

# The General Regulations

## **General Regulations on Elections to the Board of Directors**

- 1.** There will be a maximum of fourteen Directors.
- 2.** There will be two categories of Directors:
  - a. Nine elected Directors
  - b. Co-opted Directors, who may or may not be Voting Members, of which there shall be a maximum number of five.
- 3.** All Directors with the exception of Co-opted Directors must be Voting Members of the Institute.
- 4.** There will be places for seven Elected Directors from the UK and Europe and two Elected Directors from other regions.
- 5.** All Voting Members will be eligible to vote in the election of Elected Directors.
- 6.** In an election to the Board to fill the vacancies arising, the vacancies for Elected Directors from the UK and Europe will be filled by the candidate or candidates (depending on the number of vacancies) from the UK and Europe with the highest number of votes and the vacancies for Elected Directors from the other regions will be filled by the candidate or candidates (depending on the number of vacancies) from the other regions with the highest number of votes.
- 7.** If, in any year, there are insufficient candidates from a particular region to fill its allocated vacancies, the vacancy will remain until the Board can appoint a member from the appropriate region to fill it. The person so appointed will be appointed to a casual vacancy, to hold office until the conclusion of the next AGM.
- 8.** The criteria for determining the geographical location of a member will be permanent residency in a country within the UK and Europe, or the other regions.
- 9.** If, during his/ her term of office an elected Director ceases to be a permanent resident in the region under which s/he was elected, s/he will vacate office immediately in accordance with Bye-law 41 (a) and (c) unless s/he has been appointed as a Chair or Vice Chair, in which case they shall serve for the remainder of their term.
- 10.** Permanent residency will be evidenced by a member both having his/ her registered address in the region, and currently residing in the region. Other factors that may be taken into account include place of permanent employment; where tax is paid; and residency over the preceding six months. Periods of temporary residency outside the region (i.e. of three months or less) will not normally invalidate a member's eligibility to be elected from that region. However, the matter of a member's residency will be for CIM to determine and its decision will be final.
- 11.** Subject to Bye-law 39 and unless otherwise determined by General Regulations or if serving as Chair or Vice Chair, Elected Directors will hold office for a term of three years. In exceptional circumstances a term of office for any vacancy may be altered to a different number of years, by the Board prior to the election, in order to allow for a staggered succession. For all Elected Directors a year in office shall be from the end of one Annual General Meeting until the end of the following Annual General Meeting.

- 12.** The election of persons to fill vacancies as an Elected Director shall be by a ballot or ballots of Voting Members. The ballot or ballots may be by means of either postal voting, the use of any other suitable technology, or a combination of these voting methods, as determined by Board Regulations.
- 13.** Any Voting Member of the Institute of good standing (other than Directors who will have served six years on the Board at the next AGM) shall be eligible to stand as a candidate in such an election subject to satisfying the following conditions:
  - a. is nominated as a candidate by the Board, or
  - b. is nominated by four Voting Members, two of whom must hold Chartered status and/ or be FCIM.
- 14.** Each proposer or seconder may only propose or second one candidate in any one election process.
- 15.** The conduct of the election of Directors shall be the responsibility of the Institute Secretary and shall be as prescribed in Board Regulations.
- 16.** Successful candidates for membership of the Board as Elected Directors shall assume office at the close of the Annual General Meeting, immediately following the election in which they were successful.
- 17.** Elected Directors shall be eligible for re-election for further terms of office as a Director but, subject to Bye-law 41, a person (other than the Chair or Vice Chair) who has served as a Director for six years in the aggregate, whether consecutive or not, shall not be eligible to be re-elected or appointed as a Director unless a period of three years has passed since the conclusion of his/ her last term of office.
- 18.** In the event of an Elected Director ceasing to hold office, for whatever reason, before the end of their term of office, the Board may first appoint some other person to serve as an Elected Director until the next Annual General Meeting. A period of office served as a Director to fill a casual vacancy in this way shall be disregarded in calculating that person's eligibility for re-election as a Director. At the next scheduled election to the Board of Directors, there shall also be an election to fill this casual vacancy. The term of office for a Director elected to serve in this way shall be for the remainder of the term of office for the Elected Director that s/he shall replace.
- 19.**
  - a. Co-opted Directors are appointed by the Board. The co-option of Directors by the Board shall be conducted in accordance with Board Regulations. A Co-opted Director need not be a Voting Member of the Institute.
  - b. The first term of office for a co-opted Director shall be from the date of his/ her appointment, until the close of the next following Annual General Meeting. The Board may co-opt the Director for a future term, to be determined by the Board, and may renew the co-option for further terms. This is provided that a person who has served as a Director for six years in total, whether consecutive or not, shall not be eligible to serve as a Director unless serving as Chair or Vice Chair and unless a period of three years has passed since the conclusion of his/ her last term of office.
- 20.** On the adoption of these regulations, subject to the regulations on maximum term of office the Board may determine the terms of office for the existing Elected Directors at the first Board meeting following the adoption of these regulations to ensure staggered succession.

## **OFFICERS**

- 21.** a. The Board shall elect from among its number by secret ballot (and may remove) a Chair and Vice Chair (or Vice Chairs).
- b. A Chair so elected shall assume office at the close of the Annual General Meeting of the Institute immediately following his/ her election to that office and shall continue in that office until the close of the Annual General Meeting following the completion of a two-year term. A Vice Chair so elected shall assume office on such day as may be specified by the Board at the time of his/ her election to that office and shall continue in that office for two years unless removed earlier by the Board. A Chair or a Vice Chair may be re-elected.
- c. In the event of a vacancy occurring in any office before the expiry of the period of service, whether through death, incapacity, resignation, removal by the Board following a secret ballot, or for any other reason, the Board shall elect a successor by secret ballot. The appointed successor shall serve for the remainder of the period of service and may be re-elected.
- d. Where a Director is elected as a Chair or Vice Chair, s/he shall not be subject to re-election or re-appointment as a Director for the remainder of their service in that role. If a Chair or Vice Chair was elected onto the Board as an Elected Director and s/he ceases to be a Chair or Vice Chair but has not yet served six years on the Board s/he is entitled to remain on the Board as an Elected Director until the next AGM or the remainder of their original term of office in that role, if longer, and to stand for re-election (if eligible).
- 22.** The role and responsibilities of Officers shall be determined by the Board.

# **General Regulations for the Provision of Professional Conduct, Ethics and Disciplinary Procedures in accordance with Royal Charter Bye-laws 16-18**

## **Code of Professional Conduct**

One of the core purposes of CIM is "To promote and maintain high standards of professional skill, ability and integrity among persons engaged in marketing products and services." CIM therefore requires its members to fully recognise and accept their responsibilities to customers, employers, colleagues and fellow marketers, along with the public in general. It is a condition of membership that all members adhere to this Code of Professional Conduct, in order to uphold these responsibilities. A member therefore agrees that s/he will:

- 1. Act with integrity at all times and conduct themselves ethically in a way that brings credit to themselves, the profession of marketing and CIM.**
- 2. Avoid any unfair or unprofessional practice that could potentially injure the business, reputation or interest of any other business or person.**
- 3. Always act honestly in their professional dealings with customers and clients (both actual and potential), employers and employees.**
- 4. Never knowingly or recklessly disseminate any false or misleading information, either on their own behalf or on behalf of anyone else.**
- 5. Keep abreast of current marketing practice and act competently and diligently.**
- 6. Seek to avoid conflicts of interest at all times, making prior disclosure of any issues that may arise to all parties. Where a potential conflict arises, a member must withdraw from the matter as soon as they are aware of the conflict of interest.**
- 7. Respect confidentiality - keeping all business information confidential except from people entitled to receive it, where it is illegal to do so or where maintaining confidentiality would breach this code.**
- 8. Act in a professional and ethical manner when promoting and seeking business.**
- 9. Observe the requirements of all other codes of practice which may be of relevance to their professional practice, as long as those requirements do not conflict with this code, or CIM's Constitution.**
- 10. Never hold themselves out as having the Institute's endorsement in connection with an activity unless the Institute's prior written approval has been obtained.**
- 11. Never use any funds derived from the Institute for any purpose which does not fall within the powers and obligations contained in the Constitution, and any other regulations set by CIM, and/ or which does not fully comply with this code.**
- 12. Have due regard for, and comply with, all the relevant laws of the country in which they are operating.**
- 13. Never knowingly allow any other CIM member to be in breach of this code. If a CIM member is aware that another member has breached the Code, they have a professional obligation to report this to CIM using the Complaints procedures.**

## **CIM COMPLAINTS PROCEDURES AND DISCIPLINARY PROCEDURES**

### **Introduction**

One of the core purposes of CIM is "To promote and maintain high standards of professional skill, ability and integrity among persons engaged in marketing products and services." CIM therefore requires its members to fully recognise, and accept, their responsibilities to customers, employers, colleagues and fellow marketers, along with the public in general. It is a condition of membership that all members adhere to the Code of Professional Conduct, in order to uphold these responsibilities

When a potential breach of the Code is brought to the attention of CIM, it is treated as a complaint and dealt with under the **Complaints Procedures**. The Institute Secretary determines its validity and as a consequence, whether the complaint is referred for investigation. If, as a result of this investigation, it is concluded that there is sufficient evidence that the Code may have been breached, the Institute takes on the matter and it is dealt with under the **Disciplinary Procedures**.

In establishing both sets of procedures, the CIM has embedded a number of key principles. These are shown throughout the procedures in italic text and are as follows.

- The CIM takes breaches of the Code very seriously. It is committed to fairness and as much expediency in the process as possible – whilst recognising the need for due process.
- The grounds for Disciplinary Proceedings are that the Member appears to have demonstrated conduct that is in breach of the Code. Therefore, any complaint raised with (or by) the Institute will be considered first under the Complaints Procedures. A complaint needs to be validated and investigated to determine if there is a case to be heard. A complaint will not be investigated if it cannot be validated or there are circumstances that prevent sufficient evidence being gathered.
- Investigations are undertaken by an Investigation Officer who will be independent. The Investigation Officer will not be a member of the Disciplinary Committee or the Board of the CIM.
- Disciplinary Proceedings are between CIM (not the original Complainant) and the Member.
- CIM operates under the presumption of full disclosure of information to both the Complainant (during the complaints process) and the Member. Subject to that full disclosure, all records relating to a complaint are confidential and not disclosed to anyone who is not involved in an Investigation or disciplinary proceedings.
- When a Member is found to have breached the Code, CIM will usually publish the decision unless the Disciplinary Committee has determined that there is a good reason not to.

## CIM COMPLAINTS PROCEDURES

### Definitions

|   |  |
|---|--|
| Code of Professional Conduct ('the Code') | The Code of Professional Conduct of CIM that was in effect at the time the matter complained of occurred.  |
| Institute Secretary                       | The Secretary of CIM as appointed under its Charter and Bye-laws or nominated alternative appointed by the Board if the Secretary is unavailable.  |
| Disciplinary Proceedings                  | Proceedings which take place under the Disciplinary Procedures (which are a separate document)   |
| Member                                    | The Member of the Institute about whom the complaint is made.  |
| Complainant                               | The person, or organisation who raises or pursues* the complaint against the Member. (*If Disciplinary Proceedings commence, this is the CIM)  |
| Referral                                  | A complaint that has been referred to an Investigation Committee.  |
| Writing                                   | Anything written, printed or lithographed, or partly one and partly another, and other means of representing or producing words in a visible form (e.g. including emails and faxes and other electronic forms).  |
| Investigation Officer                     | The Officer who is responsible for receiving, interpreting and investigating allegations of misconduct on behalf of the Board of CIM. The Investigation Officer is appointed by the Board. The Institute Secretary, Directors and members of the Disciplinary Committee are not eligible for appointment as the Investigation Officer.                             |
| Investigation Reviewer                    | A person who is appointed to review the decision of the Investigation Officer if this is requested. The Institute Secretary, Directors and members of the Disciplinary Committee are not eligible for appointment as the Investigation Reviewer.   |
| Day/s                                     | Day shall include weekends and bank holidays. In relation to the period of a notice, it includes the day when the notice is deemed to be given and the day for which it is to take effect. Notices are deemed to be given or take effect on the day given, if given electronically, by hand or by fax, and two days after being sent, if sent by first class post. |

### 1. Raising a complaint with the CIM

*The grounds for disciplinary proceedings are that the Member appears to have demonstrated conduct that is in breach of the Code. Therefore, any complaint raised with (or by) the Institute will be considered first under the Complaints Procedures. A complaint needs to be validated and investigated to determine if there is a case to be heard. A complaint will not be investigated if it cannot be validated or there are circumstances that prevent sufficient evidence being gathered.*

- 1.1 The Code, Complaints Procedures and Disciplinary Procedures only apply to individuals who are members of the CIM at the time the complaint is raised.
- 1.2 A complaint concerning a member may be raised by any person or organisation, e.g.:
  - a. CIM itself;
  - b. another member of the CIM;
  - c. an employer or former employer of the Member;
  - d. an employee or colleague of the Member;
  - e. any other person or organisation.
- 1.3 The Chief Executive and CIM Chair shall have a duty to raise a complaint for investigation 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 cases, it is the Institute itself who is the Complainant.
- 1.4 If an individual, organisation, Chief Executive or CIM Chair considers that there is evidence that a Member may have breached the Code, they should notify the Institute Secretary of the complaint in writing. CIM provides a form to be completed which must be used to

provide the basic information required for the Institute to progress the matter. This will include:

- a. the name and contact details of the complainant;
- b. the name of the Member who is the subject of the complaint (the Member complained of);
- c. disclosure of the relationship between the complainant and the Member complained of (if any);
- d. a clear and concise summary of the allegation (including date(s));
- e. details of how the Code of Professional Conduct has been breached;
- f. any supporting documentation that substantiates the complaint;
- g. confirmation as to whether any legal proceedings are intended, or have already commenced, or if the complaint has also been made to another professional or regulatory body;
- h. consent that all documentation that has been submitted may be disclosed to the member complained of; and to other relevant third parties.

- 1.5 If the complaint that is raised is subject to legal proceedings; employment tribunal proceedings, other employment proceedings (e.g. disciplinary or grievance hearings) or the complaint is being considered by another professional or regulatory body, the complaint will be placed on hold for investigation until after those proceedings have finished. This will enable the Investigation Officer to look at the evidence presented, and the conclusions reached of the hearing or proceedings.
- 1.6 The CIM does not usually consider complaints on matters that occurred, or that could reasonably have come to the attention of the Complainant, more than 12 months prior to the raising of a complaint by the Complainant.
- 1.7 Potential Complainants should be aware that even if a Member is found to have breached the Code, the CIM cannot pay any compensation nor require a Member to do so. Potential penalties for Members found to have breached the Code are limited to those described in the 'Disciplinary Procedures'.
- 1.8 Once the necessary details regarding a complaint have been provided the Institute Secretary shall check to determine if there is sufficient information for the complaint to be dealt with under the Complaints Procedures. This is the validation process by which s/he will determine whether:
  - a. the complaint should be taken forward, in which case the Institute will make it a 'referral' for investigation (see section 2); or
  - b. the complaint should stay 'on hold' awaiting completion of any pending civil or criminal action in tribunal or court, and/or completion of any other proceedings; or
  - c. the complaint cannot be taken forward as either insufficient information has been presented to establish that the complaint is admissible, or the complaint does not refer to behaviour or actions covered by the Code or the complaint does not relate to a current Member of CIM (and a Member at the time the action complained of was carried out).
- 1.9 The Institute Secretary shall notify the Complainant within 21 days if the complaint is or is not valid.
- 1.10 If the complaint is not valid, the Member complained of will not be notified. A Member will be advised of the complaint at the point of referral or the placing on hold, of a complaint that has been raised about them, and its nature. This is prior to the steps set out in section 2.
- 1.11 If the Institute Secretary determines that a complaint cannot be validated the Complainant has the right to ask that this decision be reviewed. They must make such a request within 28 days of the notification of the decision being sent. Any such a request will be referred to the Investigation Officer who shall report back to the Institute Secretary and the Complainant. The decision of the Investigation Officer shall be final and absolute.



- 1.12 If a complaint is validated and referred for Investigation, or put on hold, the Institute Secretary will write to the Member complained of by recorded delivery or registered mail advising them of the details of the valid complaint, the procedures CIM will follow in handling the matter and the possible sanctions. The Member complained of will be requested to send a written response to the complaint or an explanation of why this cannot be done, to the Investigation Officer within 28 days of the posting date.

## **2. Investigations**

*Investigations are undertaken by an Investigation Officer who will be independent. The Investigation Officer will not be a member of the Disciplinary Committee or the Board of the CIM.*

- 2.1 CIM shall have an Investigation Officer who shall be appointed by the Board. The Institute Secretary, Directors and members of the Disciplinary Committee are not eligible for appointment as the Investigation Officer.
- 2.2 On validating a complaint the Secretary will forward the complaint to the Investigation Officer under confidential cover.
- 2.3 If it comes to the attention of the Investigation Office that legal or other proceedings are intended or have already commenced or the complaint is being considered by another professional or regulatory body, s/he may determine that the complaint is put on hold by CIM until the outcome of such investigations are known. The complainant and the Member complained of will be notified that this decision to defer has been made.
- 2.4 It is the responsibility of the Investigation Officer to find out the facts of the case, and to do so s/he may appoint an Investigator to investigate the matter on his/ her behalf. If an Investigator is appointed this shall be done with the agreement of the CIM Chief Executive (or equivalent). An Investigator can work alongside the Investigation Officer and / or the Investigation Officer can give the Investigator any of his/ her powers to undertake the investigation on his/ her behalf.
- 2.5 In carrying out the investigation the Investigation Officer or Investigator can:
- a. consult with the complainant and other parties as appropriate;
  - b. have power to call for such information, including papers and records, as is necessary to enable him or her to discharge his/ her functions. It will be the duty of any Member to provide such information or documents that they can legitimately provide;
  - c. In rare instances, and with the agreement of the CIM CEO, obtain additional resources or assistance;
  - d. prepare a report that lays out the findings and conclusions, which should include an opinion on the facts of the complaint. This report will form part of the evidence and will be used at the hearing in the event that the complaint is heard as part of the Disciplinary Procedures. The report will be prepared within 84 days of the complaint being received by the Investigation Officer. If this is not possible, for exceptional circumstances, the Disciplinary Chair (see below) will be informed of the delay and will need to agree to it or determine if no further action is to be taken. The complainant and the Member complained of will be kept informed, if an investigation conclusion is delayed.
- 2.6 The Investigation Officer, or an Investigator, will abstain from taking part in the consideration of a complaint if s/he has had previous dealings with the Member complained of personally or professionally; or has taken part in the previous consideration of the complaint or any aspect of the complaint; or has any other conflict of interest. If the Investigation Officer needs to abstain, the Disciplinary Chair will appoint a relief Investigation Officer.
- 2.7 The investigation will comprise a full assessment of the referral and any other relevant matters that emerge. It will seek supporting and substantiated evidence in writing or orally, as appropriate, from the Complainant, the Member concerned or any other appropriate source. In considering the referral the Investigation Officer should take account of such legal and

technical advice as is considered necessary by the Investigation Officer in agreement with the Institute Secretary

- 2.8 Following completion of an investigation, a report will be compiled by the Investigation Officer, on the basis of the evidence collected. This will conclude, with written reasons, whether:
- a. There is sufficient evidence to take the referral forward, and Disciplinary Proceedings should commence; or
  - b. That the complaint be dismissed on the grounds that there is insufficient evidence; that it is vexatious; represents an abuse of process; or does not justify investigation.
- 2.9 The Investigation Officer will send a copy of the report to the Institute Secretary and a summary of the conclusion to the Complainant and the Member in writing within 14 days of that decision being reached.
- 2.10 If the Investigation Officer determines that disciplinary proceedings shall commence the referral will become a 'case' and a full copy of the report will be sent to the Member as part of the separate Disciplinary Procedures.
- 2.11 If the complaint becomes a disciplinary case CIM is then responsible for presenting evidence in the case to the Disciplinary Committee. The original Complainant may be called as a witness but will not have a right to attend. Further information about the process is set out in the Disciplinary Procedures.

### **3. Review of Investigation Officer conclusions**

- 3.1 If the decision of the Investigation Officer is to dismiss the referral, the Complainant or CIM have the option of asking that the decision of the Investigation Officer be reviewed. They must do so within 21 days of being notified of the decision, indicating their reasons for the matter to be reviewed. The reasons must be one or more of the following.
- a. That the procedures have not been followed or correctly applied.
  - b. That the Investigation Officer failed to take into account a relevant matter; or improperly took account of some matter.
  - c. That the decision of the Investigation Officer was perverse.
  - d. That there is new evidence.
- 3.2 The review will be conducted by an Investigation Reviewer who will be appointed by the Appointments and Remuneration Committee Chair. S/he shall review the investigation report and the evidence in the light of the reason(s) submitted above. The referral will not be re-investigated.
- 3.3 The Investigation Reviewer will be appointed within 21 days of the review being requested and will report back within 21 days of being appointed.
- 3.4 The Investigation Reviewer will send a copy of the review report to the Institute Secretary and a summary of the conclusion to the Complainant and the Member in writing. The decision of the Investigation Reviewer shall be final and absolute.
- 3.5 If the Investigation Reviewer determines that disciplinary proceedings shall commence the referral will become a case and a full copy of the report will be sent to the member as part of the separate Disciplinary Procedures.

### **4. Resignations and withdrawals**

- 4.1 If a Member resigns whilst a complaint is being investigated, the proceedings will continue as if they continued in membership unless the Investigation Officer determines that there is good reason not to.
- 4.2 Whilst the Complainant may withdraw the complaint at any time, if the Institute has begun the investigation process the Investigation Officer may choose to proceed with the investigation.

## **5 Information and Confidentiality**

*CIM operates under the presumption of full disclosure of information to both the Complainant and the Member. Subject to that full disclosure, all records relating to a complaint are confidential and not disclosed to anyone who is not involved in the Investigation or the Disciplinary Proceedings.*

- 5.1 CIM will ensure that any personal details sent to it are kept confidential to the parties, and those involved in the Investigation (or the Disciplinary Hearing if the referral becomes a case). A Complainant should be aware that, when a complaint is referred for Investigation, CIM will write to the Member immediately to tell him/her. The identity of the Complainant may therefore become known to the Member at this stage.
- 5.2 All records relating to a complaint or referral are confidential and not disclosed to anyone who is not involved in the Investigation (or the Disciplinary Hearing if the complaint proceeds to the Disciplinary Procedures). Both the Complainant and the Member are expected to respect this confidentiality and will be made aware that not doing so may affect the proceedings.
- 5.3 CIM will aim for full transparency and disclosure of information to both the complainant and the Member concerned. The presumption shall be that evidence will not be considered by the Investigation Officer unless it is available to all of the parties.
- 5.4 It is not usually possible for a Complainant to remain anonymous. Whilst there may be some instances when the Institute will take up the complaint if anonymity is critical, it will usually be the situation that a person who raises a complaint will need to identify themselves to the Member in order for CIM to use the evidence that they provide.
- 5.5 Decisions of the Investigation Officer will be reported to the CIM Board.
- 5.6 Records, data, evidence and manuscripts relating to complaints raised will be held for six years from the date of resolution and then destroyed.

## **6. Resubmission of a complaint**

- 6.1 Any decision taken under this procedure to dismiss or reject a complaint is final, subject to the review procedures set out above. Once dismissed or rejected, a complaint relating to the same incident or behaviour can only be raised again where, in the opinion of the Institute Secretary, substantive new evidence is presented to CIM. In this instance, the matter shall be regarded as a new complaint.

## CIM DISCIPLINARY PROCEDURES

### Definitions

|   |   |
|---|---|
| Code of Professional Conduct ('the Code') | The Code of Professional Conduct of CIM that was in effect at the time the matter complained of, occurred.  |
| Disciplinary Proceedings                  | Proceedings which take place under these Procedures.  |
| Member                                    | The Member of the Institute about whom the case relates.  |
| Case                                      | A complaint that is heard by a Disciplinary Committee.  |
| Institute Secretary                       | The Secretary of CIM as appointed under its Charter and Bye-laws or nominated alternative appointed by the Board if the Secretary is unavailable.   |
| Case Officer                              | The member of CIM staff, or advisor, who presents the case against the Member to the Disciplinary Committee. The Institute Secretary, Directors and members of the Disciplinary Committee are not eligible for appointment as the Case Officer  |
| Day/s                                     | Day shall include weekends and bank holidays. In relation to the period of a notice, it is that period including the day when the notice is deemed to be given and the day for which it is to take effect. Notice is deemed to be given or take effect on the day it is given if given electronically, by hand or by fax, and two days after being sent, if sent by first class post. |
| Investigation Officer                     | The Officer who is responsible for receiving, interpreting and investigating allegations of misconduct on behalf of the Board of CIM. The Investigation Officer is appointed by the Board. The Institute Secretary, Directors and members of the Disciplinary Committee are not eligible for appointment as the Investigation Officer.  |
| Writing                                   | Anything written, printed or lithographed, or partly one and partly another, and other means of representing or producing words in a visible form (e.g. including emails and faxes and other electronic forms).   |
| Disciplinary Hearing                      | The formation of a disciplinary Committee to hear a case.   |
| Disciplinary Committee                    | The Committee appointed by the Board in accordance with Section 2 below to consider allegations of misconduct and determine the action to be taken.   |
| Disciplinary Appeal Committee             | The Committee appointed to consider an appeal.  |

*The CIM takes breaches of the Code very seriously. It endeavours fairness and as much expediency in the process as possible – whilst recognising the need for due process.*

### 1. Disciplinary Proceedings

The grounds for *a case being considered under these procedures are that the Member appears to have demonstrated conduct in breach of the Code.*

- 1.1 The Code, Complaints Procedures and Disciplinary Procedures only apply to individuals who are members of the CIM at the time the complaint is raised.
- 1.2 Disciplinary Proceedings will commence when the Investigation Officer/Reviewer has determined that there is sufficient evidence following a referral (investigated under the Complaints Procedure) to suggest that a Member has breached the Code. At this point the referral becomes a case. CIM is responsible for presenting evidence in the case to a Disciplinary Committee. The original Complainant may be called as a witness but will not have a right to attend.
- 1.3 The Investigation Officer, with the agreement of the Disciplinary Committee Chair, may agree to refer a complaint to Board for a decision to expel or to suspend a Member with no need for the matter to be reviewed by the Disciplinary Committee. This will usually occur only when a

Member has been found guilty by a criminal court of an offence that could prejudice his/ her ability to comply with the Code of Professional Conduct of CIM.

- 1.4 A member of CIM staff, or advisor will be selected by the CEO to take on the role of Case Officer and take the case forward. The Institute Secretary, Directors and members of the Disciplinary Committee are not eligible for appointment as the Case Officer.
- 1.5 The Member will be notified within 14 days of the decision of the Investigation Officer/ Reviewer that Disciplinary Proceedings are to commence, and a full copy of the Investigation Report (and if in existence an Investigation Review Report) will be sent to them.
- 1.6 The Investigation Officer will present the report to a Disciplinary Hearing.

## **2. Disciplinary Committee**

- 2.1 The Disciplinary Committee shall consist of up to seven members appointed by the Board of Directors. Two of those members so appointed shall be independent members, that is to say persons who are not members of CIM and who will usually not be marketers. The following shall not be eligible for appointment to the Disciplinary Committee:
  - a. CIM Directors
  - b. CIM staff.
- 2.2 The quorum of the Committee shall be three, at least one of whom shall be an independent member.
- 2.3 The Committee may act by a majority of the members present, and in the case of an equality of votes the Chair shall have a casting vote.
- 2.4 A Disciplinary Committee Member shall not take part in any Disciplinary Hearing if s/he has had previous dealings with the Member complained of personally or professionally; or has taken part in the previous consideration of the complaint or any aspect of the complaint; or has any other conflict of interest. If additional committee members need to be appointed to ensure that the Committee is quorate, the Appointments and Remuneration Committee Chair shall have authority to appoint additional committee members for the purpose of those disciplinary committee hearings. If, for any reason, it is not possible for all of the Disciplinary Committee Members to have no previous dealings with the Member complained about, legal advice shall be taken, and the Committee can proceed, provided the reasons for the involvement of these members are recorded.
- 2.5 The Institute Secretary shall act as secretary to the Disciplinary Committee and shall be responsible for ensuring that a record of the proceedings at a hearing is kept. If the Institute Secretary cannot act, an alternate Secretary shall be appointed by the Disciplinary Committee Chair.

## **3. Disciplinary Proceedings**

### *Preparation*

- 3.1 The Institute Secretary, or alternate, in consultation with Disciplinary Committee members, shall fix a date and place for the case to be considered and, at least 28 days before the Hearing
  - a. give notice to the Member, Investigation Officer and Case Officer of the date, time and place, and proceedings of the Hearing and;
  - b. circulate the Investigation Report to the Member and the Case Officer;
  - c. provide the Member with the names of the Case Officer and the members of the Disciplinary Committee;
  - d. require the Member to give notice, at least 14 days prior to the Hearing, of whether they will attend, and whether they will bring any other person with them;
  - e. notify the Member that they have the right to make a written submission to the Committee, if s/he wishes. Any such written submission must be submitted 14 days before the hearing;

- f. notify the Member and Case Officer that they have the right to call witnesses. Details of any witnesses to be called by any of the parties must be given to the Disciplinary Committee Chair within 14 days of the hearing.
- 3.2 Written submissions, and additional witnesses, can only be submitted less than 14 days before the commencement of the Hearing with the agreement of the Disciplinary Committee Chair. Any written submissions provided, and details of witnesses, shall be circulated to all parties at least 7 days before the hearing (or as soon as possible if accepted by the Disciplinary Committee Chair after that date).

*The Hearing*

- 3.3 With the agreement of the Member, the Case Officer and the Disciplinary Committee Chair the Hearing may be conducted by correspondence or by tele-conference.
- 3.4 The Member will have the right to attend the Hearing. They may be supported by any other person, including a legal advisor, at their own cost. That person cannot however represent them, or speak for them, in any way. They may usually only be supported by one other person, unless the Disciplinary Committee Chair has agreed otherwise.
- 3.5 If the Member does not attend the hearing and the Committee is satisfied that correct notice was given, it may proceed in his/her absence.
- 3.6 The Disciplinary Committee may have the assistance of its own legal advisor (who may be appointed by the Disciplinary Committee Chair) to advise on matters of law and procedure as it sees fit. The legal advisor may be present at the hearing and may advise the Committee in private. Where the legal advisor advises the Committee in private, s/he will inform the Member and Case Officer of the advice s/he has given. The Committee may also have the assistance of technical advisors, who shall be appointed and advise in the same way, and it may also call for expert witnesses.
- 3.7 The order in which a Hearing will normally proceed (subject to the discretion of the Disciplinary Committee Chair), as follows:
- a. Introductions shall be made;
  - b. The procedure to be followed will be explained by the Disciplinary Committee Chair;
  - c. The Investigation Report will be presented by the Investigation Officer;
  - d. The Case Officer and then the Member will be given the opportunity to speak;
  - e. The Committee will put to the Case Officer and then the Member any questions arising out of these matters which the Committee considers pertinent;
  - f. Any witnesses will be heard – first the witnesses called by the Case Officer and then the Witnesses called by the Member. The Member will have the opportunity to cross examine any witnesses called by the Case Officer, and the Case Officer will have the opportunity to cross examine any witnesses called by the Member. The Committee will put to the witnesses any questions arising out of these matters which the Committee considers pertinent. Written witness statements may also be considered, if agreed by the Committee;
  - g. The Committee will put to the Case Officer and then the Member, any questions arising out of the witness statements;
  - h. The Case Officer and then the Member will be given the opportunity to address the Committee in conclusion;
  - i. The Case Officer; Member, the Investigation Officer and any other persons (excepting any legal advisor or support to the Committee and its secretary) will be asked to withdraw while the Committee considers if the Code has been breached and if so, in what way. If the Code has been breached, the Committee shall also agree what sanctions shall be imposed.
- 3.8 The Disciplinary Committee Chair may postpone or adjourn the hearing at any point. The Case Officer or the Member can request such an adjournment. The Chair shall give due

consideration to such a request, but it shall be his/ her final decision whether or not to adjourn.

- 3.9 The Disciplinary Committee may make such further enquiries by correspondence or call witnesses or otherwise as it may think fit. This may involve an adjournment of the Committee hearing for a reasonable period.
- 3.10 A copy of the record of the proceedings shall be made, and shall be made available to the Member, if she or he requests one, within one month of the date of the request.
- 3.11 Subject to these regulations the procedure of the hearing shall be determined by the Disciplinary Committee Chair.

#### **4. Decisions of the Disciplinary Committee**

- 4.1 The decisions of the Committee shall be by majority vote. In the event of a tied vote, the Chair shall not have a casting vote; in these circumstances the case shall be regarded as dismissed. The standard of proof required by the Committee is "balance of probabilities" and it will make its decisions accordingly.
- 4.2 The Disciplinary Committee Chair shall prepare a written report within 14 days of the completion of the hearing process. The report shall outline the events of the hearing and set forth the reasons for the Disciplinary Committee's recommendations. It shall form part of the record of the Disciplinary Hearing and be kept accordingly. The report will be sent to the Member and the Case Officer within 21 days of the completion of the hearing process. The original Complainant shall also be sent, in confidence, notification of the decision of the Disciplinary Committee.
- 4.3 The Disciplinary Committee shall have powers to dismiss a case; or to uphold a case in full or in part. If a case is upheld, in full or in part, the Disciplinary Committee may exercise one or more of the following disciplinary decisions, in combination or as alternatives:
  - a. reprimand the Member;
  - b. permit membership to continue, subject to special stated conditions (e.g. completing further training or periods of mentoring etc.);
  - c. expel the Member from the Institute. The member may be expelled permanently, or for a defined time or until a specified event.
- 4.4 If the sanction requires action or compliance by the Member, the Disciplinary Committee shall also determine how a review of compliance will be undertaken; the period given to ensure compliance; and the sanction to be imposed if the Member does not comply.
- 4.4 In exceptional circumstances, the Committee may also direct that the Member be requested to agree to pay the costs of the hearing or make a contribution to the costs. Such a request can be made at any time during the proceedings. Such a decision shall only be taken when the member has significantly contributed to the costs of the hearing, and / or caused the costs of the hearing to be higher than would usually be expected.
- 4.5 Members will usually be expected to cover their own expenses in attending a hearing, as will any witnesses that they call. However, the Disciplinary Committee will seek to ensure that wherever possible hearings are held in a manner that will reduce the expense of attendance in whatever way possible, without affecting the effectiveness of that hearing. In exceptional circumstances, the Disciplinary Committee Chair can agree to cover necessary and reasonable expense, either prior to a hearing, if s/he considers that this will enable a fairer hearing to take place or following a hearing if s/he considers that the member, and / or witnesses has been unduly disadvantaged by the cost of attendance.

#### **5. Appeal**

- 5.1 CIM (via the Case Officer), or the Member, can appeal the decision of the Disciplinary Committee. Such an appeal must be received within 21 days of the notification of the decision.

The appeal must set out the reasons why the decision is being appealed. This must be one or more of the following:

- a. That the procedures have not been followed or correctly applied;
- b. That the Disciplinary Committee failed to take into account a relevant matter; or improperly took account of some matter;
- c. That the decision of the Disciplinary Committee, and or the penalty that it determined, was perverse.

The Disciplinary Appeal Committee will only consider these matters and will not consider new evidence, unless that evidence had been disregarded by the Hearing. An Appeal will not be a re-hearing of the case.

- 5.2 A Disciplinary Appeal Committee will be appointed by the Appointments and Remuneration Committee Chair. A Disciplinary Appeal Committee will have at least three members, one of whom will not be a member of CIM and will be established within 21 days of the Appeal being received. The following shall not be eligible for appointment to the Disciplinary Appeal Committee:
  - a. CIM Directors,
  - b. CIM staff.
- 5.3 A Disciplinary Appeal Committee Member will not have had previous dealings with the Member complained of personally or professionally; or has taken part in the previous consideration of the complaint or any aspect of the complaint; or has any other conflict of interest. If, for any reason, it is not possible for all of the Disciplinary Appeal Committee Member to have no previous dealings with the Member complained, legal advice shall be taken, and the Committee can proceed, provided the reasons for the involvement of these members are recorded.
- 5.4 The Disciplinary Appeal Committee will aim to consider the appeal within 28 days of being appointed. It can consider the case either by written submissions, or at a hearing, as determined by its Chair. If a hearing is held, the person seeking the review and all other parties shall be entitled to attend any hearing and make representations to it. They may be supported by another individual in the same way as at the Disciplinary Hearing. They will be given at least 14 days' notice of any hearing. Relevant documents will be circulated to all parties before any appeal hearing.
- 5.5 If an Appeal Hearing is held, the place where the hearing will be heard will be determined by the Disciplinary Appeal Committee Chair.
- 5.6 If an Appeal Hearing is held, the Institute Secretary shall fix a date and place for the Hearing and, at least 14 days before the Hearing and:
  - a. give notice to the Member, Investigation Officer and Case Officer of the date, time and place, and proceedings of the Hearing;
  - b. provide the Member with the names of the members of the Disciplinary Appeal Committee.
- 5.7 The decision of the Disciplinary Appeal Committee will be final and by simple majority. Where no such majority is obtained, the appeal fails and the original decision stands.
- 5.8 The Disciplinary Appeal Committee may overturn the disciplinary decision, vary or uphold it.
- 5.9 The parties concerned will be informed in writing within 14 days of the decision of the Disciplinary Appeal Committee.
- 5.10 In the case of an appeal, the sanctions agreed by the Disciplinary Hearing will not come into effect until the Disciplinary Appeal Committee has concluded its work.
- 5.11 In exceptional circumstances, the Disciplinary Appeal Committee may also direct that the Member be requested to agree to pay the costs of the appeal hearing or make a contribution to the costs. Such a request can be made at any time during the proceedings. Such a



decision shall only be taken when the member has significantly contributed to the costs of the appeal hearing, and / or caused the costs of the hearing to be higher than would usually be expected.

- 5.12 Members will usually be expected to cover their own expenses in attending an appeal hearing, as will any witnesses that they call. However, the Disciplinary Appeal Committee will seek to ensure that wherever possible appeal hearings are held in a manner that will reduce the expense of attendance in whatever way possible, without affecting the effectiveness of that hearing. In exceptional circumstances, the Disciplinary Appeal Committee Chair can agree to cover necessary and reasonable expense, either prior to a hearing, if s/he considers that this will enable a fairer hearing to take place, or following an appeal hearing if s/he considers that the member, and / or witnesses has been unduly disadvantaged by the cost of attendance.

## **6. Resignations and withdrawals**

- 6.1 If a Member resigns during disciplinary proceedings, the Committee will still meet as if the Member continued to be a member unless the Disciplinary Committee determines that there is good reason not to.

## **7. Information and Confidentiality**

- 7.1 All records relating to a case are confidential and not disclosed to anyone who is not involved in the Disciplinary Hearing. Both the Complainant (CIM) and the Member are expected to respect this confidentiality and will be made aware that not doing so may affect the proceedings.

- 7.2 CIM will aim for full transparency and disclosure of information to the Member concerned. The presumption shall be that evidence will not be considered unless it is available to all of the parties.

## **8. Publication and records of decisions**

*When a Member is found to have breached the Code, CIM will usually publish the decision unless the Disciplinary Committee has determined that there is a good reason not to.*

- 8.1 When a case is upheld, notice shall usually be published on the CIM website. Such notice shall be in the form approved by the Disciplinary Committee Chair. Notice shall usually be in an anonymised form and will not normally disclose the name of the Member concerned, unless the Member has been expelled from membership. A summary of cases upheld will be published in the Annual Report.
- 8.2 If a case is upheld, in considering its decision, the Disciplinary Committee shall also consider:
- whether the member should be named in the publication of the conclusion of the case, or whether it should be anonymised (see 8.1);
  - the information (if any) that will be given by CIM on the case or the Member, if enquiries are received.
- 8.3 Decisions of the Disciplinary Hearing and of the Disciplinary Appeal Committee will be reported to the CIM Board.
- 8.4 Records, data, evidence and manuscripts relating to referrals that are investigated, will be held for six years from the date of resolution and then destroyed.
- 8.5 Records, data, evidence and manuscripts relating to cases that are referred to the Disciplinary Committee (including the Investigation Report) will be held for six years from the date of the final hearing and then destroyed.
- 8.6 If a case is upheld by the Disciplinary Committee and a sanction agreed, this shall be placed on the individual record of the Member. As part of its decision on the sanction, the Committee shall determine for how long the record should be held, however for guidance, records of

expulsion should normally be permanent, and records of any penalties should be for a minimum of five years.

- 8.7 The Institute Secretary shall maintain a register of all complaints raised and the decisions of the Investigation Officer and, if relevant, the action of the Disciplinary Committee thereon.

**9. Resubmission of a case**

- 9.1 Any decision taken under this procedure is final. A matter can only be raised again where, in the opinion of the Institute Secretary, new evidence is presented to CIM. In this instance, the matter shall be regarded as a new complaint, and dealt with under the Complaints Procedures.