

# THE CHARTERED INSURANCE INSTITUTE

## Disciplinary Procedure Rules

### Part 1 – General

#### Authority and Purpose

- 1.1 These Rules are made pursuant to The Chartered Insurance Institute Disciplinary Regulations 2015.
- 1.2 These Rules are in place to assist all parties in achieving the objective of dealing with Complaints justly which includes ensuring the parties are on an equal footing, saving expense, dealing with Complaints proportionately within the context of securing and maintaining the confidence of the public, employers and members in the profession and the Institute, ensuring Complaints are dealt with fairly and expeditiously and allowing a Complaint an appropriate share of the Disciplinary and Appeal Committees' resources. The objective should be considered at all times when interpreting these Rules and throughout the disciplinary process.

#### Definitions

2. In these Rules, unless the context otherwise requires:-

*“Appeal Committee”*

Means a committee appointed by the Board to have responsibility for appeals under the Disciplinary Regulations and these Rules.

*“Appeal Panel”*

Means the tribunal appointed to determine any appeal against a

decision of a Disciplinary Panel in accordance with the Disciplinary Regulations and these Rules.

*“Appellant”*

Means a party to a Disciplinary Panel decision (either the Institute or a Respondent) seeking to appeal that decision in accordance with these Rules.

*“Board”*

Means the Board of the Institute as defined in the Charter and Bye-laws and in the Board Regulations.

*“Business Day”*

Means any day except a Saturday or a Sunday or a Bank Holiday in the United Kingdom.

*“Case Examiner”*

Means a person or persons appointed by the Board to make determinations pursuant to these Rules.

*“Case Investigator”*

Means a person or persons appointed by the Board to investigate Complaints and to produce reports for a Case Examiner.

*“Chairman”*

Means the Chairman for the time being of a Disciplinary Panel or an Appeal Panel.

*“Complainant”*

Means a person or organisation (including the Institute itself) who

has submitted to the Institute a complaint about a Member.

*“Complaint”*

Means an allegation in any form made to the Institute concerning a Member’s breach of the Laws of the Institute.

*“Consensual Order”*

Means an agreement prepared by the Case Examiner for acceptance by the Respondent for the disposal of a Complaint.

*“Disciplinary Committee”*

Means a committee appointed by the Board to have responsibility for the implementation of the Disciplinary Regulations and these Rules insofar as they relate to disciplinary matters up to the point of appeal.

*“Disciplinary Panel”*

Means the tribunal appointed to determine the complaint in accordance with the Disciplinary Regulations and these Rules.

*“Disciplinary Regulations”*

Means the Disciplinary Regulations approved by the Board in 2012.

*“Indicative Sanctions Guidance ”*

Means the Guidance to which the Case Examiner, Disciplinary and Appeals Panels shall refer when imposing a sanction pursuant to Regulation 12.6.

<i>“Institute”</i>	Means the Chartered Insurance Institute
<i>“Laws of the Institute”</i>	Means the Institute’s Charter, Byelaws and all regulations and codes or other requirements of the Institute from time to time published.
<i>“Legally Qualified”</i>	Means a person who is a barrister, solicitor, advocate, CILEx or equivalent in another common law jurisdiction and who practises or who has practised as such.
<i>“Member”</i>	Means member or former member, or student or former student of the Institute.
<i>“Respondent”</i>	Means a Member in relation to whom a complaint has been made and referred to a Case Investigator.
<i>“Rules”</i>	Means the Institute’s Disciplinary Procedure Rules.

3. In these Rules, unless the context otherwise requires:
  - (a) Words denoting the masculine gender include the feminine and vice versa;
  - (b) Words in the singular include the plural and vice versa; and

- (c) References to persons include references to companies, authorities, boards, departments or other bodies.

#### Notices

4. Notices or other documents may be sent by post or electronically. Notices and other documents sent by prepaid post will be deemed to be received by the addressee on the third Business Day after the date of posting to an address within the UK and on the fifth Business Day after the date of posting to an address outside the UK. In proving the service of a notice it shall be sufficient to show that the notice was properly addressed and sent to the last address (including any email address) notified by the addressee to the Institute. Notices and documents sent electronically will be deemed to be received immediately.

#### Time Limit

5. Any Complaint must be submitted to a Case Investigator of the Institute within 12 months of when the events complained of took place or since the Complainant became (or should reasonably have been) aware that the events complained of took place (whichever is the later), save where there has been a delay due to a determination by a court, regulatory or other statutory body (including those established by delegated legislation) and/or subject to the discretion of the Case Examiner or Disciplinary Panel to extend this time limit which shall only be extended in exceptional circumstances.

### **Part 2 – Constitution**

#### Case Investigator/Case Examiner

- 6.1 A Case Investigator shall, pursuant to Regulation 12.4 and on receipt of a Complaint against a Member, investigate the Complaint by such means as he considers appropriate and shall prepare a written report summarising the conclusions of that investigation. Save in cases which appear to the Case Investigator to be vexatious, frivolous or otherwise an abuse of the functions of

the Institute or where the 12 month time limit has expired, neither the investigation nor the report will be finalised until the Member who is the subject of the Complaint has been given reasonable opportunity to consider the substance of the Complaint in writing, to respond to it in writing and to provide details of mitigating factors if there are any. When finalised, the report will be sent by the Case Investigator to a Case Examiner as soon as reasonably practicable.

6.2 On receipt of the report and having considered it and sought such clarification from the Case Investigator or others (including requiring the Case Investigator to make further enquiries of third parties) as he sees fit, the Case Examiner shall determine whether:

- (a) the 12 month time limit has expired;
- (b) the Complaint is not substantiated by sufficient evidence;
- (c) the Complaint is vexatious, frivolous or otherwise an abuse of the functions of the Institute.
- (d)
  - (i) It is not, in the reasonable opinion of the CII, in the public interest for the Complaint to proceed further under the Rules; and/or
  - (ii) It is not in, the reasonable opinion of no less than two Case Examiners, in the interests of the CII for the Complaint to proceed further under the Rules (Note – for the avoidance of doubt, should there be any conflict between the interests of the CII and the public interest, the public interest will take precedence);
- (e) the facts surrounding the Complaint have been or are currently or likely to be before the courts or before any other professional or regulatory body or other tribunal; and

- 6.3 If the Case Examiner determines that Rule 6.2(a), (b), (c) or (d) applies to the Complaint then the Complaint shall be rejected. The Complainant shall be notified of the rejection of the Complaint and the reasons for the rejection in writing within 10 Business Days.
- 6.4 If the Case Examiner determines that Rule 6.2(e) applies to the Complaint consideration of the Complaint may be deferred pending the determination of such other proceedings.

#### Determination by Case Examiner

- 7.1 If the Case Examiner determines that the Complaint is substantiated by sufficient evidence and Rule 6.4 does not apply, the Case Examiner will determine whether the Complaint satisfies any one or more of the following criteria such that a sanction may be imposed by the Case Examiner without reference to a Disciplinary Panel:
- (a) the Complaint is accepted by the Member and/or;
  - (b) there is no material evidence in dispute between the Complainant and the Member and/or;
  - (c) the parties agree to a determination by the Case Examiner and/or:-
  - (d) all reasonable endeavours have been made to contact the Member and the Case Investigator and/or Case Examiner has received no response from the Member. Any decision made by a Case Examiner in this respect will be reviewed and approved by a further Case Examiner; and/or;
  - (e) in relation to CPD cases only, in the Case Examiner's opinion the response provided by the Member to the Complaint has no real prospect of successfully defending the Complaint

- 7.2 If any of the above criteria are satisfied, the Case Examiner may make a determination on the Complaint based on the Case Investigator's report and any other documents he may obtain and may impose any sanction or a combination of sanctions set out in Regulation 12.6 which he considers fair and reasonable taking into account any mitigation provided by the Member and the Indicative Sanctions Guidance as amended from time to time. The Case Examiner shall also determine from when the sanction will take effect.
- 7.3 The Member shall have the right of appeal against the Case Examiner's determination and shall be notified of that right and its consequences at the same time as he is notified of the determination. The Member must notify the Case Examiner of his wish to appeal within 15 Business Days of being notified of the Case Examiner's determination and for the avoidance of doubt, if the Member does not provide such notice, the determination should stand.
- 7.4 The Member's notification under this Rule must be in writing and shall be in the form of a request for a full hearing before a Disciplinary Panel. The effect of a notification of appeal under this Rule will be that the sanction will be reversed and the Complaint will be referred to a Disciplinary Panel as if the Case Examiner had made no determination under this Rule. In those circumstances the procedure followed will be in accordance with Part 3 of these Rules.

#### Referral to Disciplinary Panel

- 8.1 In all other circumstances, or in the Case Examiner's absolute discretion, the Case Examiner shall refer the Complaint to a Disciplinary Panel.
- 8.2 From the time a determination is made to refer the Complaint to a Disciplinary Panel the Member who is the subject of the Complaint shall be referred to as 'the Respondent' for the purpose of the disciplinary process and henceforth in these Rules.

#### Consensual Order

- 9.1 The Case Examiner may at any time invite the Member to approve and sign a Consensual Order to be prepared by the Case Examiner which sets out a brief summary of the facts surrounding the Complaint and the proposed sanction(s).
- 9.2 The effect of a Consensual Order is to dispose of the matter on the terms as agreed in the Consensual Order without the need for further process.
- 9.3 Where a Consensual Order is agreed by the parties the right to appeal is removed.
- 9.4 Where a Consensual Order is not agreed under this Rule, the Case Examiner may impose a sanction under Rule 7 or refer the complaint to a Disciplinary Panel under Rule 8.

#### Disciplinary Panels

- 10.1 Pursuant to Regulation 12.2, a Disciplinary Panel shall be made up of members of the Disciplinary Committee. The Disciplinary Panel shall determine Complaints against Respondents referred to it by a Case Examiner or Respondent in accordance with Regulation 12.4 and Rule 10.
- 10.2 The quorum for a meeting of a Disciplinary Panel shall be three, which must include at least one lay representative (that is, a person who is not a Member). Each Disciplinary Panel shall have a Chairman who must be Legally Qualified. Meetings of Disciplinary Panels may be convened at any time by or on the authority of the Chairman. The Chairman may also appoint to the Disciplinary Panel ad hoc as a specialist adviser of the Disciplinary Panel a person who in the Chairman's opinion has knowledge or expertise relevant to a particular Complaint and which is not otherwise available to the Panel. The specialist adviser is not entitled to vote.
- 10.3 If a Disciplinary Panel consists of an even number and in the event of a hung vote the Chairman shall be entitled to a casting vote.

## Appeal Panels

- 11.1 Pursuant to Regulation 12.7, an Appeal Panel shall be made up of members of the Appeal Committee. The Appeal Panel shall hear any Respondent's Appeal against a Disciplinary Panel decision in accordance with the Disciplinary Regulations and Rules.
- 11.2 The quorum of each Appeal Panel shall be three, which must include at least one lay representative (that is, a person who is not a Member). Each Appeal Panel shall have a Chairman who must be Legally Qualified. Meetings of Appeal Panels may be convened at any time by or on the authority of the Chairman. The Chairman may also appoint to the Appeal Panel ad hoc as a specialist adviser of the Appeal Panel a person who in the Chairman's opinion has knowledge or expertise relevant to the Appeal and which is not otherwise available to the Panel. The specialist adviser is not entitled to vote.
- 11.3 If an Appeal Panel consists of an even number and in the event of a hung vote the Chairman shall be entitled to a casting vote.

## **Part 3 – Procedure**

- 12 Within 10 Business Days of the referral of a Complaint to a Disciplinary Panel, the Respondent shall be provided with the following documents and information:-
- (a) A copy of the Institute's Charter;
  - (b) A copy of the Institute's Bye-Laws;
  - (c) A copy of the Disciplinary Regulations;
  - (d) A copy of these Rules;

- (e) A copy of the Institute's Code of Ethics in force at the time the events complained of took place;
- (f) A summary of the Complaint;
- (g) A hearing response form;
- (h) Copies of any documents in whatever form in the possession of the Institute at that time and upon which the Institute may rely or which may undermine any case which may subsequently be brought before the Disciplinary Panel;
- (i) The Respondent shall be advised in writing that he may attend the hearing to speak and give evidence (including but not limited to evidence in relation to mitigation of sanction) on his own behalf and may also be represented, that he may call witnesses and cross-examine witnesses called on behalf of the Institute and that if he does not attend the hearing the matter may be determined in his absence. The Respondent will also be informed that he may make written submissions relating both to the substantive Complaint and to mitigation.
- (j) In circumstances where the Respondent does not attend and is not represented at the hearing but has provided written submissions relating to mitigation then those submissions will be presented by the Institute to the Disciplinary Panel after it has reached a decision in relation to the Complaints but before it commences its deliberations in relation to sanction. Any written submissions made by the Respondent relating to mitigation will not form part of the hearing bundle.
- (k) In circumstances where the Respondent admits the Complaint (or part of it) but does not attend the hearing and has provided a statement by way of mitigation then the statement will be presented by the Institute immediately after the evidence has been presented.

- 13 The Respondent shall be notified of the hearing no later than 20 Business Days before the proposed hearing date.
- 14 Copies of any documents in whatever form in the possession of the Institute at that time and upon which the Institute may rely or which may undermine any case which may subsequently be brought before the Institute should be supplied to the Respondent (or his nominated representative if he has one) no later than 20 Business Days before the proposed hearing. The Institute shall provide the Respondent with the names of any witnesses it proposes to call at least 20 Business Days before the proposed hearing together with copies of written statements signed by those witnesses and verified by a statement of truth, which statements shall contain the substance of the evidence which the witnesses will give.
- 15 The Respondent shall confirm to the Institute in writing no later than 10 Business Days before the hearing whether he intends to appear at the hearing in person or otherwise.
- 16 At least 10 Business Days before the proposed hearing, the Respondent shall provide the Institute with:
  - (a) the names of any witnesses he proposes to call together with copies of written statements signed by those witnesses and verified by a statement of truth, which statements shall contain the substance of the evidence which the witnesses will give; and
  - (b) any documentary evidence which he proposes to rely upon at the hearing.
- 17 At any time before the date of the proposed hearing, the parties may, by written application which must be sent to all parties, request the Chairman of the Disciplinary Panel to waive or otherwise vary the time limits imposed by Rule 14 (the Institute) and Rule 16 (the Respondent). The Chairman shall invite representations from the other party before determining such an application.

- 18 If either party fails to comply with Rule 14 or 16 and no order has been made on an application under Rule 17, then that party will not be able to rely on such evidence unless, having heard representations from both parties, the Chairman of the Disciplinary Panel orders otherwise in accordance with Rule 48. The Chairman may also order an adjournment in accordance with Rule 48
- 19 The hearing may proceed in the absence of the Respondent. Applications for adjournments may be made at any time up to five Business Days before the proposed hearing date. Adjournments will only be granted in exceptional circumstances and at the Chairman's absolute discretion.

#### **Part 4 - Admissibility of Evidence**

- 20 Subject to Rule 21, at any hearing before a Disciplinary or Appeal Panel the rules on the admissibility of evidence that apply in civil proceedings in England and Wales shall apply.
- 21 The Disciplinary or Appeal Panel may hear or receive evidence which would not be admissible in such proceedings if it is satisfied that it is fair and relevant to the case before it and that its admission is necessary in furtherance of its role to make due inquiry into the issue(s) that it is called upon to determine.
- 22 Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence, shall be conclusive evidence of the offence committed and of the findings of fact upon which it was based.
- 23 Production of a certificate signed by a police officer or Crown Prosecutor or, outside England and Wales, a public prosecutor, that a person has been cautioned for a criminal offence shall be conclusive evidence of the offence committed and of the facts upon which the caution was based.
- 24 Production of a certificate signed by an officer of a regulatory body shall be a rebuttable presumption that it has made a determination about the conduct of a

person and shall be conclusive prima facie evidence of that determination and the facts found proved in relation to it. For the purposes of this section, the official publication of such determination or finding of fact by the regulatory body on its website or in any other official publication shall be deemed to be a certificate signed by an officer of that regulatory body.

- 25 For the purposes of Rules 22-24, the burden of rebutting the evidence shall be upon the Respondent who shall, as a condition of rebuttal, produce to the Institute, within 14 days of his indicating an intention to challenge the said determination, all documents in his possession, custody or control in relation to the proceedings which lead to the said determination.

#### **Part 5 – Hearings**

- 26 All Complaints referred to a Disciplinary Panel shall be the subject of a hearing. Hearings shall be open to the public save where the Chairman, having heard representations from the parties, decides otherwise.
- 27 Save as is prescribed by these Rules, the Chairman shall have discretion in relation to the procedures to be followed at the hearing.
- 28 Where a witness is called to give oral evidence his witness statement shall stand as his evidence in chief, unless the Chairman orders otherwise.
- 29 Each party will have the right to cross-examine the other party's witnesses. Each party may re-examine a witness called by that party. The Chairman may control cross-examination either by limiting the issues to be explored or by limiting the time to be devoted to cross-examination of a particular witness.
- 30 Where a witness does not attend, the Disciplinary Panel may proceed in his absence and take into account any written statement or representation from a witness and give such weight to that evidence as it sees fit.

- 31 Save in cases where the Respondent admits all the charges the Disciplinary Panel, having considered the Complaint and the evidence shall adjourn the hearing to determine the Complaint. When it has done so, it will reconvene the hearing to announce its determination. A simple majority decision of the Disciplinary Panel is required to uphold a Complaint, subject to Rule 10.3.
- 32 If any part of the Complaint has been upheld then the Disciplinary Panel will move to consider the imposition of a sanction. The Disciplinary Panel shall at the same time as making its substantive decisions on liability and sanction determine when the sanction is to take effect.
- 33 When considering sanction, the Disciplinary Panel must consider any mitigation provided by the Respondent. It must also consider any representations made by the Institute as to the appropriate sanction to be imposed.
- 34 If it wishes to do so, the Disciplinary Panel may reserve its decision in relation to the Complaint and/or the sanction for up to 20 Business Days.
- 35 If the Complaint is upheld, the Respondent will be informed of his right of appeal under Regulation 12.7.

#### **Part 6 - Interlocutory Appeals**

- 36 This section applies to a judgment order decision or ruling made by a Disciplinary Panel or a Chairman of that Panel and prior to its final determination under the Rules.
- 37 A party may apply in writing within 5 Business Days for permission to appeal any judgment, order, decision or ruling to which this section applies to the Chairman of the Appeal Committee (or, in his absence, any legally qualified member of the Appeal Committee), only on one or more of the following grounds:

- (a) the judgment, order, decision or ruling was based on an error of law or fact or was a perverse exercise of discretion; and/or
  - (b) the judgment, order, decision or ruling was unjust because of a serious procedural error or irregularity.
- 38 There shall be no right of appeal against the refusal of an application for permission to appeal.
- 39 If permission to appeal is granted then the person hearing the application may:
  - (a) order the Chairman of the Disciplinary Panel to adjourn the hearing pending hearing the appeal; and/or
  - (b) give directions as to the management of the hearing.
- 40 The person hearing the application for permission to appeal shall not give permission unless he is satisfied that it is necessary in the interests of justice for the appeal to be heard before the hearing in front of the Disciplinary Panel is conducted.
- 41 If permission to appeal is refused, the refusal does not preclude an appeal under Part VI of these rules following an adverse finding on the matter to which the refused application for permission to appeal related.
- 42 If permission is granted, the Chairman of the Appeal Committee shall, within 20 Business Days convene an Appeal Panel to determine the appeal. The person who granted leave shall not be debarred from sitting as a member of that Appeal Panel.
- 43 An appeal under this section is commenced by serving written notice of application for permission to appeal on all other parties and where an appeal is made by the Institute, such written notice shall be served on the Respondent.

- 44 Any written notice of appeal must:
- (a) state the grounds of the Appeal; and
  - (b) be signed by or on behalf of the Appellant.
- 45 A notice of appeal which is not in writing or signed or made within 5 Business Days, does not contain the grounds on which the application is made or which is based on any grounds not admissible under this section shall be dismissed by the Chairman of the Appeal Panel appointed to determine the Appeal.
- 46 On receipt of written notice of appeal the Chairman of the Disciplinary Panel shall provide the Chairman of the Appeal Panel, appointed to determine the appeal, with written reasons for the judgement, order, decision or ruling appealed against.
- 47 The Appeal Panel convened to determine the appeal:
- (a) may affirm or overturn the judgment order decision or ruling appealed against;
  - (b) may remit all or any part of the judgment order decision or ruling appealed against to the Disciplinary Panel;
  - (c) if it overturns the judgment order decision or ruling, it may substitute its own judgment order decision or ruling for the judgment order decision or ruling appealed against.
- 48 In giving a determination, the Appeal Panel shall:

- (a) advise the parties, in writing, of its reasons, within 10 Business Days of its hearing the appeal; and
- (b) give the Disciplinary Panel such directions as are appropriate for the future conduct of the process.

## **Part 7 – Case Management**

### Chairman's General Powers of Management

49 The Chairman of any Disciplinary or Appeal Panel may:-

- (a) extend or shorten the time for compliance with any Rule;
- (b) adjourn or bring forward a hearing;
- (c) require a party or a party's representative to attend a preliminary or other hearing (either in person or by such other means as he may determine such as by video conferencing or telephone);
- (d) direct that part of any proceedings be dealt with as separate proceedings;
- (e) stay the whole or part of any proceedings;
- (f) consolidate Complaints or Appeals;
- (g) direct that two or more Complaints or Appeals shall be heard on the same occasion;
- (h) direct a separate hearing in relation to any issue;
- (i) decide the order in which issues are to be determined;
- (j) exclude an issue from consideration;

- (k) dismiss or determine a Complaint or an Appeal after a decision on a preliminary issue;
- (l) direct that evidence provided to the Panel either by the Respondent or the Institute after the deadlines laid down in Rules 14 and 16 have expired may be considered;
- (m) direct that any technical defect in the Complaint or in the procedure followed by the parties or the Panel shall be remedied or waived and shall not invalidate any step in the disciplinary proceedings provided that the proceedings are fair to the Member and the Institute's bye-laws and Disciplinary Regulations have been complied with;
- (n) take any other step or make any other order for the purpose of managing or dealing with the case and furthering the objective of dealing with Complaints and Appeals justly and in ways which are proportionate within the context of securing and justifying the confidence of the public, employers and Members.

## **Part 8 – Appeals**

### Procedure

50 A Respondent against whom an adverse finding has been made, or the Institute, may, pursuant to Regulation 12.7, appeal any decision of a Disciplinary Panel to an Appeal Panel provided the following conditions are satisfied:

- (a) In the case of an appeal by a Respondent, a written Notice of Appeal is served on the Institute within 15 Business Days of the copies of both the written record of the decision of the Disciplinary Panel and the written record of the reasons for the decision being sent to the Respondent and in the case of an appeal by the Institute, a written Notice of Appeal is served

on the Respondent and a copy sent to the Disciplinary Panel within 15 Business Days of the copies of both the written record of the decision of the Disciplinary Panel and the written record of the reasons for the decision being sent to the Respondent (in either case the appeal may be against the decision and/or the sanctions imposed by the Disciplinary Panel); and

- (b) The Notice of Appeal states the grounds of Appeal and is signed by or on behalf of the Respondent or on behalf of the Institute. A Notice of Appeal which is not in writing or does not contain the grounds of appeal and/or is not signed by or on behalf of the Respondent or on behalf of the Institute or its representative will be dismissed.

51 The only permitted grounds of appeal are that the decision of the Disciplinary Panel was:

- (a) based on an error of law or fact or was a perverse exercise of its discretion;
- (b) unjust because of a serious procedural error or irregularity;
- (c) due to significant new evidence becoming available; or
- (d) the sanction imposed was too severe or too lenient.

52 The party responding to the appeal may file and serve a Notice of Response responding to the Notice of Appeal no later than 10 Business Days before the appeal hearing.

53 The Appeal Panel will not consider evidence that was not before the Disciplinary Panel unless new evidence of a material nature has become available since the Disciplinary Panel hearing which could not reasonably have been available at that hearing. The Chairman of the Appeal Panel will have

discretion as to whether or not to allow new evidence to be considered by the Appeal Panel.

- 54 The parties or their representatives shall be given at least 10 Business Days notice of the appeal hearing date. A party may be represented at the appeal hearing. The hearing should not normally be delayed because a party or other persons cannot attend. Applications for adjournments can be made to the Chairman of the Appeal Panel at any time up to 5 Business Days before the proposed hearing date.
- 55 The fact that an appeal has been made has no effect on the execution of the decision of the Disciplinary Panel save that a decision to publish may be deferred until after any Appeal Panel decision. If either party wishes there to be a stay of execution then that party must apply to the Chairman of the Appeal Panel in writing for such a stay setting out the circumstances which in the opinion of that party justify a stay being granted. The Chairman of the Appeal Panel has power under Rule 49 of these Rules to order a stay where exceptional circumstances exist which mean that it would be unjust to enforce the order of the Disciplinary Panel pending determination of the appeal. No appeal lies from such a decision of the Chairman of the Appeal Panel, which will take immediate effect.
- 56 Appeal hearings shall be open to the public save where the Chairman, having heard representations from the parties, decides otherwise.
- 57 At the conclusion of the review of the appeal the Appeal Panel will affirm or vary the decision made by the Disciplinary Panel and may, in addition, vary the sanction or sanctions imposed by the Disciplinary Panel to one or more of greater or lesser severity. In addition the Appeal Panel may at any stage in the Appeal remit the Complaint back to the Disciplinary Panel which heard the Complaint for such purpose or purposes as the Appeal Panel in its absolute discretion considers will best achieve the objective of dealing with Complaints justly and in ways which are proportionate within the context of securing and justifying the confidence of the public, employers and Members.

58 All decisions of the Appeal Panel are final, shall take immediate effect and are binding on all parties. If it wishes to do so, the Appeal Panel may reserve its decision in relation to the Appeal and/or the sanction or sanctions for up to 20 Business Days.

### **Part 9 - Costs**

58.1 Paragraph 12.10 of the Disciplinary Regulations gives the Disciplinary and Appeal panels the power to award costs against a Member in respect of the costs incurred by the Institute in bringing the case.

58.2 These costs may include:

- (a) the Institute's legal expenses;
- (b) witness expenses;
- (c) the costs of undertaking the investigation;
- (d) the Panel's costs.

58.3 In determining the award for costs, the Panel should have due regard to the Member's means.

58.4 The Member will be given the opportunity to make representations in respect of any costs application.