are such that they should be referred to a Health Panel or a Conduct Panel. The Chair of the PCC will appoint one of the members of the Investigating Panel as Chair.

4.4 The Investigating Panel shall take such steps as it thinks fit in order to make a thorough investigation of the Complaint. The Institute may conduct its own enquiries and investigation as necessary and may where appropriate undertake independent

and/or additional investigations regardless of any existing employer's investigation. .  
The Panel may admit any evidence which is fair and relevant.

- 4.5 The Investigating Panel shall inform the Subject Member at as early a stage as is reasonably possible that s/he is the subject matter of such an investigation but may refrain from doing so where in the reasonable opinion of the Investigating Panel the investigation might be jeopardised. Details of the Subject Member's employer may be requested so that enquiries can be made of them. At the earliest opportunity, and in all cases prior to the Investigating Panel making its decision, the Subject Member should be provided with a copy of the written complaint and should be provided with an opportunity to respond in writing within 28 days.
- 4.6 The investigation shall be carried out and completed as rapidly as is reasonably practicable. A written record of the outcome, with reasons, must be prepared and agreed by the Investigating Panel.
- 4.7 If the Complaint is not to be referred to a Health Panel or a Conduct Panel hearing because there is no real prospect of sustaining the complaint, the Chairman of PCC shall inform the Subject Member (if this has not already been done) of the investigation and of the decision not to refer the case.
- 4.8 If the Investigating Panel resolves that the matter should proceed to a Health Panel or a Conduct Panel hearing, it shall formulate the precise Complaint or Complaints that are to be the subject matter of a Panel hearing with the assistance of the Case Presenter. If ill health is considered to be a significant contributory factor to the alleged breach of the Code of Conduct, then the case should be referred to a Health Panel. Otherwise it should be referred to a Conduct Panel.
- 4.9 If the Member resigns during proceedings, those proceedings will be suspended. Proceedings will be re-activated if the former Member re-joins the Institute.

## **5. Procedure before and at the Panel Hearing**

- 5.1 When a Health Panel or a Conduct Panel hearing is required, a Health or Conduct Panel will be appointed by the Chair of the PCC with the assistance of the Secretary. The Health Panel or Conduct Panel is to be composed of at least three members, one of which must be a lay member. No member of the Investigating Panel can be appointed to sit as part of the Health or Conduct Panel for the same complaint.
- 5.2 The Chair of the PCC shall appoint an independent person drawn from a list of persons on the PCC who are not members of the Institute to chair the Health Panel or Conduct Panel. If at any stage a member of the Health or Conduct Panel withdraws or becomes unable to continue dealing with the Complaint then another member may be substituted by the Chair of the PCC for that person provided that adequate steps can be taken to ensure a fair hearing.
- 5.3 For health panels, an independent medical practitioner may be appointed by the chair of the PCC to advise the Health Panel. All advice given by the independent medical practitioner should be given in the presence of the Presenting Officer and the Subject Member if they have attended the hearing. The independent medical practitioner will not retire with the Health Panel at the decision making stage.

- 5.4 From the time at which the Investigating Panel refers a Complaint to a Health Panel or a Conduct Panel, the Health or Conduct Panel shall take over the conduct of the proceedings. Subject as stipulated in these rules the Health or Conduct Panel shall regulate its own procedures and may make directions as to the conduct of cases, including arrangements for the attendance and expenses of Complainants, Subject Members and Witnesses. This Procedure may only be modified by the Health or Conduct Panel so far as is necessary to ensure that the case is heard and conducted fairly. The Health or Conduct Panel may request permission from the Institute to seek advice at any stage in the proceedings from a legal or other professional adviser.
- 5.5 The Presenting Officer may at any time up to the hearing communicate with the Subject Member regarding the Complaint and if s/he considers that the matter can be satisfactorily dealt with through admissions of the Complaint or of a substantial element of it, and expressions of regret and/or undertakings are given by the Subject Member, may seek to agree a consent proposal for approval by the Health Panel or Conduct Panel; provided that any Complaint so compromised shall be entered upon the Subject Member's record for a period of time specified by the Health Panel or Conduct Panel and may be raised only if relevant in subsequent proceedings concerning such Subject Member.
- 5.6 The Health Panel or Conduct Panel may be asked to consider and determine together
- (i) two or more complaints against the same Subject Member; or
  - (ii) complaints against two or more Subject Members,
- where it would be just for the Panel to do so. The panel may admit any evidence providing that it is fair and relevant.
- 5.7 The Health Panel or Conduct Panel shall have the power to amend the particulars of the allegation at any stage prior to the announcement of their decision on the facts. Any such amendment is subject to the requirements of fairness, particularly to the Subject Member and the parties must be offered the chance to make submissions as to any proposed amendments
- 5.8 All members of the Health or Conduct Panel must participate in all decisions of the Health or Conduct Panel, which shall be decided by the majority, which must include the lay member in every finding of proof. In the event of an equality of votes, the Chair shall have an additional casting vote. The quorum of a Health or Conduct Panel shall be three Panellists including the Chair, with at least one lay member.
- 5.9 The Health Panel or Conduct Panel (having consulted with the Subject Member and taken into account to such extent as may be reasonable any representations s/he has made on the matter) shall fix a date time and place for a Health or Conduct Panel hearing. A staff member of the Institute will act as the Panel Secretary and will be responsible for the administration of the hearing and will communicate relevant information to all parties and update the Chairman of the PCC as to the hearing date. The Secretary will be responsible for establishing that the Subject Member was properly notified if the Subject Member does not attend the hearing.

- 5.10 The Presenting Officer shall supply the Subject Member with particulars of the Complaint against him or her and all the evidence to be used at the Health or Conduct Panel hearing (including copies of witness statements and documents) not less than 28 days before the hearing. The Subject Member has the right to submit written representations to the Health or Conduct Panel no less than 7 days in advance and/or may make oral representations at the hearing.
- 5.11 Where the Subject Member is neither present nor represented at the Health Panel or Conduct Panel hearing, the Health or Conduct Panel may proceed to consider the Complaint if they are satisfied that all reasonable efforts have been made to notify the Subject Member of the Complaint and the arrangements for the hearing, and that in all the circumstances it is fair to proceed.
- 5.12 At the hearing the Health Panel or Conduct Panel will consider the evidence and any submissions made by the Presenting Officer (including if the Panel deems appropriate hearing witnesses) and shall give the Subject Member the opportunity to comment on the same and present oral evidence for himself/herself. The Subject Member may be assisted by a friend or colleague of his/her choice provided that:
- (i) S/he shall disclose to the Health Panel or Conduct Panel before the hearing the identity of the person who is to accompany or represent him/her if they wish them to be sent copies of the documentation
  - (ii) Any travel and subsistence costs incurred by a friend or colleague will not be the responsibility of the Health Panel or Conduct Panel, the PCC or the Institute;
  - (iii) Any professional fees, travel and subsistence costs of a legal or professional representative of the Subject Member will not be the responsibility of the Health Panel or Conduct Panel, the PCC or the Institute;
  - (iv) Any travel costs of the Subject Member will not be the responsibility of the Health Panel or Conduct Panel, the PCC or the Institute;
  - (v) The Institute will also not be liable to pay the Subject Member's legal costs. The Institute may engage a legal representative for the Subject Member in cases of sexual misconduct to facilitate the questioning of witnesses.
- 5.13 The Secretary shall arrange for a full audio recording of each Health Panel or Conduct Panel hearing and shall keep the same until the expiry of at least 12 months from the conclusion of the hearing or of any appeal.
- 5.14 The burden of proving any disputed aspects of the facts underlying the Complaint rests on the Presenting Officer. The standard of proof shall be the civil standard on the balance of probabilities.
- 5.15 The Health Panel or Conduct Panel shall retire in private (in the absence of the parties and any recording facilities) to consider each of the matters set out in 5.16, 5.17 and 5.18. The Health or Conduct Panel will consider whether it is necessary, in the interest of fairness, to return to invite submissions from the parties between each or any of these stages.

- 5.16 The Health Panel or Conduct Panel shall first consider whether any disputed facts underlying the Complaint are found proved. It shall announce the facts admitted and/or found proved.
- 5.17 The Health Panel or Conduct Panel shall next determine whether the Complaint(s) is/are sustained and whether the Subject Member has:
- (i) failed to comply with Institute's Code of Professional and Ethical Conduct, whether by negligence, carelessness or inattention or intent;
  - (ii) engaged in any act or activity that brings the Institute into disrepute;
  - (iii) failed to behave with probity or honesty or engaged in fraud when acting in an official Institute capacity or dealing with the Institute.
  - (iv) is unable to comply with the Institute Code of Professional Conduct due to ill health.
- 5.18 The Health Panel or Conduct Panel shall then determine what action to take in relation to the Complaint(s) which has/have been sustained in accordance with 5.14.
- 5.19 The Health Panel or Conduct Panel may give its decision to the Complainant and the Subject Member at the conclusion of the hearing in writing (and may read out its decision) either at the conclusion of its deliberations or at the latest on the expiry of twenty one days from the conclusion of the hearing.
- 5.20 The Secretary will notify the Chair of the PCC, the Complainant and the Subject Member of the decision of the Health or Conduct Panel. The Subject Member will also be informed in writing of his or her right of appeal and of the procedure to be followed.
- 5.21 The Health Panel or Conduct Panel shall give succinct reasons for all elements of their decision. The findings of the Health or Conduct Panel shall usually be published on the Institute's website until the expiry of any sanction imposed unless there is an exceptional reason not to publish, such as an application from either the subject member or the Institute for non-disclosure which the Panel accepts.. Any such publication will not be effected until after any appeal has been heard. The decision to publish is reserved to the Chair and Vice-Chair of the Health or Conduct PanelAny publication of the findings of the Health Panel or Conduct Panel by any member of the Institute not approved by the Chair and Vice-Chair may itself be the subject of a Complaint under this Procedure.
- 5.22 The following sanctions shall be available in respect of any Complaint which the Health Panel or Conduct Panel finds to have been sustained:
- (i) that no action be taken.
  - (ii) that no action be taken save that the finding should be noted on the Subject Member's record for a specified time not exceeding five years and may be raised only if relevant in subsequent Disciplinary proceedings concerning such Subject Member.

- (iii) that the Subject Member receive a written reprimand from the Chairman of the PCC which shall go on his / her record for a specified time not exceeding five years and may be raised only if relevant in subsequent Disciplinary proceedings concerning such Subject Member.
- (iv) that the Subject Member be suspended from some or all privileges of membership of the Institute (to be specified in the ruling) but not from membership itself, the conditions for the suspension to be lifted to be stated in the ruling.
- (v) that the Subject Member be suspended from some or all privileges of membership of the Institute (to be specified in the ruling), until such time as any physical or mental illness, injury or disability that has resulted in a loss of competence to practice, is, in the judgement of the PCC, resolved and competence is restored.
- (vi) that the Subject Member be transferred to a different kind of membership of the Institute (which may be made subject to reinstatement upon the Subject Member fulfilling certain conditions to be stated in the ruling).
- (vii) that the Subject Member be expelled from the Institute.

## 6. Appeals

6.1 The Subject Member may appeal to the Trustees against any of the findings of the Health Panel or Conduct Panel.

6.2 Such appeal shall be made by written notice to the Secretary within not more than 14 days of the notification by the Health Panel or Conduct Panel to the Subject Member of its findings (which time limit may be extended by the discretion of the President of the Institute).

6.3 The Trustees shall appoint an Appeal Panel to hear the appeal which shall comprise:

- An Independent Chairman who is not a member of the Institute, not a Trustee, not an Independent Member of the Professional Conduct Committee, nor anyone who has previously assisted the Professional Conduct Committee by serving as an Independent Chair of any Health Panel or Conduct Panel.
- A Member who is not an Officer of the Institute
- A Trustee who is not an Officer of the Institute.

If the appeal relates to the Subject Member's health, the Appeal Panel will also include a registered medical practitioner.

6.4 The Appeal Panel acts independently and Appeal Panel members will not have played any previous part in the decision that is being appealed.

6.5 The Appeal Panel may at their discretion invite written or verbal arguments from the Presenting Officer, and the Subject Member before determining an appeal. In

exceptional circumstances the Appeal Panel may admit new evidence but regard will also be had to 7.

- 6.6 The Appeal Panel may uphold the Subject Member's appeal in whole or in part or dismiss it in whole or in part or remit the case in whole or in part back to the Health Panel or Conduct Panel (or if the Appeal Panel thinks appropriate to a new Health Panel or a new Conduct Panel to be selected from the PCC by the Chair of the PCC for the purpose) for rehearing or reconsideration. In such circumstances the Health Panel or Conduct Panel or new Health Panel or new Conduct Panel having reheard or reconsidered the case may (as well as altering other findings of the original Health Panel or original Conduct Panel hearing) make fresh decisions as to the sustaining of any Complaint and any sanction.
- 6.7 The new Health Panel or new Conduct Panel may uphold the decision of the original Health Panel or original Conduct Panel as to sanction or may substitute some lesser sanction but may not increase the sanction from that decided by the original Health Panel or original Conduct Panel.
- 6.8 The result of any appeal shall be notified by the Secretary to the Subject Member forthwith and shall be implemented by the Secretary with immediate effect. It shall also be noted on the Subject Member's record save where it has been decided that no action is to be taken.
- 6.9 Should the Appeal Panel uphold the decision of a Health Panel or a Conduct Panel that a Subject Member should be expelled from the Institute this will not prejudice any right that the Subject Member may have to appeal to the Engineering Council or the Science Council against removal of his/her status as a registered engineer or registered scientist. If such an appeal is successful it will not prejudice the Subject Member's expulsion from the Institute.
- 6.10 Should the Appeal Panel uphold the decision of a Health Panel or a Conduct Panel that a Subject Member who is registered with a statutory or voluntary Registration Council should be expelled from the Institute, or be subject to any other penalty for a disciplinary offence that may also be a disciplinary offence under any code of conduct and disciplinary procedure issued by the relevant Registration Council, the Secretary shall write in confidence to the Registrar of the relevant Registration Council to communicate the findings of the Institute's Health Panel or Conduct Panel.
- 6.11 Notification of any investigation by a statutory or voluntary Registration Council into the professional conduct of a member of the Institute who is registered with a statutory or voluntary Registration Council shall be deemed to be a provisional complaint. The Secretary will discuss with the Chairman whether any immediate action needs to be taken by the PCC, or whether to await the outcome of the Registration Council investigation. The outcome of a Registration Council investigation shall not, itself, determine whether or not a disciplinary complaint should be considered by the PCC and heard by a Health Panel or a Conduct Panel but an investigation will be conducted in the same manner as for any other complaint.



## **7. Appeal on Grounds on New Evidence**

- 7.1 If at any stage after the hearing of the Health Panel or Conduct Panel the Subject Member appeals on the grounds of new evidence then the Chair and Vice-Chair of the PCC will review the new evidence. If they are satisfied that there are reasonable grounds for an appeal then a new Health Panel or a new Conduct Panel will be convened to re-hear the case.

## **8. Amendments to this Procedure**

- 8.1 Amendments may be made to this Procedure from time to time by the Trustees but no such amendment shall be made without the Trustees having first informed the PCC of their intention to consider making such an amendment and considered any representations that the PCC wish to make on the matter within the time limit proposed by the Trustees.
- 8.2 Alternatively, the PCC may propose to the Trustees suggested amendments to this Procedure that it considers necessary, in the light of operating experience, to ensure fairness to all parties and to ensure compliance with current applicable legislation. In such circumstances, the Trustees may approve such changes without further consultation with the PCC, unless it wishes to vary the changes proposed by the PCC.
- 8.3 Any amendments made by the Trustees will be notified to all members of the Institute.