

# **Professional Conduct Procedure**

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## **Consensual disposal**

## About this document

The Institution's member conduct and disciplinary procedures are governed by its Royal Charter, By-laws and Regulations. As a supplement to these the Institution publishes a series of information documents, of which this is one. The relationship between these different types of document is shown below.

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<b>1</b>	<b>Royal Charter</b>	The Royal Charter is an instrument of incorporation granted by the UK monarch. It confers independent legal personality on the Institution and defines its objectives, constitution and powers to govern its own affairs including the power to make By-laws.
<b>2</b>	<b>By-laws</b>	The By-laws are approved by the Privy Council. They set out the rules that govern the actions of the Institution. They set out the general standards of conduct required of Institution members and require the Trustee Board to make Code of Conduct Regulations. They also define improper conduct, require the Trustee Board to make Disciplinary Regulations and set out members' liability to be penalised if found guilty of improper conduct.
<b>3</b>	<b>Regulations</b>	The Regulations set out the directives made by the Institution Trustees in defined subject areas, including the Code of Conduct Regulations and the Disciplinary Regulations.
<b>4</b>	<b>Information</b>	Information documents supplement the Regulations and are intended to help people who engage with the Disciplinary Procedures.

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All of the documents listed above are available on the Institution's website.

## Consensual disposal

### What is consensual disposal?

1. Consensual disposal is the resolution of a complaint in which, in specific circumstances, the parties agree to a finding of improper conduct. The specific circumstances are that:
  - a. there is no material dispute of fact;
  - b. the Investigating Board concludes that the improper conduct identified is not serious enough to warrant referral for a hearing;
  - c. the Complainant has been afforded a reasonable opportunity to make representations on the proposed disposal and these have been taken into account;
  - d. there is no benefit to the public interest from referring the complaint for a hearing.
2. This allows complaints to be resolved in a quicker timeframe and avoids the anxiety and inconvenience of attending a hearing. Although there is no formal hearing of the complaint, a consensual disposal agreement is deemed to be a disciplinary decision and will be published in line with the Institution's publication policy.
3. For a consensual disposal to be available, the member must make admissions of improper conduct and agree to comply with any sanction imposed on them by the Investigating Board. Consistent with this, the Investigating Board would expect to see evidence of remorse, insight and genuine learning from the member. A consensual disposal will only be considered if it is in the public interest to do so.
4. Consensual Disposal will only be allowed if the proposal is agreed by the Investigating Board. The Investigating Board's agreement to resolve a matter by Consensual Disposal, and the terms of that disposal, is final and there is no right of appeal for either the Complainant or member.

### The process

5. A member may request a Consensual Disposal. Alternatively, the Investigating Board, on considering the complaint, may invite the parties to enter into a Consensual Disposal.
6. The main stages of the process will generally be as follows:
  - a. the Consensual Disposal will be either requested by the member or identified as an appropriate resolution by the Investigating Board.

- b. the Investigating Board will inform the Complainant and the member that a Consensual Disposal would be an appropriate resolution.
- c. the Complainant will correspond with the Investigating Board to record their agreement to Consensual Disposal.
- d. the member will correspond with the Investigating Board to record their agreement to the Consensual Disposal and to set out their admission of improper conduct.
- e. the Investigating Board will decide whether to approve the Consensual Sanction

Consensual sanction approved

- 7. If the Investigating Board approves the Consensual Sanction, it will draft a consensual disposal proposal which will identify the sanction to be applied. The sanctions available for a Consensual Disposal are set out in the Disciplinary Regulations.
- 8. The Consensual Disposal Proposal will be sent to the member. The member will have 28 days to review the proposal and accept it. Once returned from the member, the Consensual Disposal Agreement will be signed by the Chair of the Investigating Board and will take effect from that date.
- 9. The member and Complainant will be contacted to inform them that the complaint has been resolved.
- 10. The Consensual Disposal decision will be published as prescribed in the Disciplinary Regulations.

Consensual sanction not approved

- 11. If the Investigating Board does not approve a Consensual Disposal, it will consider whether to refer the complaint to the Disciplinary Board for a hearing, taking into account all the facts of the complaint and any relevant matters arising during the consideration of a Consensual Sanction (for example, if the member admits improper conduct but shows no remorse.)

**Guidance for members**

- 12. If you want to request a Consensual Sanction, you should do so in writing through the Clerk to the Investigating Panel, and include the following points:
  - a. a detailed summary of the complaint;
  - b. the relevant facts and/or allegations that you admit to;
  - c. the allegations made against you that you admit to;
  - d. any mitigation that you want to be considered (this could include any training or work already completed to address the concerns raised in the complaint, or that you intend to complete in the near future);
- 13. A Consensual Disposal should not be used as a way to trade off one allegation for another. The Investigating Board will consider

## **Consensual disposal**

Consensual Sanction only when you admit improper conduct in respect to all the allegations.