

Institution of Mechanical Engineers

Disciplinary Regulations

Pursuant to By-law 34:

The Trustee Board may make and publish and from time to time vary or rescind in such manner as it thinks fit Disciplinary Regulations for the purpose of stating the manner in which allegations of improper conduct that may be brought to the notice of the Institution, properly vouched for and supported by evidence, shall be investigated and dealt with, including the constitution and membership of any committee or committees that the Trustee Board may appoint for the purpose, the procedures to be followed by such committee or committees, the sanctions that may be applied, the orders for the payment of costs that may be made, and the procedures to be followed for the hearing of appeals. No such Disciplinary Regulations shall be in any way repugnant to the Charter, these By-laws or the rules of natural justice.

Amended and approved by the Trustee Board on 17 March 2021

INTERPRETATION

- DR1. In these regulations, words denoting the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa.
- DR2. Unless defined in the following list, words and expressions used in these regulations have the meaning assigned to them in the By-laws.

Term	Meaning
Appeals Panel	The Panel appointed by the Trustee Board and from which the Appeals Board members are nominated.
Appeals Board	The group of three members nominated by the chair of the Appeals Panel to hear an appeal.
Appellant	A party making an application for an appeal.
Audit and Risk Committee	A committee set up by and that reports to the Institution Trustee Board on matters of audit and risk.
Assessor	An Institution member appointed by the Trustee Board to exercise the functions of an Assessor under these regulations.
Code of Conduct	The Institution's Code of Conduct as set out in the Institution Code of Conduct Regulations.
Complainant	A person who makes a complaint within the meaning of these regulations.
complaint	An allegation that a member of the Institution has committed improper conduct.
consensual disposal	A finding of improper conduct and a suitable sanction as agreed by authorised parties.
Defendant	The Institution member against whom a complaint or complaints have been made.
Disciplinary Panel	The standing committee appointed by the Trustee Board and from which the Disciplinary Board members are nominated.
Disciplinary Board	The group of three members nominated by the chair of the Disciplinary Panel to hear a case.
improper conduct	Conduct as defined in By-law 33 of the By-laws of the Institution.
Institution	The Institution of Mechanical Engineers.
Institution member	An Institution member of any class referred to in By-law 2.
Interim Suspension order	An order made by an Assessor by which a Defendant is suspended from one or more volunteer roles they hold within the Institution.
Investigating Panel	The standing committee appointed by the Trustees and from which the Investigating Board members are nominated.
Investigating Board	The group of three members nominated by the chair of the Investigating Panel to investigate a complaint.
lay member	A person who is appointed to the Investigating Panel, the Disciplinary Panel or the Appeals Panel but who is not an Institution member.

legal advisor	A solicitor or barrister with a 10-year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 retained to advise on matters of law and procedure under these regulations.
Legally Qualified	A solicitor or barrister with a 10-year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 retained to chair the Appeals Board under these regulations.
Nominations Committee	A committee set up by and that is responsible to the Trustee Board for developing and managing the Institution's governance procedures.
parties	The Institution and any Institution member in respect of whom a complaint is being dealt with under these regulations.
vexatious	Intended to harass, distress, annoy, tease, agitate, disturb or otherwise cause trouble.

PRINCIPLES

Public interest

DR3. The Institution shall prioritise the public interest over the rights of individual Institution members; this is consistent with its responsibilities as a charity. In relation to these regulations the term 'public interest' is deemed to include:

DR3.1. the protection of members of the public; and

DR3.2. the maintenance of public confidence in the profession and in the Institution.

Standard of proof

DR4. The standard of proof in relation to the factual allegations in an investigation is that an Investigating Board is satisfied that there is a realistic prospect of the facts of the complaint being proved and a realistic prospect of serious improper conduct by the Defendant being established.

DR5. In relation to the factual allegations at a hearing before the Disciplinary Board the burden of proof rests with the Institution. The standard of proof is the balance of probabilities.

GENERAL PROVISIONS

The Trustee Board

DR6. In addition to the requirements set out in the By-laws, the Trustee Board shall, from time to time:

DR6.1. formally review the Disciplinary Regulations as recommended by the Audit & Risk Committee; and

DR6.2. require the Audit and Risk Committee to:

- a. make, maintain and operate suitable audit processes for the processes and procedures of the Assessors, Investigating Panel and Investigating Board, Disciplinary Panel and Disciplinary Board and the Appeals Panel and Appeals Board; and

- b. report its audits of these processes to the Trustee Board at regular agreed intervals and as otherwise needed; and
 - c. recommend to the Trustee Board when a formal review of these Disciplinary Regulations should be carried out; and
- DR6.3. require the Nominations Committee to:
 - a. appoint Assessors, an Investigating Panel, Disciplinary Panel and Appeals Panel, in accordance with these regulations; and
 - b. appoint chairs of the Investigating Panel, Disciplinary Panel and Appeals Panel, from among the persons appointed at DR6.3a; and
 - c. review the composition of the Assessors, Investigating Panel, Disciplinary Panel and Appeals Panel annually; and
- DR6.4. arrange for the names and the interests of the persons appointed as Assessors and to the Investigating Panel, Disciplinary Panel and Appeals Panel to be published on the Institution website. Interests shall include a summary career profile and, for Institution members, the members' membership grade, Engineering Council registration category, current and past membership of Institution Boards or Committees and subject interest groups.
- DR6.5. Require the Chief Executive to appoint a member of staff to receive complaints.
- DR7. Members of the Trustee Board shall not concurrently serve as an Assessor or on the Investigating Panel, Disciplinary Panel or Appeals Panel, and no member of any of those groups shall concurrently serve on the Trustee Board. Former members of the Trustee Board may serve in any of these capacities, but only with respect to complaints received by the Institution after the date on which they ceased to be a Trustee Board member.

Appointments

- DR8. All roles referred to in these regulations shall, except where specified otherwise, be filled by Institution members. Institution members appointed to roles described in these regulations shall be Institution members of any membership grade who are professionally registered through the Institution with the Engineering Council as either an Engineering Technician, an Incorporated Engineer or a Chartered Engineer.
- DR9. Appointments to roles described in these regulations, with the exception of staff appointed by the Chief Executive, shall be:
 - DR9.1. by application, against role descriptors that specify the expertise, experience and competence required; and
 - DR9.2. for a fixed period of five years, after which at least three years shall elapse before the person may be reappointed to a role they previously held. A term of office may be extended beyond five years with the approval of the Nominations Committee.
- DR10. A retiring Assessor or member of the Investigating Panel, Disciplinary Panel or the Appeals Panel, who is not reappointed but has started working on a case shall continue in office until their work on that complaint is completed, unless any new appointment generates a conflict of interests with regard to the case being considered.

- DR11. Persons appointed to any role set out in these regulations shall not concurrently serve in any other role set out in these regulations. Neither shall they, when they have been involved in a case in one role, be involved in that case in a different role.

Confidentiality

- DR12. Individuals appointed to roles described in these regulations have a duty to preserve the confidentiality of any information regarding the complaint, the Complainant, the Defendant and the Institution, subject to law, or the need to disclose such information in order to fulfil their duties under these regulations.

Costs

- DR13. Each party to an assessment, investigation or a hearing shall bear their own costs, subject to these regulations.
- DR14. Where the Disciplinary Board finds the Defendant not guilty of improper conduct, it may with the agreement of a simple majority of its members recommend to the Trustee Board that the whole or any part of the Defendant's costs in respect of any or all parts of the disciplinary procedure be paid out of the funds of the Institution.
- DR15. Any person or body, other than the Investigating Panel or Board, appealing against a decision at a hearing shall pay an administration charge. The amount of the charge shall be set and published from time to time, by the Disciplinary Panel. Appeals shall only be heard when accompanied by the charge; charges shall be refunded if the appeal is upheld.

Meetings and hearings

- DR16. Where practical and appropriate, meetings and hearings referred to in these regulations shall be conducted by means of telephone or video conferencing.

MAKING A COMPLAINT

- DR17. Any person, whether or not they are an Institution member, may allege that an Institution member is guilty of improper conduct.
- DR18. Complaints shall be made in writing (which includes electronic means) on a Complaint Form that sets out the basic requirements needed for a complaint to be considered.
- DR19. The Complaint Form shall contain a clause that informs the Complainant that their identity and the nature of their complaint, along with the evidence they provide, may be disclosed to the Defendant and to others involved in the disciplinary process, including third parties who may be asked to provide evidence.

TRIAGE

Definition

- DR20. Triage is a process in which a complaint is reviewed to determine whether it is in scope and whether it should be formally investigated. The Triage process shall also, where appropriate, recommend alternative and more relevant methods of dispute resolution.

The Clerk to the Assessors

- DR21. The Institution Chief Executive shall appoint a member of staff to act as the Clerk to the Assessors; that appointment shall be subject to approval by the Trustee Board. The role of the Clerk is to provide administrative support to the Assessors, including the first stage of Triage.
- DR22. On receipt of a complaint, the Clerk to the Assessors shall undertake a preliminary review to determine whether the complaint is in scope. Only the information provided by the Complainant shall be considered. To be in scope the complaint shall:
- DR22.1. be about the conduct of someone who is currently an Institution member; and
 - DR22.2. identify the nature of the alleged improper conduct.
- DR23. If the complaint is in scope the Clerk to the Assessors shall pass the complaint to a suitable Assessor. The name of the Assessor to whom the complaint is passed shall not be published.
- DR24. When a complaint is not in scope the Clerk to the Assessors shall:
- DR24.1. inform the Complainant that the complaint is not in scope, explain how the decision was reached and inform them of their right to a review of that decision; and
 - DR24.2. offer the Complainant, where relevant, guidance about alternative ways to resolve their concerns.
- DR25. The Defendant shall not be informed of the complaint against them at this stage.

The Assessor

- DR26. Sufficient Assessors shall be appointed such that there are enough Assessors to meet the demand while ensuring that they are sufficiently active in their role so as to maintain currency.
- DR27. The role of the Assessor shall be to make an initial assessment about the complaint.

Joinder

- DR28. Unless it would undermine the fairness of the proceedings to do so, the Assessor may assess complaints against two or more Defendants at the same time, where the complaint about each Defendant arises from the same circumstances.

The assessment

- DR29. Upon receipt of the complaint the Assessor shall:
- DR29.1. confirm that the complaint is in scope; and
 - DR29.2. identify whether the complaint should be referred for resolution through an alternative process, either within the Institution or elsewhere; and
 - DR29.3. identify the nature of the alleged improper conduct; they may use their judgment to identify other potential improper conduct indicated by the alleged events but not identified by the Complainant.
- DR30. The Assessor may ask the Complainant to provide additional written information or evidence.

DR31. The Assessor shall complete their review as soon as is practical, taking into account the nature and complexity of the complaints.

Conflicts

DR32. On being passed a complaint by the Clerk to the Assessors, the Assessor shall declare any known conflicts of interest. Where an Assessor has a conflict of interest, that Assessor shall not undertake the Assessment but shall pass the complaint back to the Clerk to the Assessors to record the conflict and to assign another Assessor.

Assessment outcomes

DR33. The Assessor shall dismiss the complaint if satisfied that the complaint:

DR33.1. is not in scope; or

DR33.2. should be referred for resolution through an alternative process, either within the Institution or elsewhere; or

DR33.3. does not amount to improper conduct or that there is no potential improper conduct indicated by the alleged events but not identified by the Complainant.

DR34. If the Assessor is not satisfied that it is appropriate to dismiss the complaint, they shall refer it to the Investigating Panel.

Interim Suspension Order

DR35. Where necessary to protect the public, the reputation of the profession or the Institution, the Assessor may make an Interim Suspension Order. Such an order may be made only when the Assessor decides to refer the case to the Investigating Panel, as at DR34.

DR36. While subject to an Interim Suspension Order the Defendant may not take on any additional volunteer roles on behalf of or within the Institution.

DR37. Neither the Defendant's Institution membership nor their professional registration may be suspended as part of an Interim Suspension Order.

DR38. A Defendant who is subject to an Interim Suspension Order shall be notified, in writing, of the suspension as soon as is practicable. The notice shall include:

DR38.1. the date on which the Interim Suspension Order will come into effect which shall not be earlier than the date the notice is deemed served; and

DR38.2. the right to request a review of the Interim Suspension order (DR127 to DR129).

DR39. An Interim Suspension Order shall last until the disciplinary process is complete, subject to the review at DR38.2.

Due Process

DR40. Subject to these regulations, the Investigating Panel shall develop and maintain the Assessors' processes and procedures in a way that ensures a fair, honest and unconflicted approach; that approach shall include informing complainants and any Defendants who are aware of the proceedings of progress at least every two months. The processes and procedures shall include guidance on the application of Interim Suspension Orders, subject to the approval of the Trustee Board. Those processes and procedures shall be published by the Institution.

INVESTIGATION

Definition

- DR41. An investigation is the process that aims to gather evidence regarding the facts, as far as is needed to reach a reasonable view about whether there is a realistic prospect of:
- DR41.1. the facts of the complaint being proved; and
 - DR41.2. establishing improper conduct by the Defendant.

The Clerk to the Investigating Panel

- DR42. The Institution Chief Executive shall appoint a member of staff to act as the Clerk to the Investigating Panel; that appointment shall be subject to approval by the Trustee Board. The role of the Clerk is to provide administrative support to the Investigating Panel and the Investigating Boards.

The Investigating Panel and the Investigating Board

- DR43. The Investigating Panel shall be a standing committee consisting of a pool of at least twelve members, three quarters of whom shall be Institution members and a quarter shall be lay members.
- DR44. The role of the Investigating Panel shall be to investigate complaints referred to it by an Assessor.
- DR45. The chair of the Investigating Panel shall appoint an Investigating Board to investigate complaints referred by an Assessor. The names of persons so appointed shall not be published.
- DR46. The Investigating Board shall comprise at least three members of the Investigating Panel, of whom one shall be a lay member; three members shall form a quorum. The composition of the Investigating Board shall be such that it can fairly take into account any particular characteristic of the parties that is relevant to the complaint, or that might otherwise affect the fairness, or perception of fairness, of the decisions made. To achieve this, they may co-opt members, who may be Institution members or lay members.
- DR47. The Investigating Board shall carry out the investigation, making all judgments and determinations as if it was the full Investigating Panel.
- DR48. The Investigating Panel shall report its activities in writing annually to the Trustee Board. The report shall cover resources, training, duration of investigations, and the general nature of investigations (while not disclosing Defendants' identities).

Conflicts and objections

- DR49. Investigating Panel members shall declare any known conflicts of interest when asked to take part in an investigation. Where a member has a conflict of interest that member shall not take part in the investigation. When there is doubt about a conflict of interests, the chair of the Investigating Panel shall decide.
- DR50. Before an investigation begins, the Complainant shall be asked whether they object to any member of the Investigating Panel taking part in the investigation and, if so, why. Objections shall lead to the exclusion of the Investigating Panel member unless the chair of the Investigating Panel determines that the objection is simply vexatious. Legal opinion may be sought on whether conflicts of interest exist.

Joinder

DR51. Unless it would undermine the fairness of the proceedings to do so, the Investigating Board may investigate complaints against two or more Defendants at the same time, where:

DR51.1. the complaint about each Defendant arises from the same circumstances; or

DR51.2. the Investigating Panel considers it just to do so.

The investigation

DR52. The Investigating Board will consider the complaint in private.

DR53. Upon referral by the Assessor, the nominated Investigating Board shall consider the complaint and shall:

DR53.1. investigate only to the point at which it can fairly assess whether the complaint should be referred for a hearing or should be dismissed; and

DR53.2. weigh up the available information and decide whether there is a realistic prospect of a finding of improper conduct that the complaint will be upheld, based on the information available.

DR54. Should the Investigating Board identify other potential improper conduct indicated by the alleged events but not identified by the Complainant or the Assessor, it may investigate the potential improper conduct it has identified as if it had been part of the original complaint.

DR55. The Investigating Board shall determine whether the complaint:

DR55.1. is in scope; and

DR55.2. is appropriate for resolution through the Disciplinary Regulations; and

DR55.3. could amount to improper conduct.

DR56. The Investigating Board may at any time make such enquires or obtain such material as necessary to carry out their duties; this may include:

DR56.1. requesting additional information or evidence from any other person; and

DR56.2. obtaining the opinion of an expert in a relevant field; and

DR56.3. instructing solicitors or other persons to carry out investigations or make further inquiries.

DR57. If the Investigating Board determines that the complaint meets the conditions set out in DR55, it shall:

DR57.1. provide the Defendant with particulars of the complaint and copies of any relevant evidence in the possession of the Investigating Board, and provide a reasonable opportunity to submit representations in writing; and

DR57.2. provide the Complainant with a reasonable opportunity to submit any representations in writing, arising from any representations made by the Defendant.

Adjournments

- DR58. Where the subject matter of the complaint is subject to a criminal or regulatory investigation, Ombudsman investigation, or criminal or civil proceedings in any court or tribunal in any jurisdiction the Investigating Board may, if satisfied that it is appropriate to do so, adjourn its consideration of the complaint until the conclusion of any such investigation or proceedings, or such other time as it may determine.

Interim Suspension Order

- DR59. Where necessary to protect individuals, the reputation of the profession or the Institution, the Investigating Board may make an Interim Suspension Order, subject to DR35 to DR39 in these regulations.

Investigation outcomes

- DR60. Decisions of the Investigating Board shall be made by a simple majority.
- DR61. If, taking account of the complaint and the information gathered at DR56 and DR57, the Investigating Board is satisfied that there is a realistic prospect of the facts of the complaint being proved and a realistic prospect of establishing improper conduct by the Defendant, and that consensual disposal is not appropriate, it may refer the complaint for a hearing. No more than 21 days after the Investigating Board determines to refer a case for a hearing the Investigating Board shall, in writing, inform the Disciplinary Panel and the Defendant of the referral.
- DR62. In any other case, the Investigating Board shall dismiss the complaint and inform the Complainant and the Defendant about whom the complaint was made. The Investigating Board shall inform the parties of its decision in writing, with reasons, within 28 days.

Consensual disposal

- DR63. The parties may agree to a finding of improper conduct and to a consensual disposal if:
- DR63.1. there is no material dispute of fact; and
 - DR63.2. the Investigating Board concludes that the improper conduct identified is not serious enough to warrant referral for a hearing; and
 - DR63.3. the Complainant has been afforded a reasonable opportunity to make representations on the proposed disposal and these have been taken into account; and
 - DR63.4. there is no benefit to the public interest from referring the complaint for a hearing.
- DR64. The consensual disposals that may be applied shall be:
- DR64.1. a letter of advice to the Defendant with regards to their future conduct; or
 - DR64.2. a warning to the Defendant with regards to their future conduct.
 - DR64.3. a record of the consensual disposal on the membership register.

Due process

- DR65. Subject to these regulations, the Investigating Panel, shall set and operate its own processes and procedures in a way that ensures a fair, honest and unconflicted approach and ensures that Complainants and Defendants are kept informed of progress at appropriate stages. Those processes and procedures shall be published by the Institution.

HEARING

Definition

The Clerk to the Disciplinary Panel

- DR66. The Institution Chief Executive shall appoint a member of staff to act as the Clerk to the Disciplinary Panel; that appointment shall be subject to approval by the Trustee Board. The role of the Clerk is to provide administrative support to the Disciplinary Panel and the Disciplinary Board.

The Disciplinary Panel and the Disciplinary Board

- DR67. The Disciplinary Panel shall be a standing committee consisting of a pool of at least twelve members, three quarters of whom shall be Institution members and a quarter shall be lay members.
- DR68. The role of the Disciplinary Panel shall be to hear complaints referred to it by the Investigating Panel.
- DR69. The chair of the Disciplinary Panel shall appoint a Disciplinary Board to hear a case presented by the Investigating Board. The names of persons so appointed shall not be published.
- DR70. The Disciplinary Board shall comprise at least three members of the Disciplinary Panel, of whom one shall be a lay member; three members shall form a quorum. The composition of the Disciplinary Board shall be such that it can fairly take into account any particular characteristic of the parties that is relevant to the case, or that might otherwise affect the fairness, or perception of fairness, of the decisions made. To achieve this, they may co-opt members, who may be Institution members or lay members.
- DR71. This group shall conduct the hearing, making all judgments and determinations as if it was the full Disciplinary Panel.
- DR72. Decisions of the Disciplinary Board shall be made by a simple majority.
- DR73. The Disciplinary Panel shall report its activities in writing annually to the Trustee Board. The report shall cover resources, training, the general nature of hearings (while not disclosing Defendants' identities except where these have already been published through due process) and appeals following hearings.
- DR74. The Disciplinary Panel shall publish and maintain procedures for the preparation and conduct of hearings, consistent with these regulations.

Conflicts and objections

- DR75. Disciplinary Panel members shall declare any known conflicts of interest when asked to take part in a hearing. Where a member has a conflict of interest that member shall not take part in the hearing. When there is doubt about a conflict of interests, the chair of the Disciplinary Panel shall decide.
- DR76. Before a hearing takes place, the Complainant and the Defendant shall be asked whether they object to any member of the Disciplinary Panel members taking part in the hearing and, if so, why. Objections shall lead to the exclusion of the Disciplinary Panel member, unless the chair of the Disciplinary Panel determines that the objection is simply vexatious.

Joinder

- DR77. Unless it would undermine the fairness of the proceedings to do so, the Disciplinary Board may consider charges against two or more Defendants at the same hearing where:

DR77.1. the case against each Defendant arises from the same circumstances; or

DR77.2. the Disciplinary Board considers it just to do so.

Hearing preparation

DR78. Service and inspection of evidence shall be undertaken in accordance with the procedures of the Disciplinary Panel as per DR74.

DR79. The Disciplinary Board shall notify the Defendant of the charge as soon as possible and in any event no fewer than 45 days prior to the date of the hearing.

DR80. The Defendant shall be informed of the date of the hearing and of the procedures to be adopted by the Disciplinary Board, including the Appeals Procedure. They shall be supplied with a copy of the complaint and of all documents provided to the Disciplinary Board in accordance with DR78.

DR81. The Disciplinary Board shall publish the date of the hearing along with the name of the Defendant on the Institution website and in appropriate Institution publications. The nature and details of the complaint shall not be published.

The hearing

DR82. Hearings shall normally be held in public. The Complainant and the Defendant may apply to the Disciplinary Board for all or part of the hearing to be held in private. The Disciplinary Board shall take legal advice on any such application before deciding whether to allow all or part of the hearing to be held in private.

DR83. All hearings shall be audio recorded; an independent person shall be present at the hearing to take and produce the minutes.

DR84. The Disciplinary Board shall normally be assisted by a Legal Advisor. All legal advice given to the Disciplinary Board during a hearing shall be given in open session where it may be challenged by the parties involved in the hearing.

DR85. The Investigating Board may conduct its own case by one of its members nominated for the purpose, or it may be represented by a solicitor or by counsel.

DR86. If the Disciplinary Board is satisfied that the Defendant has been properly notified of the hearing in accordance with these rules, it may proceed in their absence.

DR87. The Disciplinary Board may allow expert witnesses to be called as required.

DR88. The Disciplinary Board may admit any evidence, where it is fair to do so, which is relevant to the case.

DR89. The Disciplinary Board may amend the charges up until it makes its findings of fact.

DR90. The Disciplinary Board may adjourn a hearing at any stage.

DR91. Where a Defendant has been convicted of a criminal offence, a certificate of conviction certified by a competent officer of a court in the United Kingdom or, in other jurisdictions, an equivalent document, shall be conclusive proof of the conviction and the findings of fact upon which the conviction is based shall be admissible as proof of those facts.

- DR92. Where the Defendant has been the subject of proceedings by a court or tribunal other than a criminal court, any facts found proved by that court or tribunal shall be proof of those facts, unless the defendant proves them to be inaccurate.
- DR93. The chair of the Disciplinary Board shall read out the charges against the Defendant and ask in respect of each alleged fact whether they are admitted or denied.
- DR94. Where the Defendant has admitted a fact, the Disciplinary Board shall declare that the fact has been proved.
- DR95. A representative for the Investigating Board, which may include a legal representative, will set out a summary of the evidence supporting the charges. The Investigating Board representative may call witnesses as to facts.
- DR96. At the conclusion of the Investigating Board's case, where the Disciplinary Board is satisfied that it is right in all the circumstances to do so, it may determine that the charges are not well founded and determine that there is no case to answer.
- DR97. Each party, or their representatives, may call witnesses and may cross-examine witnesses called by the other party.
- DR98. Each party, if present, has the right to make final submissions to the committee on the evidence concerning the charges.
- DR99. During the hearing the Disciplinary Board may ask questions or make enquiries of the parties, or witnesses.
- DR100. The Disciplinary Board shall consider whether it finds the charges proved, retiring to deliberate in private as necessary.
- DR101. The Disciplinary Board shall announce whether it finds the facts of the case proved.
- DR102. The parties shall be permitted to make representations, including their final submissions, as to whether the facts of the case that are proved amount to a case of improper conduct.
- DR103. The Disciplinary Board shall retire to deliberate in private as necessary.
- DR104. The Disciplinary Board shall announce whether it finds the facts proved to amount to improper conduct.
- DR105. Where the Disciplinary Board has determined that some or all of the charges have been proved, or where the Defendant has admitted some or all of the facts, it shall:
- DR105.1. ask the Institution to disclose any previous conduct record against the Defendant; and
 - DR105.2. ask whether the Defendant has provided, or wishes to provide, any additional mitigation including the calling of any witness evidence as to mitigation; and
 - DR105.3. invite both parties to make final submissions as to whether or not the facts found proved amount to improper conduct.
- DR106. The Disciplinary Board shall weigh up the available evidence and decide which position is most probably true, that of the Investigating Board or that of the Defendant. Where accounts provided by the parties are both equally credible, the Disciplinary Board shall take particular account of the need for the Institution to protect the public and the reputation of the profession.

Sanctions

- DR107. The Disciplinary Board shall consider what sanction, if any, to apply, retiring to deliberate in private as necessary.
- DR108. The following sanctions shall be available to the Disciplinary Board in respect of Institution members found guilty of improper conduct:
- DR108.1. **Admonition:** a written notice that the member's conduct was not acceptable, without any loss of the rights and privileges of membership; the notice shall make clear that any further finding of improper conduct may lead to a more serious sanction, as set out in these regulations, or to a requirement that the Defendant shall pay a specified sum of money as a contribution to the costs of the proceedings; or
- DR108.2. **Reprimand:** a written notice of severe reproof of the member's conduct, without any loss of the rights and privileges of membership; the notice shall make clear that any further finding of improper conduct may lead to a more serious sanction, as set out in these regulations, or to a requirement that the Defendant shall pay a specified sum of money as a contribution to the costs of the proceedings; or
- DR108.3. **Suspension:** the Defendant shall be temporarily removed from the Institution membership for a stated period of up to twelve months; during the suspension the Defendant shall be denied all rights and privileges of membership, shall not be liable to pay any further subscription or fees referable to that period and shall have no right to any refund of subscription or other fees paid in respect of periods yet to expire; the Defendant shall be warned that any further finding of improper conduct may lead to a more serious sanction, as set out in these regulations, or to a requirement that the Defendant shall pay a specified sum of money as a contribution to the costs of the proceedings; or
- DR108.4. **Expulsion:** the Defendant shall be permanently removed from Institution membership and cease to qualify for any rights and privileges of membership without any right to any refund of subscription or other fees paid in respect of periods yet to expire.
- DR109. Decisions about which, if any, sanction to apply shall be by simple majority of the Disciplinary Board.
- DR110. The Disciplinary Board shall announce what sanction, if any, is to be applied.
- DR111. **Expulsion and suspension.** Where the Disciplinary Board determines that a Defendant be expelled or suspended in accordance with DR108, the expulsion or suspension shall take effect immediately from the Chief Executive's written confirmation of the penalty, so far as practicable, notwithstanding any subsequent appeal. If the Defendant to be expelled is an Engineering Council registrant whose registration is through their Institution membership, their registration shall also be removed. If the Defendant to be expelled is an Engineering Council registrant whose registration is through another Professional Engineering Institution, the Engineering Council must be informed.
- DR112. **Reprimand and admonition** Where the Disciplinary Board determines that a reprimand or admonition be given in accordance with DR108, the Defendant shall attend at a time and venue determined by the Institution, where the reprimand or admonition shall be delivered by the chair of the Disciplinary Panel, in the presence of the chair of the Investigating Panel and the Chief Executive. A written copy of the reprimand or admonition shall be provided to the Defendant.

Due process

- DR113. Subject to these regulations, the Disciplinary Panel may regulate its own processes and procedures, including those for the preparation and conduct of hearings, in a way that ensures a fair, honest and unconflicted approach, and ensures that Complainants and Defendants are kept informed of

progress at appropriate stages. Those processes and procedures shall be published by the Institution.

APPEALS

- DR114. There are three grounds on which appeals may be permitted:
- DR114.1. the decision was unreasonable or could not be supported by the evidence; or
 - DR114.2. there was a serious procedural irregularity in the proceedings; or
 - DR114.3. the sanction applied was not commensurate with the offence.
- DR115. An Appellant may withdraw their notice of appeal at any stage.
- DR116. Decisions in respect of any appeal shall be by simple majority of those hearing the appeal.
- DR117. Decisions made during appeals and reviews are final and conclusive, except in cases in which an expelled Defendant has lost their Engineering Council registration as a result of the disciplinary process. In such cases the Defendant has the right of appeal to the Engineering Council.
- DR118. Unless otherwise stated in these regulations, appeal decisions and the reasons for them shall be communicated in writing by the Chief Executive to the Appellant within 28 days of the decision being made.
- DR119. Where the Appeals Panel rescinds a penalty or reduces it in severity the Defendant's membership records shall be amended accordingly and where applicable, any rights and privileges previously removed shall be restored as soon as practicable.

Appeal against Clerk to the Assessor's decisions

- DR120. The Complainant may appeal against a decision that a complaint is not in scope. If the Complainant appeals:
- DR120.1. The appeal shall be passed to a suitable Assessor for review; and
 - DR120.2. the Assessor shall consider only the original information provided and their decision shall be based on the criteria at DR22; and
 - DR120.3. if the Assessor upholds the appeal the complaint shall be passed to a nominated Assessor who shall not be the same Assessor who heard the appeal. If the appeal is rejected there shall be no further right of appeal.
- DR121. An appeal shall only go forward if it:
- DR121.1. is in writing addressed to the Clerk to the Assessors; and
 - DR121.2. is received within 28 days of the date on which the Institution served notice of the decision that is being appealed; and
 - DR121.3. specifies the grounds and/or evidence relied on in support of the appeal.

Appeal against Assessor's decisions

- DR122. There is no right of appeal of a decision to refer the complaint to the Investigating Panel.

- DR123. The Complainant may appeal against a dismissal of the complaint by the Assessor. This appeal shall be considered by three members of the Investigating Panel appointed by the chair of the Investigating Panel for that purpose.
- DR124. An appeal shall only go forward if it:
- DR124.1. is in writing addressed to the Clerk to the Investigating Panel; and
 - DR124.2. is received within 28 days of the date on which the Institution served notice of the decision that is being appealed; and
 - DR124.3. specifies the grounds and/or evidence relied on in support of the appeal.
- DR125. If an appeal against dismissal of the complaint by the Assessor is upheld, the complaint shall be passed to the Investigating Panel for consideration. The three members of the Investigating Panel who heard the appeal may not take part in the investigation.
- DR126. If an appeal against dismissal of the complaint by the Assessor is not upheld by the Investigating Panel, there shall be no further right of appeal.

Review of Interim Suspension Order

- DR127. If the Defendant requests a review of an Interim Suspension Order, that review shall take place within two weeks of the date on which the Defendant's request was received by the Institution.
- DR128. The review shall be carried out by the Appeals Panel. The Assessor who ordered the suspension and the Defendant shall be provided with a reasonable opportunity to submit representations to the review.
- DR129. A Defendant who has requested a review of an Interim Suspension Order shall be notified, in writing, of the outcome of the review as soon as is practicable. The Defendant may only request a further review on the grounds that circumstances have changed such that the Interim Suspension Order is no longer necessary. The Appeals Panel Chair shall decide whether to allow the Appeal.

Appeal against Investigating Board decisions

- DR130. There is no right of appeal of a decision by an Investigating Board to refer the complaint for a hearing.
- DR131. There is no right of appeal against a consensual sanction by an Investigating Board.
- DR132. The Complainant may appeal against a dismissal of the complaint by the Investigating Board. This appeal shall be considered by three members of the Investigating Panel appointed by the chair of the Investigating Panel for that purpose. The three members of the Investigating Panel who took part in the investigation shall not hear the appeal.
- DR133. An appeal shall only go forward if it:
- DR133.1. is in writing addressed to the Clerk to the Investigating Panel; and
 - DR133.2. is received within 28 days of the date on which the Institution served notice of the decision that is being appealed to the party making the appeal; and
 - DR133.3. specifies the grounds and/or evidence relied on in support of the appeal.
- DR134. If an appeal against a decision of the Investigating Board is dismissed there is no further right of appeal.

Appeal against a Disciplinary Board decision

- DR135. Where the Disciplinary Board finds the Defendant guilty of improper conduct:
- DR135.1. The Defendant may appeal against the finding or the outcome and sanction, or both, within 28 days of the date of notification of the finding; and
 - DR135.2. The Investigating Board may appeal against the sanction imposed on the grounds that it is unduly lenient, within 28 days of the date of notification of the sanction.
- DR136. Where the Disciplinary Board finds the Defendant not guilty of improper conduct the Investigating Board may appeal against the finding, within 28 days of the date of notification of the finding;
- DR137. An appeal against a Disciplinary Board decision shall go forward to the Appeals Panel Chair if:
- DR137.1. It is in writing addressed to the Clerk to the Appeals Panel; and
 - DR137.2. It is received within 28 days of the date on which the Institution served notice of the decision that is being appealed to the party making the appeal; and
 - DR137.3. It specifies the grounds and/or evidence relied on in support of the appeal; and
 - DR137.4. the administration charge determined at DR15 has been paid.
- DR138. An appeal shall only be allowed to proceed to an Appeals Board hearing with the permission of the Appeals Panel Chair and permission may be given where he or she determines that one or more of the grounds of appeal has a realistic prospect of success.
- DR139. If an appeal against a decision of the Disciplinary Board is dismissed there is no further right of appeal except as stated in DR117.

Appeals Panel and Appeals Board

- DR140. The Appeals Panel shall be a pool of at least twelve people half of who are Institution members and half of whom are lay members.
- DR141. The role of the Appeals Panel shall be to hear appeals against the decisions made by the Disciplinary Board.
- DR142. The chair of the Appeals Panel shall appoint an Appeals Board to hear an appeal. The names of persons so appointed shall not be published.
- DR143. The Appeals Board shall comprise at least three members of the Appeals Panel, of whom one shall be a Legally Qualified lay member who shall chair the Appeals Board. Three members shall form a quorum. The composition of the Appeals Board shall be such that it can fairly take into account any particular characteristic of the parties that is relevant to the case, or that might otherwise affect the fairness, or perception of fairness, of the decisions made. To achieve this, they may co-opt members, who may be Institution members or lay members.
- DR144. The Appeals Board shall conduct the appeal, making all judgments and determinations as if it was the full Appeals Panel.

Conflicts and objections

- DR145. Appeals Panel members shall declare any known conflicts of interest when asked to take part in an appeal. Where a member has a conflict of interest that member shall not take part in the appeal. When there is doubt about a conflict of interests, the chair of the Appeals Panel shall decide.
- DR146. Before an appeal begins, both parties shall be asked whether they object to any member of the Appeals Panel taking part in the appeal and, if so, why. Objections shall normally lead to the exclusion of the Appeals Panel member unless the chair of the Appeals Panel determines that the objection is simply vexatious.

The Clerk to the Appeals Panel

- DR147. The Institution Chief Executive shall appoint a member of staff to act as the Clerk to the Appeals Panel; that appointment shall be subject to approval by the Trustee Board. The role of the Clerk is to provide administrative support to the Appeals Panel and the Appeals Board.

Conduct of appeals

- DR148. As soon as reasonably practicable after a notice of appeal has been received, the Appeals Board shall inform the appellant of the date on which the appeal will be heard, the procedures to be adopted by the Appeals Board, and of their right to be represented at the appeal.
- DR149. Appeals shall normally be held in public, to be consistent with the Article 6 of the Human Rights Act 1998. The Complainant and the Defendant may apply to the Appeals Board for all or part of the appeal to be held in private. The Appeals Board shall take legal advice on any such application before deciding whether to allow all or part of the appeal to be held in private.
- DR150. The Appeals Board shall have full powers to quash, affirm or vary any decision of the Disciplinary Board and may, in addition:
- DR150.1. vary any sanction imposed by Disciplinary Board; or
- DR150.2. order that the case be reheard and give directions for any such hearing.
- DR151. The Appeals Board shall have the power to consider all the evidence available to the Disciplinary Board. The parties to the appeal shall provide the Appeals Board with an appeal bundle and any skeleton arguments or other written submissions at least 14 days in advance of the appeal hearing.
- DR152. The Appeals Board shall not hear oral evidence or receive documentation not seen by the Disciplinary Board, unless in exceptional cases the Appeals Board determines otherwise.
- DR153. The Appeals Board may adjourn an appeal at any stage.
- DR154. The chair of the Appeals Board shall outline the decision which is the subject of the appeal and direct the Appeals Board to any relevant evidence including transcripts of any hearing.
- DR155. The Appellant may address the Appeals Board on the grounds of the appeal.
- DR156. The Appellant may make a closing address.
- DR157. The Appeals Board may then retire to make its decision in relation to the appeal.
- DR158. The chair of the Appeals Board shall inform the Appellant whether it will make and announce its decision and reasons on the day of the hearing or in writing at a later date. If the Appeals Board makes and announces its decision and reasons on the day of the hearing, it shall write to the Appellant within 28 days of the date of the hearing to confirm its decision and reasons. If the

Appeals Board announces its decision and reasons in writing at a later date, it shall do so within 28 days of the date of the hearing.

Joinder

- DR159. When more than one party wishes to appeal against a decision made under the provision of a joinder, as set out in these regulations, they shall submit separate appeals.
- DR160. Unless it would undermine the fairness of the proceedings to do so, the Appeals Board may consider appeals from two or more Appellants at the same hearing, where:
- DR160.1. the cases arise from the same circumstances; or
 - DR160.2. the Appeals Board considers it just to do so.

Due process

- DR161. Where it is in the interests of justice to do so, the Appeals Board may determine their own procedure and vary any time limits in these rules.

PUBLICATION AND APPLICABILITY

- DR162. When the Disciplinary Board finds a Defendant guilty of improper conduct, or when the Investigating Board approves a consensual disposal, it shall publish that decision, together with any penalty imposed, in such manner and to such persons as they deem necessary or desirable with a view to furthering the objects of the Institution. The Disciplinary Board may determine not to publish the finding of the hearing where special reasons exist.
- DR163. When the Disciplinary Board finds a Defendant not guilty of improper conduct, the Institution may only publish details of the relevant decision with the agreement of the Defendant. The Defendant may require the Chief Executive to display a notice in the Institution and to notify Institution members that the complaint has been dismissed.
- DR164. Publication shall only take place after the conclusion of proceedings. Proceedings are deemed to have concluded:
- DR164.1. when a case that has been heard and is the subject of an appeal has concluded with a finding of improper conduct in respect of the Defendant; or
 - DR164.2. in any other case, when the time limit for any party to file an appeal has expired.

SERVICE OF DOCUMENTS

- DR165. Any document or notice to be served under these rules shall be served in person, by a recorded form of post or by email. Such documents and notices shall be deemed served:
- DR165.1. if served in person, on the day of service; or
 - DR165.2. if served by post, on the second business day after the date of posting; or
 - DR165.3. if served by email, when delivery of the email is confirmed by appropriate electronic means.

RECORD KEEPING

- DR166. Details of all complaints and reports of improper conduct shall remain confidential. They shall be retained by the Institution in a secure file kept specifically for that purpose for as long as they may be relevant and shall then be destroyed.
- DR167. All sanctions ordered under DR108 shall be recorded on the membership record of the Defendant for as long as that membership record is maintained by the Institution, taking account of DR164 and current legislation, and the requirement to maintain membership records of members:
- DR167.1. **suspended**, at least until the suspension period is completed; or
- DR167.2. **expelled**, at least until the member is known to be deceased or until the date on which the member reaches or would have reached the age of 100 years, whichever is the sooner.

TRANSITION ARRANGEMENTS

- DR168. The following transitional arrangements shall apply:
- DR168.1. In respect of any complaint or allegation made to the Institution by a Complainant or informant before these Regulations came into force in respect of which the Defendant has been notified of the date of any hearing, the previous edition of these regulations shall apply, save that if any party seeks to appeal any decision of the Disciplinary Board, any such appeal shall proceed under these regulations.
- DR168.2. In respect of any finding of the Disciplinary Board which is the subject of an appeal and in respect of which the Defendant has been notified of the date of any appeal, the previous edition of the regulations shall apply to the conduct of any appeal hearing and the orders which the Appeals Panel or Appeals Board may make. In the event that the Appeals Board determines that the case shall be reheard, the hearing and any subsequent hearings shall proceed under these regulations.
- DR168.3. In all other circumstances after the date on which these Rules come into force, these regulations shall apply.