Disciplinary Rules 2020

Approved by Council: 25 September 2019

Effective from 02 January 2020
STEP DISCIPLINARY RULES

1. Application

1.1 These Rules shall apply to all Complaints received by the Society after their implementation date, which shall be 2 January 2020.

1.2 Subject to any applicable statutory limitation period which may apply to the contract that exists with a Member the Society may investigate a Complaint or continue to investigate and prosecute or continue to prosecute a Complaint made against a Member or former Member irrespective of the country in which the acts or omissions which resulted in the Complaint took place and the Member or former Member's registration status at the time of the events which are or relate to the subject matter of the Complaint. For the avoidance of doubt, this means that the Society may investigate a Complaint regardless of whether the relevant events took place before, during or after the Member or former Member's membership of the Society.

1.3 These Rules may be updated from time to time.

2. Definitions

2.1 In these Rules:

‘Appeal Panel’ means the panel (and where appropriate its Chair sitting alone) appointed by the Board to hear an appeal against a decision of a Disciplinary Panel;

‘Board’ means the Board of Directors for the time being of the Society;

‘Branch’ and ‘Region’ are STEP geographical entities as defined in the Articles; for the purposes of the Disciplinary Rules a STEP ‘Chapter’ is included in the definition of a Branch;

‘Chair of the Disciplinary Panel’ means the person who from time to time holds that appointment within the Society;

‘Chair’ means the person appointed to chair an Investigation Panel or a Disciplinary Hearing Panel or an Appeal Panel as the context requires;

‘Charge’ means the formulation of the criticisms of the Member to be considered by the Disciplinary Hearing Panel, as referred to that Panel by the Investigation Panel;

‘Complaint’ means information however provided to the Society or instigated by the Chair of the Professional Standards Committee about the conduct or performance of, or any situation pertaining to, a Member;

‘Complainant’ means any person making a Complaint to the Society, and includes the Chair of the Professional Standards Committee;

‘Consent Order’ means an Order against a Member or former Member under Rule 10 of these Rules entered into with the agreement of the Member under Rule 7.4 of these Rules;
‘Council’ means the Council for the time being of the Society;

‘Disciplinary Hearing Panel’ means the panel (and where appropriate its Chair sitting alone) appointed by the Board to hear cases brought by the Society against a Member in response to a Complaint;

‘Disciplinary Panel’ means the panel of Members who have previously been approved by the Board for the purpose of forming Investigation Panels and Disciplinary Hearing Panels, a list of whom shall be maintained by the Professional Services Manager;

‘GPDR’ means the General Personal Data Regulation EU 2016/679 or its equivalent effective in the United Kingdom;

‘Hearing’ means any hearing before the Disciplinary Hearing Panel or the Appeal Panel, including any hearing conducted on the papers without an oral hearing, any adjourned or resumed hearing and any re-hearing;

‘Interim Suspension Order’ is an Order by which the membership of a Member is to be suspended pending the conclusion of any proceedings taken or to be taken by the Society against the Member pursuant to these Rules.

‘Investigation Panel’ means a panel selected from those people appointed by the Board to investigate Complaints and to determine whether there is a case for the Member to answer;

‘Member’ means a member of the Society, be they a full Member, Associate, Affiliate or Student and includes past or Retired and Restricted members as defined by the then current Membership Rules of the Society;

‘Order’ means the Orders described at Rule 10.1 of these Rules (including any Order made as a Consent Order), an Interim Suspension Order and any decision by the Disciplinary Panel to refuse any application for an oral hearing and/or that the proceedings be stayed for abuse of process or unfairness and/or that a Panel member recuse themselves or the Panel recuse itself by reason of bias (real or apparent);

‘The Professional Standards Manager’ means the individual appointed to that role for the time being by the Board and his duly appointed deputy;

‘Regulatory Body’ means the regulatory entity from which a Member has secured authorisation to conduct Relevant Professional Activities within a Relevant Jurisdiction;

‘Relevant Professional Activities’ means activities in any discipline which are performed under the laws of any Relevant Jurisdiction;

‘Relevant Jurisdiction’ means the jurisdiction in which a Member has or has purported to perform Relevant Professional Activities;

‘Respondent’ means a Member of the Society against whom a Complaint has been made and who becomes subject to the procedures provided for in these Rules;
‘Rules’ means the Rules hereby promulgated as from time to time amended by Council and any reference to a Rule shall be to the corresponding number in these Rules;

‘The Society’ means the Society of Trust and Estate Practitioners Limited;

2.2 Where there is a reference to any act, regulation or other enforceable order within a relevant jurisdiction that will (as the context requires) encompass the equivalent in any other jurisdiction.

3. The Complaint

3.1 Information about a Member amounts to a Complaint within, and may therefore be considered by the Society pursuant to, these Rules if it involves any one or more of the following on the part of the Member:

(a) a criminal conviction of whatever type in the United Kingdom, or an offence in any Relevant Jurisdiction, or otherwise an act or omission which if committed in the United Kingdom would be considered a criminal offence;

(b) an adverse determination by a Regulatory Body or a professional body to which the Member also belongs;

(c) a bankruptcy order or declaration of insolvency made against the Member;

(d) entering into a voluntary arrangement with creditors (otherwise than for a solvent re-organisation);

(e) disqualification as a company director or a trustee or entering into a disqualification undertaking;

(f) a failure to comply with the Code of Professional Conduct, these Rules or any other regulation, code of practice or guidance issued by the Society;

(g) a lack of competence;

(h) misconduct;

(i) any conduct which is or may be likely to bring the Society into disrepute.

3.2 Any person may make a Complaint. Complaints must be made in writing either by email or by post and in all events must contain the following:

(a) the name of the Member;

(b) the Member’s company/firm address and jurisdiction in which he works;

(c) a full summary of the Complaint;

(d) whether a complaint has been made to another body;

(e) whether legal proceedings have been instigated against the Member or the
firm or other organisation of which they are part;

(f) the Complainant’s full contact details;

(g) copies of the evidence which is said to support the Complaint;

(h) a waiver of legal professional privilege if relevant;

(i) consent to the Society processing all of the personal data provided to it within the GDPR in accordance with the Society's standard practice;

(j) consent to the Society referring the Complaint to the Member's Regulatory Body or a law enforcement agency if the Society considers it appropriate to do so.

4. **Interim Suspension Orders**

4.1 An Interim Suspension Order may be made:

(a) where, in the course of disciplinary proceedings by a Regulatory Body, it directs that the Member’s membership or entitlement to practice is suspended or terminated; and/or

(b) where any of the other grounds set out in Rule 3.1 may apply and a Complaint is or may be investigated by the Society;

and will be effective as against that Member until (in the case of (a)) the end of the suspension and/or termination imposed by the Regulatory Body (and (in the case of (b)) conclusion of the proceedings bought under these Rules or cessation of an investigation (whichever is the later) subject always to any review or variation of the Interim Suspension Order provided for in the remaining provisions of this Rule.

4.2 Where the Complaint is made by virtue of the Member being declared bankrupt or insolvent by a competent tribunal, membership of that Member shall automatically be suspended without the invocation of the procedures described in these Rules until the bankruptcy or insolvency is discharged. Any readmission post suspension is subject to the Member satisfying the then current requirements of membership of the Society as they then apply to its Members.

4.3 The Chairs of each of the Disciplinary Panel, and, after its appointment, the Investigation Panel and, after its appointment, the Disciplinary Hearing Panel respectively, may during their tenures in respect of the processing of a Complaint, if satisfied that it is necessary to do so to protect clients or potential clients and/or the reputation of the Society, direct that the Member be made subject to an Interim Suspension Order which once made shall continue in force until discharged or varied in accordance with the remaining provisions of these Rules.
4.4 In the event of an Interim Suspension Order being made pursuant to Rule 4.3 the Member may apply to the relevant Chair who made the Interim Suspension Order requesting that it be either varied or discharged.

4.5 In the event of a Member making the application described at Rule 4.4 of these Rules the application shall be determined on the papers alone without an oral hearing. In making a determination the Chair of the relevant Panel may request the observations of the Society upon the application. If the Society accedes to this request, the applicant shall have an opportunity to comment in writing on the Society's observations before the application is determined.

4.6 The Chair of the Disciplinary Hearing Panel to which a Charge has been referred will in any event conduct a review on the papers of an Interim Suspension Order made in the case not less than every six months from the date upon which the Order was first made. In conducting this review the Chair of the Disciplinary Hearing Panel may request the observations of the parties. If the parties accede to this request the Member shall have an opportunity to comment in writing on the Society's observations before the review is completed. In the event that a review is required prior to the appointment of a Disciplinary Hearing Panel any such review will be conducted by the Chair of the Investigation Panel considering the Complaint.

5. **Notification of a Complaint**

5.1 Whenever the Society receives a Complaint concerning a Member the substance of which, if proven, would establish that the Member had acted in any of the respects described at Rule 3.1 there will be an initial assessment by the Professional Standards Manager and if the case is neither frivolous nor vexatious and in their reasonable opinion has substance, they:

(a) shall serve notice upon the Member, now to be identified as the Respondent, in writing of the Complaint against him, as described in Rule 5.2;

(b) may refer the Complaint to the Member's Regulatory Body or a law enforcement agency or other competent legal authority;

(c) may postpone the Society's consideration of the Complaint for such period as it thinks fit pending the conclusion of any proceedings which are being or may be taken against the Respondent by the Respondent's Regulatory Body or a law enforcement agency or other competent legal authority;

(d) may make any inquiry into the Complaint, including obtaining documents and witness statements, which they see as appropriate;

(e) may employ the services of such lawyers, accountants, investigation or inquiry agents and other professional persons, whether or not they are members of the Society, as they consider necessary for the effective investigation of the case, collation of evidence;
(f) may refer the Complaint to the Chair of the Disciplinary Panel for consideration as to whether an Interim Suspension Order should be made.

5.2 The notice to be served upon the Respondent in accordance with Rule 5.1 shall include:

(a) a copy of the Complaint;

(b) if the Society's consideration of the Complaint is to be postponed pursuant to Rule 5.1(c);

(i) a statement to that effect;

(ii) a statement to the effect that the Respondent will receive notice of any decision by the Society to proceed with its consideration of the Complaint;

(c) if and when the Society's consideration of the Complaint is to proceed:

(i) if the Society's consideration of the Complaint is to proceed after a postponement under Rule 5.1(c), a statement to that effect;

(ii) (without prejudice to the terms of any Charge later addressed to the Respondent by the Investigating Panel) the ground or grounds within Rule 3.1 under which the Complaint is at that stage being considered by the Society;

(iii) a copy of all documentary and/or other evidence received or obtained by the Society in relation to the Complaint;

(iv) a requirement that the Respondent submit a written response to the Complaint within 28 days of the date upon which the notification was served upon him;

(v) a copy of these Rules;

(vi) a copy of any guidance to its disciplinary process published by the Society.

5.3 The Respondent must within 28 days of receiving notice of the Complaint or a request for information provide a response into the issues raised but if he should fail to do so the Complaint will be considered on the basis of the information made available.

5.4 The Society may share any response received pursuant to Rule 5.3 with the Complainant, any Regulatory Body, law enforcement agency or other competent legal authority.

6. The Investigation Panel
6.1 As soon as is practicable after serving the notification described at Rule 5.2 to the Respondent that a Complaint is to proceed the Professional Standards Manager shall convene an Investigation Panel.

6.2 An Investigation Panel shall consist of three members of the Disciplinary Panel, one of whom will be appointed as Chair. The Panel shall include a member nominated by the Chair of the Branch in the jurisdiction most relevant to the Complaint. In the absence of such a nomination or their failure to act this Panel member shall also be appointed from the Disciplinary Panel.

6.3 If for any reason any member of the Investigation Panel is unable to attend a meeting of the Panel, or if during the course of the Hearing any member of such an Investigation Panel (other than the Chair) is unable to continue to attend the meeting, the remaining members of the Investigation Panel may at their discretion proceed or continue with the Hearing and exercise all or any of the functions of the Panel described at Rule 7.

7. The Investigation

7.1 As soon as is practicable upon the expiry of the 28 day period identified at Rule 5.3 and whether or not it has received a response to the Complaint from the Respondent, the Investigation Panel shall review all of the information provided to it comprising the Complaint and any further information or documents obtained by the Society, the Respondent's response (if provided) and any other information it has obtained and determine whether there is a case for the Respondent to answer in respect of the Complaint.

7.2 If the Investigation Panel determines that there is no case for the Respondent to answer it shall notify the Complainant and the Respondent of that determination and no further action will be taken by the Society in relation to the Complaint.

7.3 If the Investigation Panel determines that there is a case for the Respondent to answer it shall notify the Complainant and the Respondent of that determination and shall either:

(a) offer the Respondent a Consent Order by which the Complaint may without anything further be resolved by its imposition of one of the Orders described at Rule 10; or

(b) refer the Complaint to the Disciplinary Hearing Panel.

7.4 In the event that the Investigation Panel decides to proceed under Rule 7.3(a) it shall:

(a) notify the Respondent of its decision to offer him a Consent Order, the effect of acceptance of which will be to resolve the Complaint against him without the referral of the Complaint to the Disciplinary Hearing Panel provided for by Rule 7.3(b);
(b) notify the Respondent of the terms of the Consent Order proposed;

(c) notify the Respondent that if they wish to accept the Consent Order they must do so within 28 days of the date upon which it is served upon them and that, if they decline to accept the Consent Order or fail to respond, the Charge will be listed for consideration by the Disciplinary Hearing Panel in accordance with Rule 7.3(b);

(d) on receipt of the Respondent's written acceptance of the Consent Order, make the Order and send it to the Respondent and notify the Complainant of the outcome of the Complaint.

7.5 In the event that the Investigation Panel proceeds under Rule 7.3(b) it shall:-

(a) formulate the Charge which the Respondent will be required to answer before the Disciplinary Hearing Panel;

(b) serve notice upon the Respondent:-

(i) of the terms of the Charge;

(ii) that the Charge will be considered by the Disciplinary Hearing Panel on a date to be fixed;

(iii) that the hearing before the Disciplinary Hearing Panel will be conducted on the papers only, unless, within 28 days of the date upon which the notice is served upon the Respondent under this provision, the Respondent requests an oral hearing, in which case any such request must include the reasons for the request and the request for an oral hearing will be determined by the Chair of the Disciplinary Hearing Panel without an oral hearing;

(iv) that in the event that the Complaint falls within Rule 3.1 (a), (b), (c), (d) or (e) of these Rules, confirm that the Disciplinary Hearing Panel's consideration of the Charge will be limited to what (if any) Orders and orders for costs it will make.

7.6 In default of the Respondent providing their written acceptance of the Consent Order within the time period described in Rule 7.4(c) the Investigation Panel shall reconvene and proceed under Rule 7.3(b) as if no Consent Order had been offered to the Respondent (and neither the Disciplinary Hearing Panel nor the Appeal Panel are to be informed of any such offer) by taking the steps described at Rule 7.5.

7.7 Further and without prejudice to the requirements described at Rule 7.5 of these Rules the Investigation Panel may also, if it is satisfied that it is necessary to do so to protect clients or potential clients and/or the reputation of the Society, direct that the Member
be made subject to an Interim Suspension Order.

7.8 In the event of the Investigation Panel deciding to proceed in accordance with Rule 7.7 it shall, in addition to taking the steps described in Rule 7.5 above, notify the Respondent of that decision and of their right to apply to set aside or vary the terms of the Interim Suspension Order as provided for in Rule 4 above.

7.9 In the performance of the functions described in this Rule the Investigation Panel may:

(a) adjourn its consideration of the Complaint from time to time as required in the performance of its functions. In the event that it adjourns its consideration of the Complaint it shall inform the parties to the Complaint that it has done so and the date upon which the Complaint is to be further considered;

(b) make inquiries of witnesses or other third parties, provided that it shall not make the determination described at Rule 7.1 unless it has afforded the Respondent the opportunity to comment upon any responses to such inquiries;

(c) make such requests for documents as it considers are necessary for the performance of its functions, provided that it shall not make the determination described at Rule 7.1 unless it has afforded the Respondent the opportunity to comment upon any documents it obtains;

(d) employ the services of such lawyers, accountants, investigation or inquiry agents and other professional persons, whether or not they are members of the Society, as it considers necessary for the effective investigation of the case, collation of evidence and formulation of the Charge.

8. The Disciplinary Hearing Panel

8.1 As soon as practicable after a Charge has been referred to the Disciplinary Hearing Panel by the Investigation Panel the Professional Standards Manager shall convene a Disciplinary Hearing Panel which shall hear and determine the case against the Respondent as set out in the Charge.

8.2 A Disciplinary Hearing Panel shall consist of three members of the Disciplinary Panel, one of whom (who must be legally qualified) will be appointed as Chair. The Panel shall include a member nominated by the Chair of the Branch in the jurisdiction relevant to the Complaint. In the absence of such a nomination or on their failure to act this Panel member shall also be appointed from the Disciplinary Panel.

8.3 If for any reason any member of the Disciplinary Hearing Panel is unable to attend the Hearing, or if during the course of the Hearing any member of such Disciplinary Hearing Panel (other than the Chair) is unable to continue to attend the Hearing, the remaining members of the Disciplinary Hearing Panel may at their discretion proceed or continue with the Hearing and exercise all of the functions and powers provided for by this Rule.
8.4 Subject to Rule 8.6, the Chair of the Disciplinary Hearing Panel will determine on their own and on the papers and without an oral hearing:-

(a) in the event of a request by a Respondent for an oral hearing, whether an oral hearing is required for the fair determination of the case against the Respondent;

(b) whether the Respondent is to be made subject to an Interim Suspension Order, pursuant to Rule 4;

(c) any application for the discharge or variation of an Interim Suspension Order made under Rule 4;

(d) the reviews of Interim Suspension Orders required by Rule 4.6;

(e) any interlocutory application made by the parties to the Hearing prior to its commencement;

(f) whether they wish to issue case management directions in relation to an oral hearing and if so what those directions are to be. If the Chair does give such directions the Society and the Respondent are to comply with those directions in the time he allows.

8.5 Subject to Rule 8.7, the Professional Standards Manager shall notify the parties to the Hearing of the date upon which the Chair is to exercise any of the powers described at Rule 8.4. The Respondent and the Society shall both be entitled to make written submissions in relation to the decisions described at Rule 8.4. Any such submissions must be submitted to the Professional Standards Manager no less than 48 hours prior to the date upon which the Chair will make the decision.

8.6 If the Chair determines in their absolute discretion that oral submissions are required for the purposes of any of the decisions described at Rule 8.4 they may direct that an oral hearing (which may by telephone or an internet video conferencing service) is to take place, to be arranged by the Professional Standards Manager.

8.7 In the event of the Chair deciding to proceed in accordance with Rule 8.4(b) the Professional Standards Manager shall notify the Respondent of:-

(a) the decision and the grounds upon which they propose that an Interim Suspension Order be made;

(b) the date upon which the Chair will consider whether an Interim Suspension Order should be made;

(c) their entitlement to make written representations;

(d) the requirement that they provide written representations and any evidence they wish to rely upon to the Professional Standards Manager no less than 7 days prior to the date identified in accordance with sub-paragraph (b);
the fact that they may proceed with the consideration as to whether an Interim Suspension Order should be made without any written representations from the Respondent.

8.8 If the Chair determines in their absolute discretion that an oral hearing is required for the fair determination of the Society’s case against the Respondent they shall direct that an oral hearing of the case is to take place, to be arranged by the Professional Standards Manager and provide appropriate case management instructions.

9. The Disciplinary Panel Hearing

9.1 As soon as practicable after a Charge has been referred to the Disciplinary Hearing Panel, and in any event no later than 28 days before the date of the Hearing the Professional Standards Manager shall serve upon the Respondent a notice (a ‘Notice of Inquiry’):

(a) containing the Charge which the Disciplinary Hearing Panel is to consider, as formulated by the Investigation Panel;

(b) enclosing a document which shall stand as the Society’s written Opening of its case against the Respondent;

(c) enclosing copies of the evidence upon which the Society will rely at the Hearing;

(d) notifying the Respondent of the date fixed for the Hearing;

(e) requiring the Respondent to submit any documents they wish the Disciplinary Hearing Panel to consider and any arguments they wish to make in written form to the Professional Standards Manager no later than 14 days before the Hearing.

9.2 In the event that the Hearing is to be by way of an oral hearing, the notice described at Rule 9.1 will also notify the Respondent:-

(a) of the time and the location at which it will take place;

(b) of their entitlement to be heard and to be represented by a person of their choice, including a barrister or solicitor;

(c) that, unless the Disciplinary Hearing Panel determines otherwise, they will only be permitted to call witnesses to give evidence on their behalf if the documents they submit in advance of the Hearing include witness statements from those witnesses;

(d) that, unless the Disciplinary Hearing Panel determines otherwise, they will only be permitted to rely upon documents if those documents have been provided
to the Society and the Panel in advance of the Hearing and in accordance with these Rules;

(e) that the Disciplinary Hearing Panel may proceed in his absence.

9.3 The Society:

(a) may appoint any employee or member of the Society to present its case to the Disciplinary Hearing Panel, or may instruct a solicitor or brief counsel so to appear;

(b) unless the Disciplinary Hearing Panel determines otherwise, will only be permitted to call witnesses to give evidence on its behalf if the documents it submits in advance of the hearing include witness statements from those witnesses with the Notice of Inquiry;

(c) unless the Disciplinary Hearing Panel determines otherwise, will only be permitted to rely upon documents if those documents were provided to the Respondent with the Notice of Inquiry.

9.4 Subject to the requirements of fairness the Disciplinary Hearing Panel shall determine in its sole discretion the procedure pursuant to which it will conduct the Hearing.

9.5 Any fact which requires proof is to be proved to the satisfaction of the Disciplinary Hearing Panel on the balance of probabilities. The Society shall bear the burden of proving (to that standard) the Charge and any fact relied upon in support of the Charge.

9.6 The Disciplinary Hearing Panel may amend the Charge at any time prior to making any findings it is required to make by the Charge, provided that it has first given the opportunity to both parties to make submissions as to the proposed amendment.

9.7 In order to make its decision the Disciplinary Hearing Panel shall deliberate in private. The decision, the reasons for the decision and the terms of any Orders which the Disciplinary Hearing Panel has decided to make will be notified to the Society and the Respondent in writing and copied to the Complainant. Without prejudice to that requirement, if there has been an oral hearing the Disciplinary Hearing Panel may issue its decision and the terms of any Orders it has decided to give by written notice to both parties.

9.8 In the performance of the functions described in this Rule the Disciplinary Hearing Panel may:-

(a) read the Charge and the evidence and any other documents submitted by the parties in advance of the Hearing;

(b) adjourn its consideration of the Charge from time to time as required in the performance of its functions. In the event that it does adjourn its consideration of the Charge, it shall inform the Respondent that it has done so and the date upon which the Complaint is to be further considered;
(c) in the event of an adjournment, require written submissions or further information from the parties for its consideration at the resumed hearing.

10. Orders

10.1 If the Disciplinary Hearing Panel finds that the Charge has been proved, wholly or in part, it shall make a finding to that effect. In that event it may either make no Order or make any one or more of the following Orders against the Respondent having regard to its views as to the nature and seriousness of the Complaint and any other circumstances which it considers relevant:

(a) that the Respondent be given advice;

(b) that the Respondent be reprimanded;

(c) that the Respondent's continued membership of the Society be subject to such conditions as the Disciplinary Hearing Panel may determine;

(d) that the Respondent be suspended from membership of the Society for a specified period of time decided by the Disciplinary Hearing Panel;

(e) that the Respondent be suspended from membership of the Society until they undertake such requirements or conditions of membership as are set by the Disciplinary Hearing Panel (e.g. Continuing Professional Development). For the avoidance of doubt a Member whose membership is suspended must, in order for the suspension to be lifted, also comply with the then current admission requirements which apply to all Members;

(f) that the Respondent be excluded from membership, and that their name be removed from the register of members;

(g) that the Respondent be fined a sum not exceeding £10,000 (or the equivalent in any Relevant Jurisdiction).

10.2 Any Order made under Rule 10.1 may be made upon such terms and conditions (if any) as the Disciplinary Hearing Panel may consider appropriate including, in the case of an Order for exclusion, a recommendation that no application for re-admission shall be entertained for such period as the Disciplinary Hearing Panel, shall by its order, stipulate.

10.3 An Order made by the Disciplinary Hearing Panel shall take effect from the date of the Order.

11. Appeals

11.1 A Respondent against whom an Order is made by the Disciplinary Hearing Panel may,
provided they do so within 28 days of service upon them of the Order, serve upon the Society a Notice of Appeal in accordance with these Rules.

11.2 Any Notice of Appeal shall be in writing, shall state in detail the grounds of appeal and shall be served upon the Society. The grounds so stated shall not thereafter be amended except with the permission of the Appeal Panel.

11.3 Unless in their Notice of Appeal the Respondent requests an oral hearing the appeal will be determined by the Appeal Panel upon consideration of the papers only.

11.4 As soon as practicable after receiving a notice of appeal the Professional Standards Manager shall notify the Respondent in writing:

(a) of the date fixed for the appeal, such notice to be given no less than 28 days before that date;

(b) that they must submit their arguments in the appeal in written form no later than 14 days before the hearing of the appeal.

11.5 In the event that the appeal is to be by way of an oral hearing, the notice required by Rule 11.4 shall also notify the Respondent:-

(a) of the time and the location at which it will take place;

(b) of their entitlement to be heard and to be represented by a person of their choice, including a barrister or solicitor.

11.6 The Society must serve upon the Respondent its arguments in the appeal in written form no later than 7 days before the Hearing.

11.7 The Society may appoint any employee or member of the Society to appear in any appeal, or may instruct a solicitor or brief counsel so to appear.

11.8 Subject to the requirements of fairness, the Appeal Panel shall determine in its sole discretion the procedure pursuant to which it will conduct the Hearing.

11.9 On any appeal the Appeal Panel shall take into consideration the evidence given and the documents produced at the Disciplinary Hearing Panel Hearing, but may in its absolute discretion re-hear any witness called before the Disciplinary Hearing Panel and may in its sole discretion receive fresh evidence.

11.10 On any appeal the Appeal Panel may affirm, vary or rescind any Order made by the Disciplinary Hearing Panel and may substitute any other Order or orders (on such terms and conditions, if any, as it thinks appropriate) which the Disciplinary Hearing Panel might have made (including in the case of an order for suspension from membership a recommendation that no application for re-admission shall be considered for such period as the Appeal Panel in its Order shall stipulate) or may
order that the Charge be heard afresh by a differently constituted Disciplinary Hearing Panel.

11.11 On any appeal the Appeal Panel may affirm, vary or rescind any order for costs as may have been made by the Disciplinary Hearing Panel and may substitute such other order as it shall think fit for the payment of costs.

11.12 Any order of the Appeal Panel shall take effect from the date it is made unless the Appeal Panel, in its absolute discretion, directs that it shall take effect from some other date. Where the Order appealed against is one made by the Disciplinary Hearing Panel to suspend the Respondent from membership or that their name be removed from the register of members and the Appeal Panel rejects such appeal, the membership of the Respondent shall on the date of that decision be suspended, or the name of the Respondent shall on such date be removed, from the register of members.

11.13 Notice of any Order of the Appeal Panel shall as soon as practicable be served on the Respondent and the Complainant.

11.14 Decisions of the Appeal Panel shall be final.

12. **The Appeal Panel**

12.1 In the event of a Respondent submitting a Notice of Appeal the Board shall appoint an Appeal Panel of three individuals appointed by the Board including a Chair. The Chair of the Appeal Panel shall be legally qualified.

12.2 No member or former member of an Investigation Panel or a Disciplinary Hearing Panel who has been concerned with the Complaint which is the subject of an appeal shall be eligible to sit on appeal in respect of an Order made in that Complaint.

12.3 If for any reason any member of the Appeal Panel appointed to hear an appeal (other than the Chair) is unable to attend the Hearing, or if during the course of the Hearing any member of such Appeal Panel (other than the Chair) is unable to continue to attend the hearing, the remaining members of the Appeal Panel may at their discretion proceed or continue with the hearing of the appeal.

13. **Fines**

13.1 A fine ordered by the Disciplinary Hearing Panel shall, unless some other later date is determined in the Order of the Disciplinary Panel, be paid within 28 days of the service of such Order on the Respondent, save that if notice of appeal is given such fine shall not be payable until the determination of the appeal and then shall be subject to any Order made by the Appeal Panel.

13.2 Unless otherwise directed a fine ordered by the Appeal Panel or a fine which, having been ordered by the Disciplinary Hearing Panel, is affirmed or varied as to the
amount thereof by the Appeal Committee, shall be paid within 28 days of the date of the order of the Appeal Panel.

13.3 All sums due as fines shall be a debt due and payable to the Society and shall bear interest calculated at the base rate of the Society’s bankers from time to time plus 2 per cent.

13.4 A Respondent who does not pay fine(s) ordered by the Disciplinary Hearing Panel or the Appeal Panel by the date the fine(s) is/are due shall be suspended from Membership. Membership shall not be eligible to be reinstated until all outstanding fines and interest have been paid.

14. Costs Orders

14.1 Upon the making of any Order under these Rules the Disciplinary Hearing Panel may direct that the Respondent pay to the Society all or part of the costs incurred by the Society in dealing with the Complaint made in respect of the Respondent, including, in particular, any legal fees, transcription fees, accommodation costs or other disbursements incurred by the Society in connection with the final resolution of the Complaint.

14.2 Any such costs shall be paid by the Respondent within 28 days of the service of the Order upon the Respondent save that if notice of appeal is given such costs shall not be payable until the determination of the appeal and should then be subject to any Order made by the Appeal Panel.

14.3 No appeal shall lie solely on the question of costs.

14.4 The Appeal Panel may in its Order affirm, vary or rescind any order for costs as may have been made by the Disciplinary Hearing Panel. If the appeal has been dismissed it may also direct that the Respondent pay to the Society the Society’s costs of the appeal.

14.5 The Respondent shall satisfy any costs ordered by the Appeal Panel together with any costs ordered by the Disciplinary Hearing Panel which the Appeal Panel has upheld within 28 days of the service of the Order of the Appeal Panel upon them, unless otherwise arranged with the Society.

14.6 A Respondent who does not pay costs ordered by the Disciplinary Hearing Panel or the Appeal Panel by the date the costs are due shall be suspended from membership. Membership shall not be eligible to be reinstated until all outstanding costs have been paid.

14.7 All sums due as costs shall be a debt due and payable to the Society and shall bear annual interest calculated at the base rate of the Society’s bankers from time to time plus two per cent.
14.8 For the avoidance of doubt, neither the Disciplinary Hearing Panel or the Appeal Panel has the power to order the Society to pay a Respondent's costs.

15. Publication of Findings and Orders

15.1 Whenever the Disciplinary Hearing Panel makes an Order it shall, subject to Rule 15.4, direct that its Order is to be published as soon as practicable in such manner as it thinks fit.

15.2 Whenever the Disciplinary Hearing Panel makes an Order it shall, subject to Rule 15.4, direct that its order is to be published as soon as practicable in such manner as it thinks fit, provided that if the Appeal Panel has ordered that no further action be taken on the Complaint or the decision by the Disciplinary Hearing Panel be reversed, the Order shall not be published unless the Respondent so requests.

15.3 Unless the Disciplinary Hearing Panel or, as the case may be, the Appeal Panel in their absolute discretion otherwise direct, any such publications shall state the name of the Respondent and the Order or Orders made against the Respondent, but need not include the name of any other person concerned in the Complaint.

15.4 No publication under Rule 15.1 shall be made until after the expiry of the 28 day appeal period referred to in Rule 12.1. If notice of appeal under that Rule is received by the Professional Standards Manager in the time permitted then, unless the appeal is abandoned, no publication under Rule 15.1 shall take place until determination of the appeal.

16. Restoration

16.1 A former Member whose membership of the Society has been terminated by Order of the Disciplinary Hearing Panel or the Appeal Panel may apply for the restoration of their membership after the expiry of any period directed by the Disciplinary Panel or the Appeal Panel or if there be none stated a period of two years of the Order taking effect.

16.2 Any application under Rule 16.1 shall be addressed to the Professional Standards Manager and shall be accompanied by all the evidence upon which the applicant relies in support of their application.

16.3 Any application under Rule 16.1 shall be determined on the papers alone without an oral hearing by a Disciplinary Hearing Panel Chair appointed for the purpose. In making their determination the Chair may request the observations of the Society upon the application. If the Society accedes to this request the applicant shall have an opportunity to comment in writing on the Society's observations before the application is determined.

16.4 For the avoidance of doubt a Member whose application for restoration to membership is granted must also comply with the then current admission requirements which apply to all Members to be eligible for their membership to be restored.
17. **General**

17.1 Service of documents (including the Notice of Inquiry and any other notification or notice, any determinations and Orders made by the Investigation Panel and the Disciplinary Hearing Panel and the Appeal Panel) where required under these Rules may be effected by sending the document to be served by first class post or electronic mail addressed to the Respondent at the postal or electronic mail address they provided to the Society on first assuming membership of the Society, on renewal of that membership or when notifying the Society of any change of either address. Proof of posting or sending is proof of service and service shall have been effected on the date of sending in the case of an email or on the 7th day after posting where posted.

17.2 The proceedings provided for in these Rules may be held in the presence of the parties and their representatives but shall otherwise be held in private.

17.3 If a party does not attend an oral hearing or does not provide written representations for the purposes of a consideration of the Charge on the papers, provided that the Disciplinary Hearing Panel or the Appeal Panel is satisfied that notice of that hearing was served on that party, the Disciplinary Hearing Panel and the Appeal Panel may proceed with the hearing in that party's absence and/or the absence of written representations.

17.4 The formal rules of evidence (as applied in the criminal and civil courts) do not apply to the proceedings provided for in these Rules. The Chair of the Disciplinary Panel, the Investigation Panel, the Disciplinary Hearing Panel and (where appropriate) the Appeal Panel may receive evidence (in such form as they each consider appropriate) which appears to it to be relevant to it in the exercise of its functions, provided that the admission of the evidence is not unfair to the parties.

17.5 Decisions of the Investigation Panel, the Disciplinary Hearing Panel and the Appeal Panel shall be made by a majority. In the event that only two members of the Disciplinary Hearing Panel or the Appeal Panel are making a determination the Chair shall have the deciding vote.

17.6 The Investigation Panel, the Disciplinary Hearing Panel and the Appeal Panel may waive any procedural requirement of these Rules where the parties consent or the interests of justice so require.

17.7 The Investigation Panel, the Disciplinary Hearing Panel and the Appeal Panel shall each determine the procedure for any aspect of the proceedings for which there is not specific provision in these Rules.

17.8 These Rules and their application shall be governed by the law of England and Wales unless the context otherwise requires and the parties subject to that choice as the applicable law to apply to proceedings brought under these Rules.