

The Chartered Institute of Building

Disciplinary Regulations 2007

(approved 31 October 2007)

1. APPLICATION

- 1.1 These regulations are made under Bye-Laws 31 - 33 and shall apply in the circumstances set out in Bye-Law 32, namely where a complaint or allegation is made to the Institute that a Member has been guilty of Misconduct or where it otherwise appears to the Institute that a Member has been or may have been guilty of Misconduct.
- 1.2 Subject only to regulation 1.3, these regulations apply to Former Members in respect of their acts or omissions during the period of their membership as they apply to Members and all references to "Members" in these regulations shall accordingly be read as referring equally to Former Members.
- 1.3 A case shall be dismissed by the Investigations Panel or the Professional Conduct Committee where the Panel or Committee would have made a determination under regulation 5.5 or 7.5.2 but considers that the length of time since the Defendant ceased to be a Member or Student is such that it would not be appropriate in all the circumstances to continue with disciplinary proceedings.

2. CONSTITUTIONAL STRUCTURE OF THE DISCIPLINARY SCHEME

- 2.1 Allegations of Misconduct, whether founded on a complaint by a person or on any other information which becomes known to the Institute, shall be received, investigated, formulated and determined, and penalties for Misconduct shall be imposed on Members, only by the Investigations Secretariat, the Investigations Panel, the Professional Conduct Committee and the Appeal Committee in accordance with the terms of reference of each of these bodies or Committees as set out in Bye-Law 33 and these regulations.
- 2.2 The Defendant shall provide his full and prompt co-operation to the Investigations Secretariat and in particular but without limitation to the generality of the foregoing shall upon receipt of notification of proposed charges under regulation 4.2 provide the Investigations Secretariat with all information and with copies of all documents within the Defendant's control which are relevant to the investigation and the proposed charges, and upon the request of the Investigations Secretariat shall grant any consent or authorisation required by the Investigations Secretariat to obtain such documents from a third party. A failure by the Defendant to cooperate with the Investigations Secretariat in the conduct of its investigation may result in further proceedings for misconduct being instituted against the Defendant.
- 2.3 Any Member (not being the Defendant) requested to do so shall provide his full and prompt co-operation to the Investigations Secretariat in connection with its investigation and in particular, but without limitation to the generality of the foregoing, shall provide the Investigations Secretariat with all information and copies of documents relevant to the investigation and the proposed charges which are in the Member's control.
- 2.4 The Audit & Risk Committee shall audit and oversee the application of these Regulations. The Investigations Secretariat shall present a report on disciplinary activities at each meeting of the Audit & Risk Committee.

3. SCREENING

- 3.1 The Investigations Secretariat shall consider all representations and complaints made to the Institute regarding the conduct of a Member and all other information on the conduct of a Member which comes to the attention of the Institute, and shall determine whether the information before it discloses matters which are capable of constituting Misconduct as defined in Bye-Law 32.
- 3.2 The Investigations Secretariat shall not be prevented from considering whether the conduct of a Member is capable of constituting Misconduct by the fact that such conduct is connected with the exercise of professional functions by the Member, including but not limited to adjudication, arbitration or mediation. For the avoidance of doubt, a disagreement with the outcome of any adjudication, arbitration or mediation shall not be considered under these Regulations unless Misconduct is alleged.
- 3.3 Prior to making any determination under regulation 3.1, the Investigations Secretariat shall inform any Member whose conduct is referred to in the information received of the receipt of the information and of the nature of the determination to be made by the Investigations Secretariat under regulation 3.1, and shall also inform the Member that he may, but is not required to, comment on that information before that determination is made. This information shall be provided in the form set out in Schedule 1.
- 3.4 Prior to making any determination under regulation 3.1, the Investigations Secretariat may request further information from any Complainant.
- 3.5 Where the Investigations Secretariat determines that the information received under regulation 3.1 is not within the scope of Bye-Law 32 as it is not capable of constituting Misconduct, the Investigations Secretariat shall take no further action under these Regulations in relation to the complaint or other information.
- 3.6 Where the Investigations Secretariat determines that the information received under regulation 3.1 is within the scope of Bye-Law 32 as it is capable of constituting Misconduct, the Investigations Secretariat shall conduct further investigations under regulation 4.
- 3.7 Where it comes to the attention of the Institute that legal proceedings associated with a complaint or information received under regulation 3.1 have been instituted against or involving the Member, the Investigations Secretariat shall consider whether to suspend its investigations until such proceedings are completed and in so doing shall invite representations from the Member.

4. INVESTIGATION

- 4.1 Following a determination under regulation 3.6 or referral under regulation 5.3, the Investigations Secretariat shall carry out investigations to obtain the information and materials necessary to enable the Investigations Secretariat to formulate allegations to be put to the Defendant in accordance with regulation 4.2 and to enable the Investigations Panel to make a determination under regulation 5 in relation to those allegations.
- 4.2 The Investigations Secretariat shall inform the Defendant of the allegations it proposes to refer to the Investigations Panel under regulation 5 and shall require the Defendant to respond to those allegations within 14 days of receipt (or such longer period as the Investigations Secretariat may determine) by providing the Investigations Secretariat with information and documentation in accordance with regulation 2.2 and with such comment on the charges and his conduct as the Member wishes to make. The allegations put to the Defendant shall contain such information about the conduct under investigation as is necessary to enable the Defendant to respond substantively to the allegations in

accordance with this regulation 4.2 and shall be accompanied by copies of all materials obtained by the Investigations Secretariat during its investigations. Notification under this regulation 4.2 shall be made in the form set out in Schedule 2.

- 4.3 On the expiry of the 14 days notice under regulation 4.2 the Investigations Secretariat shall refer the matter to the Investigations Panel by providing the Investigations Panel with all relevant material obtained during its investigations, the allegations put to the Defendant and the Defendant's response (if any). The Investigations Secretariat shall not make recommendations to the Investigations Panel as to the disposal of the case, nor shall it provide summaries of evidence or materials in place of or in addition to original documentation and materials.

5. INVESTIGATIONS PANEL

- 5.1 The Investigations Panel shall consider all material provided by the Investigations Secretariat under regulation 4.3 and shall determine whether that material contains prima facie evidence that facts or circumstances have occurred which constitute Misconduct under Bye-Law 32.
- 5.2 The Investigations Panel shall conduct its business at private meetings and/or through the use of writing, video conferencing facilities, telephone, electronic mail or any other form of communication as it considers appropriate, provided that every member of the Investigations Panel participating in the determination shall be afforded the opportunity to receive, consider and respond to all comments, views and opinions expressed by other participating members and any Legal Assessor before any determination or decision composing part of a determination is reached.
- 5.3 If the Investigations Panel considers that it has insufficient information to make a determination under 5.1, it may adjourn consideration of a case and refer the matter back to the Investigations Secretariat for further investigation under regulation 4. When requiring such further investigation the Investigations Panel may specify any particular information it wishes to be obtained by the Investigations Secretariat.
- 5.4 If the Investigations Panel determines under regulation 5.1 that the materials before it do not contain prima facie evidence of Misconduct, the Investigations Panel shall dismiss the case against the Defendant and no further action shall be taken under these regulations in relation to the information on which the charges against the Defendant were founded.
- 5.5 If the Investigations Panel determines under regulation 5.1 that the materials before it contain prima facie evidence of Misconduct, the Investigations Panel shall refer the matter to the Professional Conduct Committee.
- 5.6 When referring a matter to the Professional Conduct Committee under regulation 5.5 the Investigations Panel may make recommendations to the Investigations Secretariat as to further investigation or preparation to be carried out under regulation 6 prior to consideration of the case by the Professional Conduct Committee.

6. PREPARATION FOR HEARING

- 6.1 Where a case has been referred to the Professional Conduct Committee by the Investigations Panel under regulation 5.5, the Investigations Secretariat shall carry out whatever further investigation is necessary to enable the Investigation Panel Chair to comply with regulation 9 and present the case to the Professional Conduct Committee, including any further investigation required by the Investigations Panel under regulation 5.6.

7. PROFESSIONAL CONDUCT COMMITTEE

- 7.1 Upon referral of a case from the Investigations Panel the Professional Conduct Committee shall assess the gravity of the alleged Misconduct combined with any subsisting entry on the record of the Defendant and having regard to any previous finding of Misconduct or liability under these regulations or the Bye-Laws, provided that in relation to previous findings of Misconduct or liability the Committee shall also take account of the time which has elapsed since any previous finding. Subject thereto and in consideration of regulation 1.3, the Professional Conduct Committee shall;
- 7.1.1 Where the Committee considers that the Misconduct is not sufficiently serious that, if the relevant facts and circumstances referred to in the charges against the Defendant were proved, it would warrant the imposition of a penalty more serious than those referred to in regulation 7.2, the Professional Conduct Committee shall seek the Defendant's consent to the making of a finding of Misconduct and the imposition of one of the penalties set out in regulation 7.2;
- 7.1.2 If the Defendant refuses his consent to an order under regulation 7.1.1, or if the Committee considers that the Misconduct is sufficiently serious that, if the relevant facts and circumstances referred to in the charges against the Defendant were proved, it might warrant the imposition of a penalty more serious than those referred to in regulation 7.2, the Professional Conduct Committee shall proceed to a hearing in accordance with regulation 7.3.
- 7.2 The penalties which may be imposed by the Professional Conduct Committee under regulation 7.1.1 are:
- 7.2.1 An Entry on Record;
- 7.2.2 A Reprimand;
- 7.2.3 In addition or as an alternative to any other penalty, an Undertaking.
- 7.3 If the Professional Conduct Committee proceeds to a hearing under regulation 7.1.2, the Committee shall consider those matters referred to it by the Investigations Panel under regulation 5.5, and shall determine in accordance with regulation 7.5 whether the facts or circumstances referred to in the charges against the Defendant have been proved and whether the Defendant is guilty of Misconduct, and shall impose a penalty or penalties on the Defendant as appropriate.
- 7.4 The Professional Conduct Committee shall conduct its business in accordance with regulation 10. Prior to a hearing by the Professional Conduct Committee the Defendant and the Investigations Secretariat shall comply with the requirements of regulation 9.
- 7.5 At the conclusion of a hearing, the Professional Conduct Committee shall withdraw to deliberate on the case and, subject to consideration of regulation 1.3 and applying the standard of proof set out in regulation 12, shall in relation to each charge against the Defendant determine which facts have been proved and then make one of the following determinations:
- 7.5.1 that the evidence does not prove that facts or circumstances have occurred which the Committee considers constitute Misconduct on the part of the Defendant; or
- 7.5.2 that the evidence proves that facts or circumstances have occurred which the Committee considers constitute Misconduct on the part of the Defendant.

- 7.6 Where the Professional Conduct Committee makes a determination within regulation 7.5.1 in respect of each and every charge against the Defendant the Professional Conduct Committee shall dismiss the case against the Defendant and may make a Costs Order against the Institute.
- 7.7 Where the Professional Conduct Committee makes one or more determinations within regulation 7.5.2 the Committee shall impose on the Defendant such of the penalties referred to in regulation 7.8 as it considers appropriate having regard to the nature and extent of the Misconduct found proved under regulation 7.5.2 and may in addition make a Costs Order against the Defendant.
- 7.8 The penalties which the Professional Conduct Committee may impose are:
- 7.8.1 Reprimand; or
 - 7.8.2 Suspension, with or without conditions attached; or
 - 7.8.3 Expulsion; or
 - 7.8.4 as an alternative or in addition to any other penalty, an Undertaking.
- 7.9 In considering what penalty or penalties to impose upon the Defendant under regulation 7.8 the Professional Conduct Committee shall take into account any subsisting Entry on Record of the Defendant and any previous finding of Misconduct or liability under these regulations or the Bye-Laws, provided that in relation to previous findings of Misconduct or liability the Committee shall also take account of the time which has elapsed since any previous finding.
- 7.10 The Defendant may appeal against a determination of the Professional Conduct Committee on the grounds set out in regulation 8.

8. APPEAL COMMITTEE

- 8.1 The Appeal Committee shall consider appeals lodged by a Defendant against determinations of the Professional Conduct Committee, and shall determine whether any of the grounds of appeal set out in regulation 8 have been made out and accordingly confirm, vary or rescind any finding made or penalty imposed by the Professional Conduct Committee.
- 8.2 Appeals must be lodged in writing with the Institute within 28 days of receipt of notice by the Defendant of the Professional Conduct Committee's determination.
- 8.3 Appeals against a determination of the Professional Conduct Committee will only be considered if they fall within one or more of the following grounds:
- 8.3.1 The determination is flawed because of a material irregularity in the proceedings before the Professional Conduct Committee;
 - 8.3.2 The determination of the Professional Conduct Committee is so unreasonable that it could not have been reached by any reasonable Professional Conduct Committee in light of the facts and evidence before it;
 - 8.3.3 The Defendant has acquired new evidence which could not have been submitted to the Professional Conduct Committee but which would, if submitted to the Professional Conduct Committee, have been likely to have had a material impact on the Professional Conduct Committee's determination of one or more of the charges against the Defendant;

- 8.3.4 The penalty or penalties imposed by the Professional Conduct Committee was or were excessive in the light of the Professional Conduct Committee's findings of fact, the seriousness of the Misconduct and/or the Defendant's circumstances.
- 8.4 Any notice of appeal must set out the ground or grounds of appeal relied upon and, in relation to each such ground, must set out a brief description of the basis on which the Defendant considers that the ground of appeal is made out. In particular but without limitation to the generality of the foregoing, in the case of an appeal under regulation 8.3.3 the Defendant shall set out the nature of the new evidence on which he relies, shall explain why it was not and could not have been available to him at the time of the hearing by the Professional Conduct Committee and shall explain the basis on which he considers that the evidence would have been material to the Professional Conduct Committee's decision.
- 8.5 The Appeal Committee may not re-open any issue of fact decided by the Professional Conduct Committee or re-hear any oral evidence as to the facts which were considered by the Professional Conduct Committee.
- 8.6 Where the Defendant appeals under regulation 8.3.3, the Appeal Committee shall consider whether it is necessary to review or hear the new evidence on which the Defendant seeks to rely in order to determine the appeal under that ground. It shall be the responsibility of the Defendant to secure that the evidence is produced at the hearing of the appeal. Except as provided for in this regulation 8.6, or unless it otherwise orders, the Appeal Committee shall not receive evidence (including witnesses) which was or were not before the Professional Conduct Committee.
- 8.7 A decision under regulation 8.6 regarding the nature of the evidence which the Appeal Committee considers it necessary for them to consider in order to determine the appeal shall be taken by the Committee prior to the hearing and notified to the Investigations Secretariat and the Defendant in the Notice of Hearing, provided that either the Investigations Secretariat or the Defendant may at the start of the hearing renew any request to adduce evidence under regulations 8.6.
- 8.8 The Appeal Committee shall conduct its business in accordance with regulation 11. Prior to a hearing by the Appeal Committee the Defendant and the Investigations Secretariat shall comply with the requirements of regulation 9.
- 8.9 On conclusion of the hearing and any further deliberations, the Appeal Committee shall determine whether the grounds of appeal relied upon by the Defendant have been made out and shall assess the severity of any outstanding findings of Misconduct. The Committee will then accordingly confirm, rescind or vary either or both of the determination of the Professional Conduct Committee as to the commission of Misconduct by the Defendant and the nature or extent of the penalty imposed by the Professional Conduct Committee.
- 8.10 When making a determination under regulation 8.9 as to the penalty to be imposed on the Defendant the Appeal Committee may impose any of the penalties which could be imposed by the Professional Conduct Committee and in so doing the Appeal Committee shall have regard to the considerations set out in regulation 7.9.
- 8.11 The Appeal Committee may impose a Costs Order against the Institute in respect of the costs of the appeal if the appeal is upheld in whole or in part. The Appeal Committee may impose a Costs Order against the Defendant in respect of the costs of the appeal if the Professional Conduct Committee's decision is upheld without any alteration. The Appeal Committee may also confirm, rescind or vary any Costs Order made by the Professional Conduct Committee in respect of proceedings before that Committee.
- 8.12 The decision of the Appeal Committee is final and cannot be further appealed.

9. PROCEDURE PRIOR TO HEARINGS OF THE PROFESSIONAL CONDUCT AND APPEAL COMMITTEES

9.1 The provisions of this regulation 9 shall apply in relation to all hearings conducted by the Professional Conduct Committee and the Appeal Committee.

9.2 As soon as practicable after a case has been referred to the Committee under regulations 5.5 or 8.2 (as appropriate), the Investigations Secretariat shall send the Defendant a Notice of Hearing in the form set out in Schedule 3 (for a hearing before the Professional Conduct Committee) or Schedule 4 (for a hearing before the Appeal Committee). A Notice of Hearing shall be sent to the Defendant in accordance with regulation 20 and not less than 28 days prior to the proposed date of the hearing. In the case of a hearing before the Professional Conduct Committee the Notice of Hearing shall specify in the form of a charge or charges the matters into which the inquiry is to be held.

9.3 The Investigations Secretariat shall send any Complainant a copy of the Notice of Hearing.

9.4 The Notice of Hearing shall:

9.4.1 be accompanied by copies of all the documents upon which the Investigation Panel Chair intends to rely at the hearing;

9.4.2 in the case of a hearing before the Professional Conduct Committee, be accompanied by the names of the witnesses which the Investigation Panel Chair intends to call to give evidence at the hearing and any witness statements taken from those witnesses; and

9.4.3 in the case of a hearing before the Appeal Committee, include notice of any determinations regarding evidence which have been made by the Appeal Committee under regulation 8.6.

9.5 At least 14 days before the date of the hearing the Defendant shall:

9.5.1 provide the Investigations Secretariat with copies of all the documents or other evidence upon which he intends to rely at the hearing;

9.5.2 provide the Investigations Secretariat with the name, address and professional qualifications (if any) of any representative or adviser who will be attending and the names of any witnesses who will be attending to give evidence on behalf of the Defendant; and

9.5.3 in relation to each witness statement served on him by the Investigations Secretariat under regulation 9.4, inform the Investigations Secretariat as to whether the contents of the statement are agreed or whether the witness is required to attend the hearing. In the absence of any response, the contents of any statement served under regulation 9.4 shall be deemed to be agreed. In the case of hearings before the Appeal Committee, reference to witnesses on behalf of the Defendant includes those witnesses whose attendance has been authorised by the Appeal Committee under regulation 8.6 and/or in respect of whom the Defendant intends to make a renewed application for an order under regulation 8.6.

9.5.4 Where the Defendant seeks to rely on evidence which the Investigations Secretariat considers to be contentious and to which the Complainant ought in the interests of fairness to have an opportunity to respond, the Investigations Secretariat shall provide the Complainant with a copy of such evidence and

require a response within 7 days. Any response received from the Complainant shall be provided to the Defendant at least 3 days in advance of the hearing.

- 9.6 Upon the application of the Defendant, the Investigations Panel Chair or the Investigations Secretariat, the Chair of the Committee may postpone the hearing. In those circumstances the Investigations Secretariat shall as soon as practicable send notification of the decision to postpone the hearing and of any date fixed for the postponed hearing to all persons to whom the original Notice of Hearing was sent.

10. PROCEDURE AT HEARINGS BEFORE THE PROFESSIONAL CONDUCT COMMITTEE

- 10.1 The hearing shall be open to the public unless in the opinion of the Professional Conduct Committee fairness or the public interest requires otherwise, and provided that the Committee's deliberations shall be held in private. The Committee may deny entry to the hearing to any person or expel any person from the hearing if that person is disrupting or is likely to disrupt the hearing or where fairness otherwise requires. Where a hearing is open to the public the Committee may exclude the public for any part of the hearing where this is appropriate and fairness so allows or requires.
- 10.2 The Defendant may attend the hearing unaccompanied, may be accompanied by a representative or adviser of his choice, or may send a representative of his choice instead of attending in person. The Investigation Panel Chair shall attend the hearing or be appropriately represented. The Investigations Secretariat shall attend the hearing itself or be appropriately represented. References to the Defendant, the Investigation Panel Chair or the Investigations Secretariat in this regulation 10 shall be read as referring equally to the Defendant's, Investigation Panel Chair's or Investigations Secretariat's representatives if any.
- 10.3 If the Defendant does not appear and is not represented at the hearing, the Committee may nevertheless proceed with the inquiry if the Investigations Secretariat satisfies them that all reasonable efforts have been made to serve the Notice of Hearing on the Defendant in accordance with regulations 9.2 and 20.
- 10.4 The procedure at the hearing shall be as follows, provided that where any matter regarding procedure is not covered by this regulation 10 it shall be determined by the Chair of the Committee:
- 10.4.1 The hearing shall commence with the reading of the charge or charges to the Committee in the presence of the Defendant (save where regulation 10.3 applies).
- 10.4.2 The Defendant may then object on legal grounds to any of the charges or any part of a charge, and where such an objection is raised the Investigation Panel Chair may reply to such an objection.
- 10.4.3 To the extent that any objection raised under regulation 10.4.2 is upheld by the Committee, no further proceedings shall be taken with regard to the charge or part thereof to which that objection related.
- 10.4.4 The Chairman of the Committee shall ask the Defendant whether all or any part of the charge or charges are admitted. If all or any part of the charges are admitted the Chairman shall announce a finding of fact and/or misconduct (as appropriate) in respect of the relevant charges.
- 10.4.5 The Investigation Panel Chair shall then present the case against the Defendant in respect of the outstanding charges. In that regard the Investigation Panel Chair shall read the statements of those witnesses whose attendance at the hearing

was not required by the Defendant and may call witnesses and adduce evidence of any matters not admitted by the Defendant and of any matter connected with the charge or charges which may be relevant to the issues before the Committee. Any witness so called may be questioned by the Defendant and by the Committee. The Investigation Panel Chair may re-examine witnesses following questioning by the Defendant and/or the Committee.

- 10.4.6 If as respects any charge no evidence is so adduced the Committee shall record and the Chairman shall announce a finding that the member is not guilty of Misconduct in respect of the matter to which that charge relates.
- 10.4.7 At the close of the case against him the Defendant may submit that the evidence called by the Investigation Panel Chair is insufficient to establish the charge or charges and where any such submission is made the Investigation Panel Chair may respond to the submission and the Defendant may reply to that response. The Committee shall then consider and determine the submission and the Chairman shall announce the determination.
- 10.4.8 If no submission is made under regulation 10.4.7, or if any such submission is not upheld, the Defendant may then present his defence against the charges, and in that regard may call witnesses and adduce evidence. Any witness called by the Defendant may be questioned by the Investigation Panel Chair and by the Committee. The Defendant may reexamine witnesses following questioning by the Defendant and/or the Committee.
- 10.4.9 At the close of the Defendant's evidence, the Investigation Panel Chair and the Defendant may each make a closing statement to the Committee.
- 10.5 The Committee shall then deliberate in private and, in accordance with regulation 7.5 shall decide in relation to each charge which remains outstanding whether that charge has been proved. The Chairman shall announce the Committee's findings to all those present at the hearing and shall further proceed as follows:
 - 10.5.1 Where the Committee determines that no charge has been proved against the Defendant they shall invite the Defendant and the Investigation Panel Chair to make representations as to whether a Costs Order should be imposed on the Institute as provided for in regulation 7.6.
 - 10.5.2 Where the Committee finds that a charge is proved the Chairman shall:
 - (i) invite the Investigation Panel Chair to make representations as to the imposition of a penalty or penalties including adducing evidence of the circumstances leading up to the matters covered by the charge, and the character and previous history of the Defendant;
 - (ii) invite the Defendant to make representations as to mitigation in respect of the imposition of a penalty or penalties, including adducing any evidence relevant to mitigation and his circumstances and representations on any matter referred to in regulation 10.5.2(i) above.
 - (iii) invite both the Investigation Panel Chair and the Defendant to make representations as to whether any Costs Order should be imposed by the Committee as provided for in regulation 7.7.
 - 10.5.3 The Committee shall then deliberate in private and determine in accordance with regulations 7.7 and 7.9 whether to impose on the Defendant any one or more of the penalties detailed in regulation 7.8 and/or a Costs Order as provided for in regulation 7.7.
 - 10.5.4 If the Committee decide to impose a Costs Order the Defendant may then address the Committee as to the question of the time within which he shall be

required to pay the amounts specified. The Committee shall deliberate and make an order specifying such date being not earlier than 28 days after service under regulation 20 of the Committee's determination. The Committee may direct at the time of making such an order that upon failure by the Defendant to make payment by the due date he shall be suspended from the Institute for such period as the Committee shall then specify or that he shall be expelled from the Institute.

11. PROCEDURE AT HEARINGS BEFORE THE APPEAL COMMITTEE

- 11.1 The hearing shall be open to the public unless in the opinion of the Appeal Committee fairness or the public interest requires otherwise, and provided that the Committee's deliberations shall be held in private. The Committee may deny entry to the hearing to any person or expel any person from the hearing if that person is disrupting or is likely to disrupt the hearing or where fairness otherwise requires. Where a hearing is open to the public the Committee may exclude the public for any part of the hearing where this is appropriate and fairness so allows or requires.
- 11.2 The Defendant may attend the hearing unaccompanied, may be accompanied by a representative or adviser of his choice, or may send a representative of his choice instead of attending in person. The Investigation Panel Chair shall attend or be appropriately represented. The Investigations Secretariat shall attend the hearing itself or be appropriately represented. References to the Defendant or the Investigations Secretariat in this regulation 11 shall be read as referring equally to the Defendant's, Investigation Panel Chair's or Investigations Secretariat's representatives if any.
- 11.3 Where the Defendant does not appear and is not represented the Committee shall dismiss the appeal if the Investigation Secretariat satisfies them that all reasonable efforts have been made to serve the Notice of Hearing on the Defendant in compliance with regulations 9.2 and 20.
- 11.4 The Chairman of the Appeal Committee shall determine the procedure to be followed at any hearing before the Appeal Committee, provided that:
 - 11.4.1 At the start of the hearing the Appeal Committee will consider and determine any renewed application to adduce evidence under regulations 8.5 and/or 8.6;
 - 11.4.2 The Investigation Panel Chair and the Defendant shall each have a reasonable opportunity to present their cases in relation to the appeal and any subsidiary applications, including the opportunity to respond to points raised by the other party and the Committee;
 - 11.4.3 Any witnesses called by the Defendant may be questioned by the Defendant, the Investigation Panel Chair and the Committee, and any witnesses called by the Investigation Panel Chair may be questioned by the Investigation Panel Chair, the Defendant and the Committee;
- 11.5 When the Defendant and the Investigation Panel Chair have each completed their representations the Committee shall deliberate in private and decide in relation to each ground of appeal whether that ground has been made out. The Chairman shall announce the Committee's findings to all those present at the hearing and shall further proceed as set out in regulations 11.6 and 11.7 below.
- 11.6 In the case of either an appeal which is made under regulation 8.3.4 only or an appeal which is made under regulation 8.3.4 and one or more other grounds but allowed only in respect of regulation 8.3.4, the Committee shall invite the Investigation Panel Chair and the Defendant to make such further representations regarding the circumstances leading up to

the charge, the character and previous history of the Defendant and any mitigating factors as they wish to make. The Committee shall then determine whether to confirm or rescind, or whether and how to vary, each of the penalties imposed by the Professional Conduct Committee and any Costs Order imposed by the Professional Conduct Committee, and whether to impose any further Costs Order in relation to the costs of the appeal proceedings.

11.7 In the case of any other appeal, the Committee shall proceed as follows:

11.7.1 Where the effect of the Committee's determination under regulation 11.5 is that no finding of Misconduct remains against the Defendant, the Committee shall rescind all penalties imposed by the Professional Conduct Committee, shall invite the Defendant and the Investigation Panel Chair to make representations as to whether any Costs Order imposed by the Professional Conduct Committee should be confirmed, varied or rescinded and as to whether a Costs Order should be imposed on the Institute in respect of the appeal proceedings as provided for in regulation 7.6, and shall make a determination as to whether such a Costs Order should be imposed;

11.7.2 Where the effect of the Committee's determination under regulation 11.5 is that the Professional Conduct Committee's findings as to Misconduct are upheld in full and there is no successful appeal under regulation 8.3.4, the Committee shall confirm the penalty or penalties and any Costs Order imposed by the Professional Conduct Committee, shall invite the Investigation Panel Chair and the Defendant to make representations as to whether any Costs Order should be imposed in respect of the appeal proceedings and shall make a determination as to whether such a Costs Order should be imposed;

11.7.3 Where the effect of the Committee's determination under regulation 11.5 is that one or more of the Professional Conduct Committee's findings of Misconduct have been overturned but one or more findings remain, it shall

(i) invite the Investigation Panel Chair to make representations as to the imposition of a penalty or penalties in respect of the remaining findings of misconduct including adducing evidence of the circumstances leading up to the matters covered by the charges and the character and previous history of the Defendant;

(ii) invite the Defendant to make representations as to mitigation in respect of the imposition of a penalty or penalties, including adducing any evidence relevant to mitigation and his circumstances and representations on any matter referred to in regulation 10.5.2(i) above.

(iii) invite both the Investigation Panel Chair and the Defendant to make representations as to whether any Costs Order imposed by the Professional Conduct Committee should be confirmed, rescinded or varied and as to whether any Costs Order should be imposed by the Committee in respect of the appeal proceedings.

The Committee shall then deliberate in private and shall determine, in accordance with regulations 7.7 and 7.9 and having regard to the extent (if any) to which they have allowed the appeal, whether to confirm or rescind, or whether and how to vary, each of the penalties imposed by the Professional Conduct Committee detailed in regulation 7.8 and any Costs Order imposed by the Professional Conduct Committee, and whether to impose any further Costs Order in relation to the costs of the appeal proceedings.

11.7.4 If the Committee have imposed and/or confirmed or varied a Costs Order the Defendant may then address the Committee as to the question of the time within which he shall be required to pay the amounts specified. The Committee shall deliberate and make an order specifying such date being not earlier than 28 days after service under regulation 20 of the Committee's determination. The Committee may direct at the time of making such an order that upon failure by the Defendant to make payment by the due date he shall be suspended from the Institute for such period as the Committee shall specify or he shall be expelled from the Institute.

12. STANDARD OF PROOF

12.1 Subject only to regulation 12.2, before making a finding of Misconduct the Professional Conduct Committee must be satisfied that any alleged facts which it considers would constitute Misconduct are more likely than not to be true.

12.2 This regulation 12.2 applies in relation to any charge of Misconduct under Bye-Law 32(v) (relevant criminal conviction). A certificate of conviction shall be accepted as proving the commission of the offence and where such a certificate is produced by the Investigations Secretariat the Professional Conduct Committee is not required to consider itself whether the facts or circumstances which constituted the offence did occur, but is required only to consider whether the conviction shown in the certificate constitutes a relevant criminal conviction within the meaning of Bye-Law 32(v).

12.2.1 Where the Investigations Secretariat is in possession of the certificate of conviction or where the Defendant confirms his conviction for a specified offence in writing to the Institute, and there are no other associated disciplinary matters involving the Defendant to be referred to the Investigations Panel, the Investigations Secretariat shall refer the matter directly to the Professional Conduct Committee for a hearing under Regulation 10.

12.2.2 In such circumstances the particular requirements of regulations 4.2, 4.3, 5.1, 5.5, 9.2, 9.4, 9.5, 10.4.2 shall not apply and the Professional Conduct Committee shall move directly to consideration of the appropriate penalty or penalties and Costs Order under regulations 10.5.2-10.5.4 (the "Sanctions Hearing"). The Investigations Secretariat shall inform the Defendant of the date for the Sanctions Hearing at least 14 days in advance of that hearing. At least 7 days in advance of the Sanctions Hearing the Defendant shall inform the Investigations Secretariat in writing whether he will attend the Sanctions Hearing or be appropriately represented, and if so the name, address and professional qualifications (if any) of his representative, and may provide the Investigations Secretariat with written submissions and copies of all documents or other evidence upon which he wishes to rely in mitigation.

13. DETERMINATIONS

13.1 Written notice of determinations of the Investigations Secretariat under regulations 3.5 and 3.6, of the Investigations Panel under regulations 5.4 and 5.5 of the Professional Conduct Committee under regulations 7.5 to 7.7 and of the Appeal Committee under regulations 8.9 to 8.11 shall be sent to the Defendant, to any Complainant, to the Investigations Secretariat and to such other interested persons or bodies who or which in the opinion of the Investigations Secretariat or the relevant Committee have a proper interest in being so informed of its determination.

13.2 The Defendant, the Investigations Secretariat (where appropriate) and any Complainant shall be provided with a brief statement of the reasons for the Investigations Secretariat's or the Committee's determination. In the case of any decision of the Investigations Panel

under regulations 5.4 and 5.5 the notice of the determination and reasons for the determination shall be in the form set out in Schedule 5. In the case of any decision of the Professional Conduct Committee under regulations 7.5 to 7.7, the notice of the determination and reasons for the determination shall be in the form set out in Schedule 6. In the case of any decision of the Appeal Committee under regulations 8.9 to 8.11, notice of the determination and reasons for the determination shall be in the form set out in Schedule 7.

- 13.3 All determinations referred to in regulation 13.1 shall be sent to the Defendant in accordance with regulation 20 and determinations of the Professional Conduct Committee under regulations 7.5 to 7.7 and of the Appeal Committee under regulations 8.9 to 8.11 shall normally be sent to the Defendant within 21 days after the date on which the hearing finished.
- 13.4 The Institute shall publish the determinations of the Investigations Panel, the determinations of the Professional Conduct Committee (with the exception of any decision under regulation 7.2.1 to impose an entry on record) and the determinations of the Appeal Committee as it considers appropriate.

14. LEGAL ADVICE

- 14.1 The Legal Assessor shall be present at all hearings of the Professional Conduct Committee or the Appeal Committee and shall be in attendance at the Investigations Panel unless the Panel determines that his or her presence is not required.
- 14.2 The Legal Assessor shall advise the Investigations Panel, the Professional Conduct Committee and the Appeal Committee on such legal or procedural matters as he believes in his professional opinion the Committees should be advised upon or upon which the Committees ask him to advise.
- 14.3 The advice of the Legal Assessor to the Professional Conduct Committee and the Appeal Committee in relation to a particular disciplinary matter shall be delivered at the hearing in the presence of the Defendant and/or his or her representative or if delivered in private shall be faithfully and accurately relayed to the Defendant and/or his representative. The Defendant or his representative shall be entitled to comment upon such advice.

15. PROCEEDINGS IN RESPECT OF STUDENT MEMBERS

- 15.1 In considering any charges which are brought under these regulations alleging Misconduct by a Student Member:
 - 15.1.1 the Committee and the Investigations Secretariat in making any enquiries, investigations or determinations (including determinations as to penalty) shall have regard to the stage in training reached by the Student and the expectation of any person responsible for supervising the Student's education or training as to the level of knowledge competence and experience appropriate to such a stage and expected of a Student Member;
 - 15.1.2 at any stage prior to determination, the Investigations Panel, the Professional Conduct Committee or Appeal Committee may request any person responsible for supervising the Student's education or training to comment on any aspect of the Student's training or conduct which may have a bearing on the Panel's or Committee's determinations in relation to the case.

16. COMPOSITION OF COMMITTEES

16.1 Composition of the Investigations Panel:

16.1.1 The Investigations Panel shall act under a quorum of three (3) members. No more than three (3) members of the Investigation Panel shall be assigned to consider each professional conduct matter and they shall be appointed by the Investigation Panel Chair from amongst the Independent Members and Institute Members of the Investigations Panel.

16.1.2 Those members of the Investigation Panel not appointed to consider the particular case shall play no part in determining whether there is prima facie evidence that the facts or circumstances of the particular disciplinary matter to which the Panel has been assigned constitute Misconduct under Bye-Law 32.

16.1.3 The Chair of the Investigations Panel may be an Independent Member or an Institute Member.

16.2 Composition of the Professional Conduct Committee

16.2.1 The Professional Conduct Committee shall consist of at least seven members, each of whom may be either an Independent Member or an Institute Member.

16.2.2 The Professional Conduct Committee shall act under a quorum of five (5) members.

16.2.3 Particular disciplinary matters may be considered and determined under these Regulations by a panel of five (5) members of the Professional Conduct Committee to be appointed by the Chair of the Committee (the "Professional Conduct Panel"), save in relation to proceedings under regulation 12.2 or in respect of Former Members in which circumstances a panel of three (3) members may be appointed. Those members of the Professional Conduct Committee not appointed to the Professional Conduct Panel shall play no part in the investigation and determination of that particular disciplinary matter. These Regulations (other than regulations 16.2.1, 16.2.2 and 17.3) shall apply to a Professional Conduct Panel as they apply to the Professional Conduct Committee as a whole, with references to the Professional Conduct Committee and the Chair of the Professional Conduct Committee being read as references to the Professional Conduct Panel and the chair of the Professional Conduct Panel.

16.2.4 The Chair of the Professional Conduct Committee may be an Independent Member or an Institute Member.

16.2.5 Any preliminary or procedural issue that arises prior to a hearing may be determined by the Chair of the Professional Conduct Committee or the Chair of any panel appointed under regulation 16.2.3.

16.3 Composition of the Appeal Committee

16.3.1 The Appeal Committee shall consist of at least five (5) members, each of whom may be either an Independent Member or an Institute Member.

16.3.2 The Appeal Committee shall act under a quorum of three (3) members.

16.3.3 Particular disciplinary matters may be considered and determined under these Regulations by a panel of three (3) members of the Appeal Committee to be appointed by the Chair of the Committee ("the Appeal Panel"). If an Appeal Panel

is appointed in relation to a particular disciplinary matter those members of the Appeal Committee not appointed to such an Appeal Panel shall play no part in the investigation and determination of that disciplinary matter. These Regulations (other than regulations 16.3.1, 16.3.2 and 17.3) shall apply to an Appeal Panel as they apply to the Appeal Committee as a whole, with references to the Appeal Committee and the Chair of the Appeal Committee being read as references to the Appeal Panel and the chair of the Appeal Panel.

- 16.3.4 The Chair of the Appeal Committee may be an Independent Member or an Institute Member.
- 16.3.5 The Appeal Committee may delegate to the Chair of the Appeal Committee the power to determine any preliminary or procedural issue that arises prior to a hearing.
- 16.4 A determination of the Committee shall not be invalidated only by reason of the absence of a member of the Committee for any continued or adjourned hearing as long as the Committee remains quorate during the resumed hearing.
- 16.5 No Institute Member or Independent Member may sit on more than one (1) of the three (3) Committees referred to in this regulation 16.

17. APPOINTMENT OF COMMITTEE MEMBERS

- 17.1 The Board shall appoint all members of the Investigations Panel, Professional Conduct Committee and the Appeal Committee from amongst those persons eligible to be members of these committees.
- 17.2 Members of the Professional Conduct Committee and the Appeal Committee shall be appointed for a term of three (3) years. Upon expiry of their first term of office each member of these Committees may be re-appointed for a further term of three (3) years. Upon expiry of their second term, no member shall be eligible for reappointment until one (1) year after the expiry of that term of office.
- 17.3 The Board may suspend or remove any member of the Professional Conduct Committee or the Appeal Committee:
 - 17.3.1 Upon receiving information that the Committee member is incapable of performing his or her duties or unsuitable to sit as a Committee member by reason of actions which have brought the Institute into disrepute and upon three-quarters of the members of the Board taking part in such determination voting for such suspension or removal; or
 - 17.3.2 Upon that member ceasing to be eligible for appointment as an Independent Member or Institute Member (as the case may be) and upon a majority of the members of the Board taking part in such determination voting for such suspension or removal.
- 17.4 An Institute Member shall automatically be suspended from any Committee upon which he or she sits in the event that the Investigations Secretariat puts allegations to that person under regulation 4.2 and that Member shall remain suspended until the conclusion of any disciplinary proceedings under these regulations.
- 17.5 A person is eligible to be appointed as an Independent Member if neither they nor any of their immediate family, including spouse or person with whom they are living as a life partner, are a Member, former Member, employee or former employee of the Institute. Although not a requirement for eligibility, an Independent Member may be appointed on the

basis of his or her employment in the construction industry and/or possession of a legal qualification.

- 17.6 A person is eligible to be appointed as an Institute Member if he is a Corporate Member of the Institute, he is not suspended from membership under Bye-law 35, he has not had any sanction imposed upon him under these regulations or any antecedent regulations within the last ten (10) years and disciplinary proceedings are not presently underway against him under these regulations or any antecedent regulations. For the purposes of this regulation only disciplinary proceedings under these regulations shall be deemed to be underway if allegations have been put under regulation 4.2.
- 17.7 Independent Members may be paid such remuneration by the Institute as the Board may from time to time determine.

18. APPLICATIONS FOR RE-ADMISSION FOLLOWING EXPULSION

- 18.1 A former Member who has been expelled from the Institute pursuant to regulations 7.7, 7.8.3, 10.5.4 or 11.7.4 may apply to the Professional Conduct Committee in writing for re-admission to the Institute not less than five (5) years after the date of the order of the Professional Conduct Committee expelling the Member or the conclusion of any appeal against such an order. The Professional Conduct Committee shall determine whether the former Member meets the criteria and conditions for membership as specified in the Bye-Laws, including whether in the Committee's view the former Member is currently a fit and proper person to be elected as a member of the Institute notwithstanding the circumstances leading to his expulsion from the Institute.
- 18.2 As soon as practicable following receipt of an application for re-admission under regulation 18.1 the Investigations Secretariat shall request a meeting of the Professional Conduct Committee to consider the application. The applicant shall be notified of the time, date and place of the meeting when his application shall be considered and he shall be afforded the opportunity of being heard by the Committee and of adducing evidence in support of his application for re-admission. The notice shall be sent at least 14 days prior to the meeting and in accordance with regulation 20. The notice shall be accompanied by copies of any evidence (including witness statements on which the Investigations Secretariat intends to rely at the hearing) and may require the applicant to submit evidence and information by a specified date prior to the hearing.
- 18.3 The procedure at the hearing shall be as follows, provided that where any matter regarding procedure is not covered by this regulation 18 it shall be determined by the Chair of the Committee:
- 18.3.1 The applicant and/or his representative may attend the hearing. The Investigations Secretariat shall attend or be appropriately represented at the hearing.
- 18.3.2 The applicant may address the Committee and adduce oral or written evidence of identity, character, relevant mitigation, his conduct since he was expelled from the Institute and his current ability to comply with the current criteria and conditions for membership specified in the Bye-Laws. The applicant and/or any witness called by him may be questioned by the Investigations Secretariat and/or the Committee.
- 18.3.3 The Investigations Secretariat may address the Committee and adduce oral or written evidence on the matters referred to in regulation 18.3.2;

18.3.4 The Committee shall deliberate in private and determine whether or not to approve the application for re-admission. The Committee shall give brief reasons for its decision.

18.4 Where any application for re-admission has been denied, the former Member shall not be entitled to make any further application for a period of twelve (12) months from the date of the determination.

19. APPLICATION OF THESE REGULATIONS TO CHARTERED BUILDING COMPANIES AND CONSULTANCIES

19.1 For the avoidance of doubt these Regulations apply to Chartered Building Companies and Consultancies ("CBCs") as they do to individual corporate and non-corporate members of the Institute and references to "Members" and "members" should be read accordingly.

19.2 References to "suspension" and "expulsion" in respect of CBCs shall refer to suspension or expulsion from membership as a CBC and the corresponding suspension or removal of the right to use the designation Chartered Building Company or Consultancy (as the case may be).

19.3 For the avoidance of doubt, where the Investigations Secretariat receives a complaint or information regarding the conduct of any individual member of the Institute who was at the time to which the complaint or information relates employed by or engaged to work on behalf of a Chartered Building Company or Consultancy, the Investigations Secretariat shall send notices under regulation 3.3 to both the individual and the company, and may bring proceedings under these regulations against the individual member or the company or both as it considers appropriate in light of all the circumstances, provided that the Investigations Secretariat may elect to await the outcome of proceedings against either the individual or against the company before commencing proceedings against the other.

20. SERVICE OF NOTICES

20.1 Any notice, determination or other document required by regulations 3.3, 3.5, 3.6, 4.2, 5.4, 5.5, 7.5, 7.6, 7.7, 8.6, 9.2 or 18.3.4 to be given or sent to a Member or Defendant shall be served by sending it by special delivery post addressed to the Member or Defendant at his address as notified to the Institute or at his last known address if that address differs from his address notified to the Institute and it appears to the Investigations Secretariat that service at his last known address would be more effective.

20.2 Where the member is a CBC any notice or other document required by regulations 3.3, 3.5, 3.5, 4.2, 5.4, 5.5, 7.5, 7.6, 7.7, 8.6 or 9.2 to be given or sent to the CBC shall be served by sending it by special delivery post addressed to that body at its address in the register or at the address of its registered or principal office if that address differs from its address in the register and it appears to the Investigations Secretariat that service at its registered or principal office would be more effective.

21. DEFINITIONS AND INTERPRETATION

21.1 In these regulations:

21.1.1 References to notices or determinations being issued in a form set out in the Schedules to these Regulations shall not preclude the forms in the Schedule from being subject to such variations as the circumstances may require in relation to any individual case to ensure that the notice or determination in

question complies with these Regulations and the requirements of procedural fairness generally.

21.1.2 Unless the context otherwise requires, the following expressions shall have the following meanings:

- (a) "Appeal Committee" means the committee established for the purposes set out in Bye-Law 33 and regulation 8.1 and in accordance with regulations 8 and 16.3;
- (b) "Bye-Laws" means the Bye-Laws of the Institute as amended from time to time;
- (c) "Charter" means the Royal Charter of the Institute as amended from time to time;
- (d) "Chartered Building Company or Consultancy" or "CBC" means a company within the meaning of Bye-Law 12
- (e) "Committee" means any one or more of the Investigations Panel, Professional Conduct Committee and the Appeal Committee as is appropriate in the context;
- (f) "Complainant" means any person who or body which makes an allegation to the Institute that a Member has been guilty of Misconduct;
- (g) "Corporate Member" means any person within the meaning of Bye-Laws 4, 8 and 9.
- (h) "Cost Order" means an award as to costs to be paid by either the Defendant or the Institute so as wholly or partially to reimburse the Institute or the Defendant such reasonable costs and expenses as that party has incurred in connection with the investigation and determination of the disciplinary action including any appeal;
- (i) "Defendant" means a Member who is subject to disciplinary proceedings under these regulations following a decision under regulation 3.6;
- (j) "Entry on Record" means a note of the finding of misconduct which is placed on the membership record of the Member for a specified period not exceeding two years, with the consequence that if or when further complaints or allegations regarding the Member are received within the specified period the Investigations Panel and Professional Conduct Committee may reconsider the matter covered by the entry on record when carrying out their functions in relation to the further matter-;
- (k) "Expulsion" means, in relation to a Member expulsion from membership of the Institute indefinitely subject to re-admission under regulation 18 and, in relation to a Former Member, means an order that if the Former Member at any time applies to be re-admitted to membership or studentship of the Institute the application shall be treated in accordance with these Regulations as amended from time to time and in particular regulation 18;
- (l) "Former Member" means any person who has previously been but has ceased to be a Member;
- (m) "Investigations Secretariat" means the division of the Institute whose task is to investigate disciplinary and competency matters or such external

contractors, agents or representatives as the Institute may appoint to fulfill this function on its behalf;

- (n) "Independent Member" means a member of a Committee who meets the criteria in regulation 17.5;
- (p) "Institute" means the Chartered Institute of Building;
- (q) "Institute Member" means a member of a Committee who meets the criteria in regulation 17.6;
- (r) "Investigations Panel" means the panel convened for the purposes set out in Bye-Law 33 and regulation 5.1 and in accordance with regulations 5 and 16.1;
- (s) "Investigation Panel Chair" means the Chair of the Investigation Panel or an elected member of the Investigation Panel in his absence.
- (t) "Legal Assessor" means a person appointed to provide legal advice to the Investigations Panel, the Professional Conduct Committee or the Appeal Committee and who shall be independent from the Investigations Secretariat;
- (u) "Member" means, for the purposes of these regulations only, a corporate or noncorporate member of the Institute elected in accordance with Bye-Laws 7 - 11 including for the avoidance of doubt a Chartered Building Company or Chartered Building Consultancy as defined in Bye-Law 12;
- (v) "Misconduct" has the meaning given to it in Bye-Law 32;
- (w) "Notice of Hearing" means a written notice prepared by the Investigations Secretariat in accordance with regulation 9 which specifies the proposed date, time and place of a hearing of the Professional Conduct Committee or the Appeal Committee;
- (x) "Professional Conduct Committee" means the committee established for the purposes set out in Bye-Law 33 and regulation 7.1 and in accordance with regulations 7 and 16.2;
- (y) "Student Member" means a Student member elected under Bye-Law 11;
- (z) "Suspension" means, in relation to a Member, suspension of membership of the Institute for a specified period of time or subject to conditions pursuant to regulation 7.8.2 and in relation to a Former Member means an order that any application received from that Former Member for readmittance to membership or studentship during the specified period shall be rejected. Conditions may be attached to any order of suspension and which provide that the Member shall undertake further training or other actions during his period of suspension;
- (aa) "Undertaking" means an undertaking to comply in the future or by a specified date with any rule(s) or regulation(s) of the Institute which the Committee may specify.

21.2 Unless the context otherwise so requires, other words and expressions shall have the meanings assigned to them by the Charter and the Bye-Laws. Words importing the masculine gender shall include the feminine and neuter and words in the singular shall import the plural; and vice versa.

Schedule 1 to the Disciplinary Regulations

Notice under Regulation 3.3

Dear [Sir] [Madam],

The Institute has [received a complaint from] [obtained information from.....] about your conduct. The [complaint] [information] concerns [*insert description*].

The Institute is obliged to process the [complaint] [information] under its Disciplinary Regulations. In accordance with regulation 3.3 we are writing to you to give you notice that it appears that regulation 1 of the Regulations may apply to you as a member of the Institute, i.e. that you may be subject to one or more of the provisions of Bye-Law 32.

We enclose [*insert detail documents of any documents*].

Before proceeding further in relation to the complaint we should be grateful to receive your comments in relation to the issues raised by the [complaint] [information], although you are not obliged to respond at this stage. We should be grateful if you would send any reply you wish to make within 14 days. After the expiry of that period the Investigations Secretariat will determine under regulation 3.5 or 3.6 whether the complaint/ information raises an issue of Misconduct and accordingly, whether to proceed with preliminary enquiries.

Subject to that determination and preliminary enquiries thereafter, the [complaint] [information] may be referred to the Investigations Panel and possibly the Professional Conduct Committee. You will of course have further opportunity to comment at each stage.

We enclose a copy of the Institute's Bye-Laws and Disciplinary Regulations for your information.

Yours faithfully,

Schedule 2 to the Disciplinary Regulations

Notice under Regulation 4.2

Dear [Sir] [Madam],

On behalf of the Institute, notice is hereby given to you pursuant to regulation 4.2 of the Institute's Disciplinary Regulations.

The Institute has determined under regulation 3.6 that [a complaint received] [information obtained] appears to raise a question whether as a Member of the Institute you are guilty of Misconduct as set out in Bye-Law 32. In the [complaint] [information] it is alleged that:

[Set out details of the alleged conviction or breaches of codes, regulations or Bye-Laws]

The Institute has obtained the documents listed in the enclosed schedule during its investigations of this matter. A copy of each of the documents is enclosed.

Under regulation 4.2 you are required to respond to the allegations set out above within 14 days of receipt of this letter.

Upon expiry of the 14 days referred to above, the Investigations Secretariat shall refer the complaint to the Investigations Panel under regulation 4.3. The Investigations Panel shall consider the [complaint] [information] and any written response from you, and shall then determine whether the case should be referred to the Professional Conduct Committee of the Institute for inquiry.

Yours faithfully

Schedule 3 to the Disciplinary Regulations

Notice of Hearing under Regulation 9.2 (for a hearing before the Professional Conduct Committee)

Dear [Sir] [Madam],

On behalf of the Chartered Institute of Building and pursuant to regulation 9.2 of the Institute's Disciplinary Regulations, notice is hereby given to you that in consequence of [a complaint made against you to the Institute] [information received by the Institute regarding your conduct] an inquiry is to be held into the following charge(s) against you:-

[Set out the charges in the following form:

That being a member of the Chartered Institute of Building you *[insert details of conviction, breach of codes, regulations or Bye-Laws]* and that in relation thereto you have been guilty of Misconduct under *[insert relevant reference to Bye-Law 39]*.

Notice is further given to you that on theday of20....., a hearing of the Professional Conduct Committee will be held atatam/pm to consider the above-mentioned charge (charges) against you, and to determine whether or not to impose any of the penalties detailed in Regulation 7.8.

Pursuant to regulation 9.4 we enclose copies of all documents upon which the Institute intends to rely at the hearing [together with a list of the names of witnesses which the Institute intends to call and copies of the statements taken from those witnesses—if any].

In accordance with Regulation 9.5 you are required to provide to the Institute on or before *[insert the date 14 days before the hearing]* copies of all documents upon which you intend to rely at the hearing together with the names of any witnesses you intend to call and the name, address and professional qualification(if any) of any representative or adviser who will be attending on your behalf. [You are also required to indicate in relation to each of the witness statements enclosed with this letter, whether you agree the facts contained in the statement or whether you wish the witness to attend the hearing. If you fail to inform the Institute of your objections to the content of any witness statement, the statement will be deemed to be agreed by you.]

The Investigation Panel Chair will attend the hearing to present the case in support of the charges set out above.

You are invited to appear before the Committee at the place and time specified above, for the purpose of answering the above-mentioned charge(s). You may appear in person or be accompanied by a legally-qualified or other representative. Alternatively, your representative may appear in your place. If you do not appear and are not represented, the committee may hear and decide upon the charge(s) in your absence.

Any answer, admission, or other statement or communication which you may wish to make in relation to the charge(s) should be addressed to the Institute.

If you wish to make an application that the hearing should be postponed, you should send the application to the Institute as soon as possible, stating the grounds on which you require a postponement. Any such application will be considered by the Chairman of the Professional Conduct Committee in accordance with regulation 9.6.

Yours faithfully

Schedule 4 to the Disciplinary Regulations

Notice of Hearing under Regulation 9.2 (for a hearing before the Appeal Committee)

Dear [Sir] [Madam],

You have lodged an appeal against the decision of the Institute's Professional Conduct Committee dated [*insert date*] which determined that you were guilty of Misconduct in that [*insert the charges found proved*] and which imposed [*insert description of all penalties and any Costs Order imposed*].

You have appealed on the following grounds:

[insert details of the grounds referred to in the notice of appeal].

Notice is hereby given to you on the day of20....., a hearing of the Appeal Committee will be held atatam/pm to consider your appeal and determine whether the decision of the Professional Conduct Committee should be confirmed, varied or rescinded.

[include where appropriate – Notice is further given to you that the Chairman of the Appeal Committee has considered your application under regulation 8.6 for the Appeal Committee to consider certain evidence which was not before the Professional Conduct Committee. The Chairman has determined that you [may call such evidence] [may not call such evidence because..... However, you may renew your application under regulation 8.6 at the commencement of the hearing if there are further representations you wish to make].

Pursuant to regulation 9.4 we enclose copies of all the documents upon which the Institute intends to rely at the hearing.

Under regulation 9.5 you are required to provide to the Institute on or before [*insert the date 14 days before the hearing*] copies of all documents upon which you intend to rely at the hearing in addition to the notice of appeal which you have already lodged with the Institute, the name, address and professional qualification (if any) of any representative or adviser who will be attending on your behalf [and the names the witnesses whose attendance under 8.6 has been authorised by the Chairman] [and the names of any witnesses in respect of whom you wish to make a renewed application under regulation 8.6.

You are invited to appear before the Committee at the place and time specified above, for the purpose of making representations to the Committee as to why your appeal should be allowed. You may appear in person or be accompanied by a legally-qualified or other representative: Alternatively, your representative may appear in your place. If you do not appear and are not represented, the Committee may dismiss your appeal.

Any statement or communication which you may wish to make in relation to the appeal should be addressed to the Institute.

If you wish to make an application that the hearing should be postponed, you should send the application to the Institute as soon as possible, stating the grounds on which you require a postponement. Any such application will be considered by the Chairman of the Professional Conduct Committee in accordance with regulation 9.6.

Yours faithfully,

Schedule 5 to the Disciplinary Regulations

Notice of Determination of the Investigations Panel

In the matter of [Institute member] [Chartered Building Company] [*insert name*].

Determination of the Investigations Panel

The case was considered by the following Investigations Panel:

[*insert name*] (Chair)
[*insert name*] ([Institute] [Independent] Member)
[*insert name*] ([Institute] [Independent] Member)

[Legal Assessor [*insert name*] advised the Panel]

Allegations considered by the Panel:

[*insert the allegations as put to the Defendant in the notice under regulation 4.2, numbered (i), (ii) etc.*].

The matter was considered [on] [between and]

1. The Panel noted that disciplinary proceedings had been commenced following receipt of [a complaint from] [information from]. The Panel satisfied itself that the procedures set out in the Disciplinary Regulations had been followed and that the matter was properly put before them.

2. The Panel considered that there was a prima facie case for the following facts to be found:

[*Set out brief description of the main facts*].

3. In reaching that conclusion the Panel relied in particular on the following documents and information:

[*List the main pieces of evidence accepted by the Panel*].

[*Insert a brief description of any decision by the Panel to discount or place less weight on any other potentially important evidence*].

4. In relation to allegation (i) as set out above the Panel concluded that there [was] [was not] a prima facie case that the facts set out above constituted Misconduct as defined in the Bye-Laws on the basis that [*set out any interpretation of rules, regulations or codes which led to the conclusion that particular acts or omissions did not constitute Misconduct*].

In relation to allegation (ii) as set out above the Panel concluded that there [was] [was not] a prima facie case that the facts set out above constituted Misconduct as defined in the Bye-Laws on the basis that [*set out any interpretation of rules, regulations or codes which led to the conclusion that particular acts or omissions did not constitute Misconduct*]. [*etc. for each allegation*].

5. [*If a finding of a prima facie case has been made in respect of any allegation*]. The Panel took into account [*set out any mitigating factors, any other information about the circumstances in which the alleged Misconduct took place, any existing disciplinary record of the Defendant, and confirm that the Panel took account of the time elapsed since previous offences and of regulation 1.3 if appropriate*].

6. The Panel accordingly hereby

[determines under regulation 5.5 that this matter be referred to the Professional Conduct Committee]

[determines under 5.4 that this matter be dismissed and no further action be taken against the Defendant under the Disciplinary Regulations in respect of the complaint or information referred to above].

.....
[Signed on behalf of the Panel]

.....
[Dated]

Schedule 6 to the Disciplinary Regulations

Notice of Determination of the Professional Conduct Committee

In the matter of [Institute member] [Chartered Building Company] [*insert name*].

Determination of the Professional Conduct Committee

The case was considered by the following Panel of the Professional Conduct Committee:

[*insert name*] (Chair)
[*insert name*] ([Independent] Member)
[*insert name*] ([Institute] Member)
[*insert name*] ([Institute] Member)
[*insert name*] ([Institute] Member)

[Legal Assessor [*insert name*] advised the Committee.]

Also present:

[*insert name*] from/on behalf of the Investigations Secretariat
The Defendant and/or [*insert name*] representing the Defendant

The hearing was held on at

1. The Committee noted that disciplinary proceedings had been commenced following receipt of [a complaint from] [information from]. The Committee satisfied itself that the procedures set out in the Disciplinary Regulations had been followed and that the matter was properly before them.
2. The Committee heard evidence relating to the following charges:

[List the charges numbered (i), (ii) etc. Do not include any charge discontinued under regulation 10.4.3].
3. The Committee considered the written materials in their bundle, heard representations on behalf of the Investigation Panel and the Defendant [and also heard oral evidence from the following witnesses:

[List witnesses]].
4. The Committee found the following facts to have been proved:

[List the principal facts].
5. In reaching that conclusion the Committee relied in particular on the following evidence:

[List the main pieces of evidence accepted by the Committee, whether received orally or in document form].

[Insert a brief description of any decision by the Committee to discount or place less weight on other potentially important evidence].
6. In relation to allegation (i) as set out above the Committee concluded that the evidence [proved] [did not prove] that facts or circumstances had occurred which constituted Misconduct as defined in Bye-Law [*insert*] on the basis that [set out any interpretation of rules, regulations , codes and/or Bye-Laws which led to the conclusion that particular acts or omissions did not constitute Misconduct].

In relation to allegation (ii) as set out above the Committee concluded that the evidence [proved] [did not prove] that facts or circumstances had occurred which constituted Misconduct as defined in Bye-Law [insert] on the basis that [set out any interpretation of rules, regulations, codes and/or Bye-Laws which led to the conclusion that particular acts or omissions did not constitute Misconduct]. [etc. for each allegation].

7. [If a finding of Misconduct has been made in respect of any allegation]. The Committee took into account [set out the mitigating factors put forward by the Defendant, any other information about the circumstances in which the alleged Misconduct took place relevant to the question of penalty, and any existing disciplinary record of the Defendant, and confirm that the Committee took account of the time elapsed since previous offences and of regulation 1.3 if appropriate].
8. The Committee took account of representations from the parties regarding the imposition of a Costs Order [insert brief summary].
9. The Committee accordingly hereby [determines under regulation 7.6 that this matter be dismissed [and that a Costs Order in the amount of [] be made against the Institute]] [determines under regulations 7.7 and 7.8 that the Defendant has been guilty of Misconduct as set out in paragraph 6 above and imposes [insert details of penalty or penalties or Costs Order to be imposed].
10. An appeal may be lodged by the Defendant in respect of any finding of Misconduct and/or any penalty or Costs Order imposed by this determination. Appeals must be lodged with the Institute within 28 days of receipt of this notice.
11. [If the Member has been suspended: Please note that during the period of your suspension you are not entitled to describe yourself as a Member/Fellow (etc) of the Institute OR a Member of the CBC Scheme. You are not required to pay subscription fees in relation to the period of suspension.] [If the Member has been expelled: You are no longer entitled to refer to yourself as a Member/Fellow (etc) of the Institute OR a Member of the CBC Scheme. Any outstanding debts to the Institute remain due despite your expulsion.]

.....
[Signed by the Chair on behalf of the Committee]

.....
[Dated]

[for use where a penalty is imposed with consent under Regulation 7.1.1]

[The matter was considered [on] [between and]]

1. The Committee noted that disciplinary proceedings had been commenced and that the matter had been referred to it by the Investigations Panel following receipt of [a complaint from] [information from]. The Committee satisfied itself that the procedures set out in the Disciplinary Regulations had been followed and that the matter was properly before them.
2. The Committee observed that the Investigations Panel had considered that there was a prima facie case for the following facts to be found:

[Set out brief description of the main facts].
3. In reaching that conclusion the Investigations Panel had relied in particular on the following documents and information:

[List the main pieces of evidence accepted by the Panel].

4. The Committee noted that in relation to the allegations set out below, the Investigations Panel had concluded that there was a prima facie case that the facts set out above constituted Misconduct as defined in the Bye-Laws on the basis that *[set out any interpretation of rules, regulations or codes which led to the conclusion that particular acts or omissions did not constitute Misconduct]*.

[list each allegation referred to the Professional Conduct Committee by the Investigations Panel].

5. The Committee has assessed the gravity of the Misconduct and taken into account *[set out any mitigating factors, any other information about the circumstances in which the alleged Misconduct took place, any existing disciplinary record of the Defendant, and confirm that the Committee took account of the time elapsed since previous offences and of regulation 1.3 if appropriate]*.
6. The Committee accordingly hereby under regulation 7.1.1 seeks the Defendant's consent to a determination that he is guilty of Misconduct as set out in paragraph 4 above and an order that he *[insert details of penalty or penalties to be imposed]*, such consent to be confirmed or withheld in writing within 21 days of receipt of this letter. If consent is not given to a determination in these terms, the matter will at the end of that period proceed to a full hearing before the Professional Conduct Committee.]

Schedule 7 to the Disciplinary Regulations

Notice of Determination of the Appeal Committee

In the matter of [Institute member] [Chartered Building Company] [*insert name*].

Determination of the Appeal Committee

The case was considered by the following Panel of the Appeal Committee:

[*insert name*] (Chair)
[*insert name*] ([Institute] [Independent] Member)
[*insert name*] ([Institute] [Independent] Member)
[Legal Assessor [*insert name*] advised the Committee.]

Also present:

[*insert name*] from/on behalf of the Investigations Secretariat
The Defendant and/or [*insert name*] representing the Defendant

The hearing was held on at

1. The Committee noted that disciplinary proceedings had been commenced following receipt of [a complaint from] [information from], that the Professional Conduct Committee had considered charges of Misconduct which were brought on the basis of that [complaint] [information] and had determined that [*insert the determination made by the Professional Conduct Committee as to Misconduct, penalty and Costs Order if any*]. The Committee satisfied itself that the procedures set out in the Disciplinary Regulations had been followed and that the matter was properly before them.
2. The Defendant appealed on the following grounds:

[*Set out the heads of appeal under the four headings allowed for in regulation 8.3*]
3. The Committee considered the written materials in their bundle, heard representations on behalf of the Investigations Secretariat and the Defendant [and also heard oral evidence from the following witnesses: [*List witnesses*]].
4. The Committee relied in particular on the following representations and materials:

[*List the main representations accepted by the Committee*].
[*Insert a brief description of any decision by the Committee to discount or place less weight on any other potentially important representations or materials*].
5. Appeal under regulation 8.3.1
The Committee concluded that there [had been] [had not been] a material irregularity in the proceedings before the Professional Conduct Committee on the basis that [*set out finding as to the procedure followed by the Professional Conduct Committee and the reasons why it was considered regular or irregular, referring as necessary to the Regulations and/or advice from the Legal Assessor*].

Appeal under regulation 8.3.2
The Committee concluded that the Professional Conduct Committee [erred] [did not err] in its determination that the facts and circumstances which it found proved constituted Misconduct on the basis that [*set out the Committee's interpretation of the relevant rules, regulations, codes and/or Bye-Laws*].

Appeals under regulation 8.3.3

The Committee concluded that the new evidence put forward by the Defendant

[could have been put before the Professional Conduct Committee because.....] [could not have been put before the Professional Conduct Committee because.....]

if submitted to the Professional Conduct Committee [would] [would not] have been likely to have had a material impact on the Professional Conduct Committee's determination of one or more of the charge/charges against the Defendant because

Appeals under regulation 8.3.4

The Committee considered that the penalty or penalties imposed by the Professional Conduct Committee [was or were] [was not or were not] excessive in the light of the Professional Conduct Committee's findings of fact, the seriousness of the Misconduct and/or the Defendant's circumstances, on the basis that

7. [If the Committee is confirming or varying a finding of Misconduct]. The Committee took into account [set out the mitigating factors put forward by the Defendant, any other information about the circumstances in which the alleged Misconduct took place relevant to the question of penalty, and any existing disciplinary record of the Defendant, and confirm that the Committee took account of the time elapsed since previous offences and of regulation 1.3 if appropriate].

8. The Committee took account of representations from the parties regarding the imposition of a Costs Order [insert brief summary].

9. The Committee accordingly hereby

[determines that the appeal under [insert relevant regulations] be allowed and the penalty imposed by the Professional Conduct Committee in respect of those charges be rescinded.]

[that the appeal under regulation 8.3.4 be allowed and the penalty imposed by the Professional Conduct Committee be varied to [insert details of alternative penalty].

[that the appeal under [insert relevant regulations] be dismissed and that the penalty imposed by the Professional Conduct Committee be [confirmed] [varied to insert details of alternative penalty]

[Also state the Appeal Committee's decision as to any Costs Orders made by the Professional Conduct Committee]

10. There is no right of appeal against this decision to any part or Committee of the Institute.

11. [If the Member has been suspended: Please note that during the period of your suspension you are not entitled to describe yourself as a Member/Fellow (etc) of the Institute OR a Member of the CBC Scheme. You are not required to pay subscription fees in relation to the period of suspension.] [If the Member has been expelled: You are no longer entitled to refer to yourself as a Member/Fellow (etc) of the Institute OR a Member of the CBC Scheme. Any outstanding debts to the Institute remain due despite your expulsion.]

.....
Signed by the Chair on behalf of the Committee]

.....
[Dated]