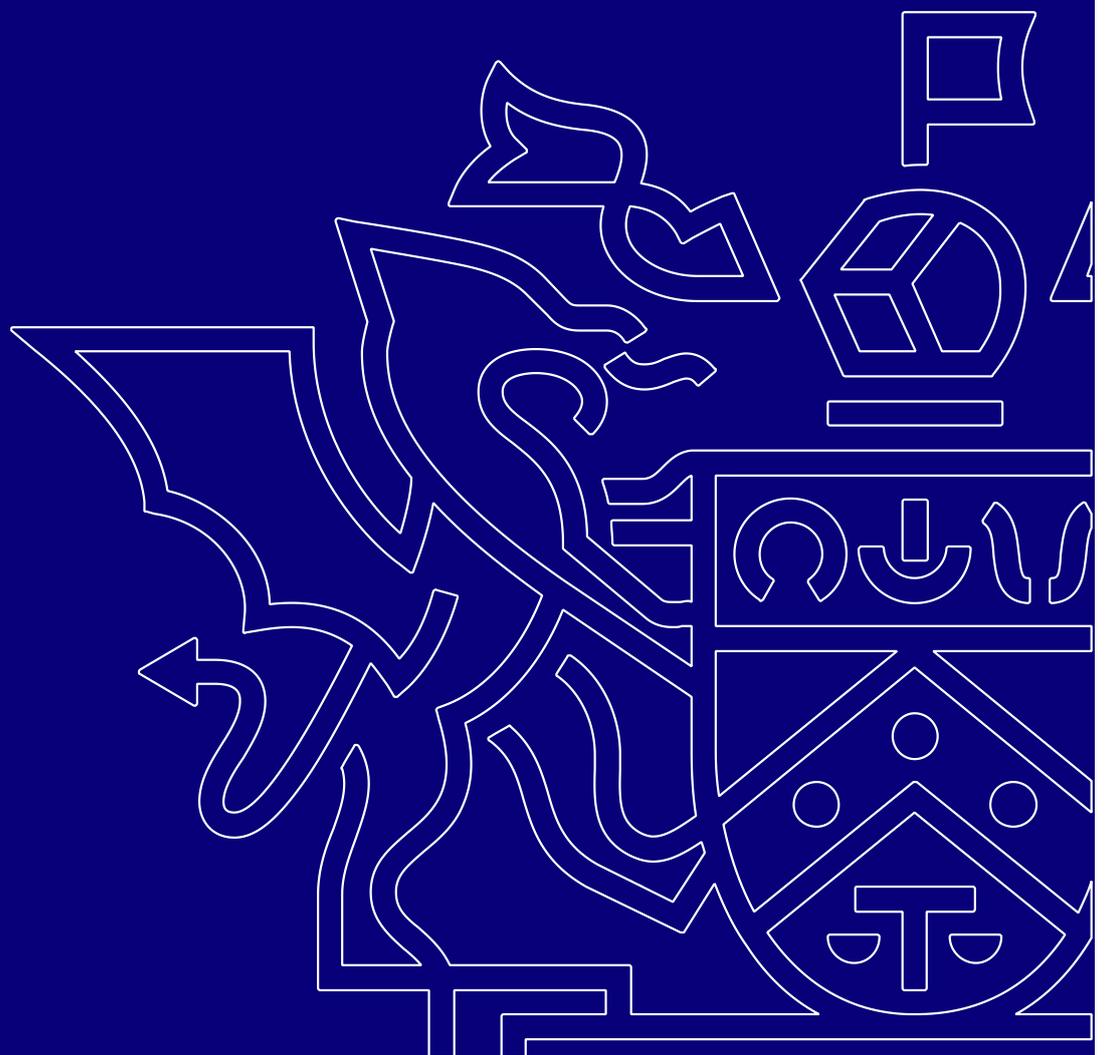


CIM

Code of Professional Conduct



January 2017

The Code of Professional Conduct General Regulations for the Provision of Professional Conduct, Ethics and Disciplinary Procedures in accordance with Royal Charter Bye-laws 16-19

The Code of Professional Conduct

- 1.** One of the Objects of The Chartered Institute of Marketing (“the Institute”) as set out in Article 2 of its Royal Charter is: “To promote and maintain high standards of professional skill, ability and integrity among persons engaged in marketing products and services”. In furtherance of this Object, the Institute requires its members to recognise their responsibilities to customers, employers, colleagues and fellow marketers, and to the public in general. In order to maintain the recognition and honouring of such responsibilities, the Institute requires all members to adhere to the Code of Professional Conduct, as a condition of membership.

Where a complaint is made by any person that a member of the Institute has acted in breach of the Code of Professional Conduct, the complaint will be processed by the Chairman (a lawyer) and the members of the Disciplinary Committee of the Institute. A number of different ways are provided for the disposing of the complaint, but members should note that where the misconduct is sufficiently serious to justify it, the Disciplinary Committee, with the approval of the Board of Trustees, has the power to expel a member from the Institute.

2. Code of Professional Conduct

- 2.1** A member shall at all times conduct himself with integrity in such a way as to bring credit to the profession of marketing and The Chartered Institute of Marketing.
- 2.2** A member shall not by any unfair or unprofessional practice injure the business, reputation or interest of any other member of the Institute.
- 2.3** Members shall, at all times, act honestly in their professional dealings with customers and clients (actual and potential), employers and employees.
- 2.4** A member shall not, knowingly or recklessly, disseminate any false or misleading information, either on his own behalf or on behalf of anyone else.
- 2.5** A member shall keep abreast of current marketing practice and act competently and diligently and be encouraged to register for the Institute’s scheme of Continuing Professional Development.
- 2.6** A member shall, at all times, seek to avoid conflicts of interest and shall make prior voluntary and full disclosure to all parties concerned of all matters that may arise to any such conflict. Where a conflict arises a member must withdraw prior to the work commencing.
- 2.7** A member shall keep business information confidential except: from those persons entitled to receive it, where it breaches this code and where it is illegal to do so.
- 2.8** A member shall promote and seek business in a professional and ethical manner.
- 2.9** A member shall observe the requirements of all other codes of practice which may from time to time have any relevance to the practice of marketing insofar as such

requirements do not conflict with any provisions of this code, or the Institute's Royal Charter and Bye-laws; a list of such codes being obtainable from the Institute's Head Office.

- 2.10 Members shall not hold themselves out as having the Institute's endorsement in connection with an activity unless the Institute's prior written approval has been obtained first.**
- 2.11 A member shall not use any funds derived from the Institute for any purpose which does not fall within the powers and obligations contained in the Constitution and Member Group Guide, and which does not fully comply with this code.**
- 2.12 A member shall have due regard for, and comply with, all the relevant laws of the country in which they are operating.**
- 2.13 A member who knowingly causes or permits any other person or organisation to be in substantial breach of this code or who is a party to such a breach shall himself be guilty of such breach.**
- 2.14 A member shall observe this Code of Professional Conduct as it may be expanded and annotated and published from time to time by the Constitution and Ethics Committee in the manner provided for below.**

3. The Constitution and Ethics Committee

- 3.1 The Board of Trustees shall constitute a committee to be called the Constitution and Ethics Committee which shall keep the above Code of Professional Conduct under constant review and shall expand and annotate the same as they may think fit in the light of changing circumstances, and shall publish such material to the effect as the Board of Trustees shall order.

4. The Disciplinary Committee

- 4.1 If any complaint should be made against any member it shall be considered by the Disciplinary Committee.
- 4.2 The Disciplinary Committee shall consist of between five and seven members appointed by The Board of Trustees. A member so appointed shall be eligible for re-appointment at the expiration of any defined period of office.
- 4.2 A person may be appointed to be a member of the Committee whether he is or is not a member of the Institute but:
 - 4.3.1 The Chairman shall be a Barrister or solicitor who has been in practice not less than 10 years. If by reason of illness or absence the Chairman becomes temporarily incapable of performing the duties of his office, the Board of Trustees acting upon the advice of the Chairman or the Chairman of the Bar Council or the President of the Law Society, shall appoint another member of the Bar or of the Law Society as the case may be to be a member of the Committee and to act in the place of the Chairman until he is able to resume the performance of the duties of his office.
 - 4.3.2 At least three members of the Committee shall be either Fellows or Members of the Institute with at least 10 years membership of the Institute.

- 4.3.3 The Committee when constituted shall include at least one lay member, and if the committee has more than five members, at least two lay members. Lay members shall be persons of good reputation and standing who are not members of the Institute.
- 4.4 The quorum of the Committee shall be three, of whom the Chairman shall be one.
- 4.5 The Committee may act by a majority of the members present, and in the case of an equality of votes the Chairman shall have a casting vote.
- 4.6 The Secretary shall be a person appointed by the Board of Trustees and shall be a person who is as far as reasonably practicable independent from those officers of the Institute who may be concerned with the process and presenting of complaints to the Disciplinary Committee.

5. The Procedure for Complaints

- 5.1 A complaint may be made by any person that a member of the Institute failed to observe the Code of Professional Conduct whilst he was a member of the Institute.
- 5.2 Any complaint so made against a member shall be in writing under confidential cover and addressed to the Secretary of the Disciplinary Committee at Moor Hall, Cookham, Berkshire, SL6 9QH, UK. The name and address of the person making the complaint shall be given. The name and address of the member complained against shall also be given, or alternatively a sufficient description of him to identify him. The complaint shall also set out the circumstances which constitute the complaint and state the relationship, if any, between the complainant and the member.
- 5.3 The Chief Executive or Board Chair of CIM shall have a duty to raise a complaint if there is evidence of a breach of the Code and it is in the interests of CIM to take the complaint forward. In such instances it is the Institute itself who is the complainant.

6. Defective Complaints

- 6.1 Any communication purporting to be a complaint which does not comply with the requirements of paragraph 5.2 (a "defective complaint") will not be processed by the Institute. However, where a defective complaint is addressed to or otherwise comes to the attention of the Secretary and the sender's details are set out in the defective complaint, the Secretary shall request the sender to submit a further communication complying with paragraph 5.2. Unless and until such further communication is received the Institute will take no action in regard to the defective complaint.

7. The Processing of Disciplinary Complaints

- 7.1 When the Secretary receives a complaint, complying with paragraph 5.2 from any person in which it is alleged that a member of the Institute, or a person employed by him in the carrying on of his business, has been guilty of a failure to observe the Code of Professional Conduct, (hereinafter referred to as "professional misconduct"), the Secretary shall submit the complaint to the Chairman of the Disciplinary Committee.
- 7.2 The Chairman shall direct the Secretary to send a copy of the complaint to the member who is the subject of the complaint, provided that, where the complaint has been stayed pursuant to paragraphs 7.3, 7.4 or 7.5 below, there shall be no communication with the said member until the relevant information under these paragraphs has been received and the Chairman has decided that the complaint should no longer be stayed. Once the Chairman has made such a

decision, he shall direct the Secretary to send a copy of the complaint together with a copy of all such relevant information to the said member. The communication of the complaint to the said member shall contain an invitation to answer or explain the complaint made against him by written submissions drafted by himself or through a representative.

- 7.3 The Chairman shall, if in his opinion the complaint does not set out the circumstances of the complaint in sufficient detail to allow the person complained against to comprehend the nature and extent of the complaint so as to afford him a fair opportunity of knowing the case that is alleged against him, direct that better and further particulars are given of the complaint. Until such particulars are given to the satisfaction of the Chairman, the complaint shall be stayed.
- 7.4 The Chairman may require that any allegation of fact contained in any complaint shall be substantiated by a written statement signed by a responsible person if he thinks fit, and any such statement shall specify as respects any fact not within the personal knowledge of the declarant, the source of his information and the grounds for his belief in its truth. Until such a statement is received which the Chairman considers is satisfactory in regard to both its form and contents, the complaint shall be stayed.
- 7.5 The Chairman may require that any allegation of fact contained in any complaint shall be clarified by the giving of further and better particulars of the allegation or by any other means he considers that will clarify the allegation. Until such particulars are given or such allegation has been otherwise clarified, in both cases to the satisfaction of the Chairman, the complaint shall be stayed.
- 7.6 The Chairman may require that any answer or explanation offered by the member about whom the complaint is made shall be clarified by the giving of further and better particulars of that answer or explanation or by any other means he considers necessary to clarify that answer or explanation. The Chairman may stay the complaint until such particulars are given or such answer or explanation has been otherwise clarified, in both cases to his satisfaction, but if the said member refuses to provide such particulars or clarification, or fails to do so expeditiously, the Chairman may proceed to dispose of the complaint on the basis of the information already obtained.
- 7.7 When he has considered the complaint, the evidence available in support thereof and any answer or explanation submitted by the member complained about, the Chairman shall deal with the matter as follows:

7.7.1 if he is of the opinion that

7.7.1.1 the case is not within the jurisdiction of the Disciplinary Committee; or

7.7.1.2 the complaint is of a frivolous or trivial character; or

7.7.1.3 owing to a lapse of time, or other circumstances the complaint may properly be disregarded; or

7.7.1.4 the primary purpose of the complaint is to obtain a political advantage for the complainant rather than to initiate proceedings because a disciplinary offence may have occurred.

he shall recommend to the Disciplinary Committee that the case shall not proceed further.

If after consultation orally or by letter with the other members of the Disciplinary Committee, the Disciplinary Committee accept the Chairman's recommendation then the complaint so referred shall proceed no further, and both the complainant and the member complained of shall be promptly notified by the Secretary of such a decision and the reason therefor. If the Disciplinary Committee, after consultation, do not accept the recommendation of the Chairman, then the complaint will be disposed of in one of the manners provided for below:

7.7.2 If the Chairman is of the opinion that the professional misconduct alleged in the complaint does not constitute sufficiently serious professional misconduct, or is for any other reason of such a character that the matter can be disposed of without a full disciplinary Inquiry, as provided for below, he shall, after consultation with the Disciplinary Committee and the receipt of their agreement to this course of action, direct the Secretary:

7.7.2.1 To inform the member about whom the complaint has been made that the Chairman has in mind that a written reprimand shall be issued to him and that he will be then cautioned as to his conduct.

7.7.2.2 To invite the said member to accept this form of disposal of the complaint and the caution issued with this disposal without there being a full Disciplinary Inquiry.

If the member does accept such disposal by way of written reprimand, the member shall be so reprimanded and cautioned and that will conclude the determination of that complaint. The Secretary shall thereupon notify the complainant of the decision of the Disciplinary Committee and the determination of the complaint.

7.7.3 In those cases where the Disciplinary Committee do not accept the recommendation of the Chairman that the member shall be sent a written reprimand, or the member against whom the complaint has been made does not agree to the disposal of the complaint by way of a written reprimand, the Disciplinary Committee shall direct the Secretary to take the necessary steps for the holding of an Inquiry by the Disciplinary Committee.

When making its direction to the Secretary as aforesaid, to take the necessary steps for the holding of an Inquiry, the Disciplinary Committee:

- a) if it is of the opinion that the complaint primarily is one that if proved would confer substantial commercial advantage to the complainant or to his reputation, or
- b) brought to avoid incurring of costs by him in legal proceedings against the person complained of, and
- c) is not of the type that is in the interests of the Institute alone to incur costs prosecuting the complaint,

may direct that the complaint shall not be proceeded with unless the complainant first undertakes in writing to pay the costs of those future proceedings in part or in whole as the committee thinks fit.

7.8 At any time either before an inquiry has been directed or after, the Chairman in the interests of good order and administration may give directions as to how the hearing shall be conducted and upon all matters ancillary thereto and he shall do this by submitting his proposals in the

first place to the parties for their comments and then after considering their comments in writing or if necessary in a preliminary hearing, he shall issue his directions in a final form.

- 7.9 If at any time after an Inquiry has been directed and before it has been held, information is received by the Secretary which might have justified the Disciplinary Committee in not directing an Inquiry in the first instance, then the Disciplinary Committee, upon such information being referred to them, may direct that the Inquiry shall not proceed further.

8. Inquiries Before the Disciplinary Committee

- 8.1 Where the Disciplinary Committee has directed an Inquiry to be held the Secretary shall give notice of that decision to the member affected and the complainant as soon as reasonably practicable. The notice to the complainant shall require the complainant to state whether or not he intends to present his case to the Disciplinary Committee. Where the complainant states that he does not intend to do so, the Secretary shall also instruct a person, who may be a solicitor, to investigate the facts of the case and to present (or brief counsel to present in appropriate cases) the case to the Disciplinary Committee at the Inquiry.
- 8.2 Where directions have been given for an Inquiry to be held, the Secretary shall, not less than 28 days before the day appointed for holding the Inquiry send to the person affected (and the complainant if he has decided to present his case to the Disciplinary Committee) a notice specifying generally the matters into which the Inquiry will be held and stating the day, hour and place appointed for holding the Inquiry: provided that where the person affected and the complainant, if presenting his case to the Disciplinary Committee, so agree the period of notice required by this Regulation may be reduced to such period as may be agreed.
- 8.3 The notice referred to in 8.2 above, shall be accompanied by a copy of these Regulations.
- 8.4 Any notice or communication required by these Regulations to be sent to any member shall be sent by registered letter or recorded delivery letter addressed to him at his registered place of address as recorded upon the CIM members' database. Any such communication to be sent to the complainant shall be sent to him by registered letter or recorded delivery to the address stated in his complaint.
- 8.5 Any notice sent to any member or any complainant in accordance with Regulation 8.2 may be amended with the consent of the Disciplinary Committee or of the Chairman and written notice of the amendment shall be sent to such person in the manner provided by the preceding Regulations, or otherwise brought to his notice by the Secretary before the Inquiry is held or in the course of the Inquiry: provided that the member or the complainant, as the case may be, shall have the right to demand an adjournment of the Inquiry if reasonable notice of any amendment materially affecting the particulars of the misconduct alleged in the Notice of Inquiry has not been given before the Inquiry commenced.
- 8.6 The Chairman may at any time postpone the opening of the Inquiry and direct the Secretary to give any necessary notices to the member concerned and the complainant if he has decided to present his case to the Disciplinary Committee.
- 8.7 The Inquiry shall normally be held in private unless, upon the application of either of the parties affected, the Disciplinary Committee determine that in the interest of justice or for some other compelling reason the hearing should be held in public.
- 8.8 The member affected and the complainant (if he as so decided) presenting the case to the Disciplinary Committee may be represented by a solicitor or counsel; provided that nothing in

these Regulations shall prevent a member or complainant from representing himself and appearing without a solicitor or counsel before the Disciplinary Committee.

- 8.9 If the person entrusted with the task of presenting the case against the member affected considers that the Disciplinary Committee's deliberations will be assisted by expert evidence from experts knowledgeable about the issues in question, then that person shall cause these experts' advice to be reduced to writing and served upon the member affected not less than 28 days from the date upon which the hearing before the Disciplinary Committee is to take place; and to arrange, if so requested by the member affected, for the attendance of those experts at the hearing before the Disciplinary Committee and for them to give evidence: provided that nothing in this Regulation shall prevent the member affected himself from calling expert evidence either in rebuttal or of his own accord provided that he notifies the person presenting the case against him in good time before the hearing and supplies him with a written statement of that expert's evidence.

9. Hearings of the Disciplinary Committee

- 9.1 If the member affected (or the complainant if he has decided to present his case to the Disciplinary Committee) does not appear and the Disciplinary Committee are satisfied that the Notice of the Inquiry was duly sent to him, they may proceed with the Inquiry in his absence or may adjourn the Inquiry.
- 9.2 Subject to the foregoing provisions with respect to non-appearance, the order of proceedings shall be as follows:
- 9.2.1 Statement of the case against the member affected and the production of evidence in support of it.
- 9.2.2 Statement of the case of the member affected and the production of evidence in support of his case.
- 9.2.3 Reply to the case of the member affected: provided that, except by leave of the Disciplinary Committee, a reply shall not be allowed where the member affected has produced no evidence other than his own, and no issue of law arises.
- 9.2.4 A closing statement of the case of the member affected.
- 9.3 Evidence may be received by the Disciplinary Committee by oral, written, or signed statement, or statutory declaration. A witness shall first be examined by the person producing him, then cross-examined and then re-examined. The Disciplinary Committee shall disregard oral evidence given by any person who refuses to submit to cross-examination. The Disciplinary Committee may, in their discretion, decline to admit the written statement or declaration of a person who is not present and shall disregard it if, being present, he refuses to submit to cross-examination.
- 9.4 Members of the Disciplinary Committee may put through the Chairman, or on his invitation, such questions as they think desirable.
- 9.5 The Disciplinary Committee may at any stage of the proceedings adjourn the Inquiry to a subsequent meeting of the Disciplinary Committee and where the day, hour and place for such meeting are not appointed at the time of the adjournment, the Secretary shall, not less than 21 days before the day appointed and in the manner specified in Regulation 8.2, give notice to the member affected and to the complainant, if any, of the day, hour and place appointed.
- 9.6 Subject to these Regulations the procedure at the hearing should be determined by the Disciplinary Committee.

- 9.7 On the conclusion of the hearing the Disciplinary Committee shall deliberate in private and shall decide:
- 9.7.1 whether the misconduct alleged in the complaint is proved;
 - 9.7.2 if so, whether such misconduct is such as to render the member affected with regard to whom it is proved unfit to be on the register of members of the Institute;
 - 9.7.3 if so, the Disciplinary Committee may direct that:
 - 9.7.3.1 no further action is to be taken against the member; or
 - 9.7.3.2 the member is to be reprimanded; or
 - 9.7.3.3 the member's membership shall be continued but only subject to such conditions as the Disciplinary Committee think fit;
 - 9.7.3.4 the member shall be suspended upon such conditions as the Disciplinary Committee think fit;
 - 9.7.3.5 the member shall be expelled and his name removed from the register of members of the Institute; provided that the Disciplinary Committee may postpone its decision or any part of it, either generally or on such terms as it may approve.
- 9.8 The Disciplinary Committee shall notify the member and the complainant of their determination as soon as is reasonably practicable in writing.

10. Publication of Decisions

- 10.1 Decisions of the Disciplinary Committee may be published. The extent of the publication will be at the discretion of the Chairman of the Institute, in consultation with the Chairman of the Disciplinary Committee.

11. Applications for Relief from the Consequences of Previous Decisions of the Disciplinary Committee

- 11.1 Any member who by direction of the Disciplinary Committee has been expelled or suspended or had his membership continued only subject to conditions may apply in writing to the Secretary for the restoration of his name to the register or for the revocation of conditions imposed or for a variation of a condition imposed as the case may be.
- 11.2 Any such application shall be made in writing to the Secretary stating the grounds on which it is made and signed by the applicant.
- 11.3 No application for restoration of a name to the register shall be entertained by the Disciplinary Committee unless supported by at least two members currently upon the register of the Institute.
- 11.4 The Disciplinary Committee shall afford the applicant if he wishes an opportunity of appearing before them in person or by a solicitor or counsel and of adducing evidence orally or in writing. The Disciplinary Committee shall consider the application in private unless it considers that in the interest of justice or for some other compelling reason the application should be considered in public.

- 11.5 The procedure of the Disciplinary Committee in connection with the application shall be such as they may determine.
- 11.6 The Committee may if they think fit adjourn consideration of the application from one meeting to another.
- 11.7 The Secretary shall communicate to the applicant and to the objector, if any, the decision of the Committee and to the Secretary of the Institute.
- (NB: In accordance with Bye-law 1, in these General Regulations words importing the masculine gender only shall include the feminine gender).



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