

INVESTIGATION, DISCIPLINARY AND APPEALS RULES

PART I: GENERAL

Application of Rules, establishment of Panels and Tribunal

1. (1) Any complaint about the misconduct of a Member, Practitioner or Authorised Body (each of which is referred to in these Rules as a **relevant person**) shall be dealt with in accordance with these Rules.

(2) In these rules **misconduct** means:

- (a) breach of the IPS Code of Conduct; or
- (b) professional or personal conduct which may call into question a relevant person's Registration or undermine confidence in CILEx, its Members or the legal professions.

(3) The Professional Conduct Panel is established for the purposes set out in Part II.

(4) The Disciplinary Tribunal is established for the purposes set out in Part III.

(5) The Appeals Panel is established for the purposes set out in Part IV.

Panellists

2. (1) IPS shall appoint and maintain lists of lay and professional members to act as panellists on:

- (a) the Professional Conduct Panel;
- (b) the Disciplinary Tribunal; and
- (c) the Appeals Panel.

(2) A person shall not at any one time be included in more than one list maintained under paragraph (1).

(3) IPS shall remove from the relevant list the name of any panellist:

- (a) whose term of appointment has ended and not been renewed;
- (b) who has resigned by giving three months' notice in writing to that effect to IPS (or such shorter notice period as IPS may accept); or
- (c) who in the opinion of IPS has ceased to be of suitable character to act as a panellist.

(4) The term of appointment of a panellist shall be for not more than five years and no panellist shall serve for more than ten years.

Interpretation

3. In these Rules, unless otherwise provided:

Appeals Panel:	means the Appeals Panel established under Rule 1(5) as constituted from time to time;
applicant:	means a person applying for Registration;
Authorised Body:	Means a body authorised by IPS;
CILEx:	means the Chartered Institute of Legal Executives;
Council:	means the Council of CILEx;
Disciplinary Tribunal:	means the Disciplinary Tribunal established by Rule 1(4) as constituted from time to time;
IPS:	means ILEX Professional Standards Limited;
lay member:	means a person who is not and who has never been a relevant person, an authorised person (within the meaning of s.18 of the Legal Services Act 2007) or registered by CILEx in any grade;
Member:	means a person registered with CILEx in any grade;
misconduct:	has the meaning given in Rule 1(2);
Practitioner:	Means a practitioner authorised by IPS;
Professional Conduct Panel:	means the Professional Conduct Panel established under Rule 1(3) as constituted from time to time;
professional member:	means a Fellow of CILEx who is not a member of the Council or the IPS Board and who is otherwise eligible to be appointed to a list of panellists under Rule 2; and
Registration:	means enrolment or reinstatement as a Member or authorisation as a Practitioner or Authorised Body;
relevant person:	has the meaning given in Rule 1(1).

Extension of time

4. Where these Rules prescribe a time limit by which a person must act or after which they may not act, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may, upon application, vary that time limit if it is satisfied that in all the circumstances it is reasonable to do so.

Service of documents

5. (1) Any notice required to be given under these Rules may be given to the relevant person or that person's representative:

- (a) by sending it by first class post to a relevant address;
- (b) by leaving it at a relevant address;
- (c) by personal service, effected by leaving the document with an individual or, in the case of a body corporate or organisation, with a director, officer or manager of that body corporate or organisation;
- (d) by such other method as the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may direct.

(2) For the purpose of paragraph (1), a **relevant address** means:

- (a) in the case of an individual, the last known address of that person, including their usual or last known residence or usual or last known place of business;
- (b) in the case of a body corporate or other organisation, its principal or registered office, its last known address or any other office or place of business which is connected to the proceedings to which the notice relates;

and for this purpose, the last known address of a relevant person is the address of that person as it appears in CILEx records.

(3) A notice which is served in accordance with paragraph (1) shall be deemed to be served at the time of personal service or delivery or on the second working day after it was posted.

(4) Service under these Rules may be proved by:

- (a) a confirmation of posting issued by or on behalf of the Post Office or other postal operator or delivery service; or
- (b) a signed statement from any person who served the notice or document.

(5) Where it is satisfied on reasonable grounds that it is in the public interest to do so, the Professional Conduct Panel, the Disciplinary Tribunal or the Appeals Panel (as the case may be) may:

- (a) deem service to be effective even though the requirements of paragraph (1) have not been complied with; or
- (b) dispense with the requirement of service altogether.

Effect on Registration

6. A relevant person shall not be permitted to end their Registration whilst that relevant person is the subject of any investigation or proceedings under these Rules.

PART II: INVESTIGATION OF COMPLAINTS AND THE PROFESSIONAL CONDUCT PANEL

Interpretation of Part II

7. In this Part, unless the context otherwise requires:

allegation:	Has the meaning given in Rule 15(1);
Clerk:	means the Clerk to the Professional Conduct Panel;
complainant:	means a person making a complaint to IPS against a relevant person;
Investigating Practitioner:	means an authorised person (within the meaning of s.18 of the Legal Services Act 2007) appointed by IPS to conduct an investigation under this Part;
Investigating Officer:	means an officer of IPS appointed to conduct investigations under this Part; and
Panel	means the Professional Conduct Panel
prior conduct:	has the meaning given in Rule 11(4).

Professional Conduct Panel

8. The Panel shall consider:

- (a) declarations of prior conduct made by applicants and relevant persons and other information relating to their prior conduct; and
- (b) allegations made against relevant persons.

Composition of the Panel

9. (1) The quorum for a meeting of the Professional Conduct Panel is three members from the list of panellists maintained under Rule 2(1)(a), of whom two shall be lay members and one shall be a professional member.

(2) the Panel must

- (a) select one of their number to chair the meeting; or
- (b) if different members are to chair different parts of the meeting, elect one of their number to chair the proceedings on any matter before considering that matter.

Conduct of meetings

10. (1) Meetings of the Panel shall be held in private.

(2) Meetings shall be held at the offices of IPS unless the Panel decides otherwise but nothing in these Rules shall require any meeting to be held outside the United Kingdom.

(3) Minutes and a record of the decisions of the Panel shall be made by the Clerk.

(4) The Panel may resolve to consider and determine a matter without a meeting and, in that event, a decision signed by the members of the Panel shall be as valid as if it was made at a meeting.

(5) In considering a matter, the Panel:

- (a) is not bound by the findings, views or analysis of an Investigator;
- (b) may seek further representations from the relevant person;
- (c) may take account of any further representations and material adduced by the relevant person.

(6) Where, in accordance with Rule 14(1)(d) or 17(5), the Panel has requested that an applicant or relevant person attend a meeting of the Panel, the applicant or relevant person may be represented at the meeting by any person, whether or not legally qualified, but the Panel may refuse to permit a particular person to assist or represent a party if the Panel is satisfied that there are good and sufficient reasons for doing so.

(7) Decisions at a meeting of the Panel shall be made by a majority, and no panellist may abstain from voting.

(8) The Panel shall give reasons for its decisions and shall advise of any right of an appeal.

(9) IPS shall within 21 days notify the applicant or relevant person of any decision of the Panel and, in the case of an allegation, IPS shall notify any complainant of the decision once it takes effect.

Duty to declare prior conduct

11. (1) Every applicant and every relevant person who is an individual must declare in writing to IPS if that person has at any time:

- (a) been convicted, cautioned or received a fixed penalty notice in the United Kingdom for a criminal offence, or been convicted elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
- (b) been removed from being a trustee of, or being concerned with the management or control of, a charity;
- (c) been removed from office as a member, director or manager of any public body;
- (d) been adjudged bankrupt or made a composition with creditors;

- (e) been disqualified from acting as a director of a company;
- (f) been the subject of a county court or similar judgment in respect of a debt;
- (g) been subject to any investigation or proceedings concerning the person's fitness to practise by any regulatory or professional body.

(2) Paragraph (1)(a) shall apply subject to the Rehabilitation of Offenders Act 1974.

(3) In respect of every applicant and relevant person that is a body corporate a declaration must be made in writing to IPS if, in relation to that body:

- (a) a resolution for a voluntary winding-up of the body has ever been passed without a declaration of solvency under section 89 of the Insolvency Act 1986;
- (b) the body has ever entered administration within the meaning of paragraph 1(2)(b) of Schedule B1 to that Act;
- (c) an administrative receiver within the meaning of section 251 of that Act has been appointed;
- (d) a meeting of creditors has been held in relation to the body under section 95 of that Act;
- (e) an order for the winding up of the body has been made;
- (f) a county court or similar judgment has been made against it in respect of a debt.

(4) Each of the matters in paragraph (1) and (3) is referred to in these Rules as **prior conduct**.

(5) A declaration of prior conduct shall be considered and determined in accordance with Rules 13 and 14.

Time of declaration

12. (1) Every applicant must disclose full details of prior conduct at the earliest opportunity and, unless the conduct occurs later, on application for Registration.

(2) Every relevant person must disclose full details of prior conduct at the earliest opportunity and in any event (if not previously disclosed to IPS or CILEx):

- (a) in the case of a Member:
 - (i) in any application for Registration;
 - lii) in any application for a change in membership grade;
 - liii) in any practice rights application; and
 - liiii) in an annual subscription form;
- (b) in the case of a Practitioner or Authorised Body:
 - (i) in any application for Registration; and

(ii) in an annual return form.

(3) Where requested to do so by IPS, an applicant or relevant person must provide further details of any prior conduct.

(4) Failure by a relevant person to comply with this Rule and Rule 11 may be treated as misconduct.

Investigating Officer decisions: prior conduct

13. (1) The Investigating Officer may determine that no action is to be taken in relation to a declaration of prior conduct where:

- (a) the applicant or relevant person has declared an outstanding judgment and there is no evidence of:
 - (i) persistent or deliberate failure to meet financial obligations;
 - (ii) a related criminal offence; or
 - (iii) failure to make arrangements to pay off any debts;
- (b) the applicant or relevant person has declared a caution or spent conviction and is not a Fellow or applying for Fellowship;
- (c) the applicant or relevant person has declared a driving offence and:
 - (i) there is no evidence of a persistent pattern of offending,
 - (ii) a custodial sentence was not imposed; and
 - (iii) the duration of any disqualification imposed was not 18 months or more; or
- (d) the applicant or relevant person is or has been subject to a bankruptcy Order or has entered into an arrangement with their creditors.

(2) The Investigating Officer shall notify the applicant or relevant person of any decision within 21 days.

Panel decisions: prior conduct

14 (1) In considering any declaration or other information relating to prior conduct, the Panel may:

- (a) have regard to any guidance published by IPS;
- (b) seek advice from or refer the matter to the Investigating Officer or any CILEx or IPS committee it considers appropriate;
- (c) request that the applicant or relevant person provide such further information as the Panel may reasonably require; and
- (d) request that the applicant or relevant person attend a meeting of the Panel.

(2) Failure by a relevant person to comply with a request under paragraph (1)(c) or (d) may be treated as misconduct.

(3) In respect of any prior conduct the Panel may:

- (a) decide to take no further action;
- (b) accept or refuse any Registration application or other application to which the prior conduct relates;
- (c) impose conditions on the applicant or relevant person as it may think appropriate in respect of their future conduct and, in the case of an individual, their employment;
- (d) require the applicant or relevant person to give an undertaking as to their future conduct;
- (e) reprimand the relevant person, warn the relevant person as to future conduct or both; or
- (f) refer the matter to the Disciplinary Tribunal as if it was an allegation.

Investigating misconduct: initial procedure

15. (1) Where IPS receives a complaint or any other information to the effect that a relevant person may have engaged in misconduct (an **allegation**), it may investigate the allegation in accordance with Rules 16 and 17.

(2) The Investigating Officer shall investigate an allegation as follows:

- (a) the Investigating Officer shall gather information about and investigate the issues involved including, where the allegation arises from a complainant, obtaining:
 - (i) any information about the complaint that the complainant wishes to provide; and
 - (ii) the consent of the complainant to provide a copy of the complaint and any supporting information to the relevant person;
- (b) the Investigating Officer shall notify the relevant person that an allegation has been made against them, provide the relevant person with details of the allegation (including a copy of any complaint or supporting information) and a copy of the Rules and invite the relevant person to submit representations to the Investigating Officer within 14 days ;
- (c) the Investigating Officer may seek information or advice from third parties.

(3) The Investigating Officer may refer an allegation to an Investigating Practitioner where the Investigating Officer considers that it is appropriate to do so.

(4) An Investigating Practitioner shall have the same powers as an Investigating Officer and a reference in this Part to an Investigator is to an Investigating Practitioner or Investigating Officer (as the case may be).

(5) The Investigator may supply the complainant with a copy of all or part of any response from the relevant person and, in that event:

- (a) shall allow the complainant a period of 14 days in which to make written observations; and
- (b) shall allow the relevant person a period of 14 days in which to comment on any observations received from the complainant.

(6) At the conclusion of the investigation, the Investigator shall prepare a report containing a summary of the information obtained and an analysis of the issues for consideration and shall forward the same to the relevant person and complainant and invite them within a period of 14 days to comment in writing on the report.

(7) Upon receipt of comments from the relevant person or the expiry of the time allowed for comments (whichever is the sooner), the Investigating Officer shall determine the matter under Rule 16 or refer it to the Panel under Rule 17.

(8) A relevant person is obliged to comply with and respond to reasonable enquiries made by an Investigator and failure to do so may be treated as misconduct.

Decisions by Investigators in certain cases

16. (1) Where an Investigator is of the opinion that:

- (a) there is no evidence available to substantiate an allegation;
- (b) the allegation does not disclose any misconduct by the relevant person;
- (c) IPS has no jurisdiction to consider the allegation; or
- (d) the time which has elapsed since the events (or knowledge of those events, if later) giving rise to the allegation exceeds the prescribed period;

the Investigator may reject the allegation without further reference to the Panel.

(2) For the purpose of paragraph (1)(d), the **prescribed period** means such period of not less than [X] years as IPS may prescribe.

(3) Where an Investigator is of the opinion that the evidence available indicates that the relevant person has a case to answer in respect of an allegation; and either:

- (a) the allegation is of a serious nature; or
- (b) an adverse finding has previously been made against the relevant person by the Professional Conduct Panel or Disciplinary Tribunal in respect of an allegation of a similar nature;

the Investigator may refer the allegation directly to the Disciplinary Tribunal without further reference to the Panel.

(4) An Investigator shall:

- (a) provide reasons for rejecting or referring to the Disciplinary Tribunal any allegation under this Rule;
- (b) notify the relevant person and any complainant of the decision within 21 days; and
- (c) report any such decision to the Panel.

Powers of the Professional Conduct Panel

17. (1) The Panel shall consider any allegation which is referred to it and determine whether the relevant person has a case to answer.

(2) In determining whether there is a case to answer, the Panel shall consider whether, based upon the available evidence, there is realistic prospect that IPS would be able to prove the allegation of misconduct before the Disciplinary Tribunal.

(3) In respect of an allegation, the Panel may determine that:

- (a) there is no case to answer; or
- (b) there is a case to answer and:
 - (i) refer the allegation to the Disciplinary Tribunal; or
 - (ii) with the consent of the relevant person, dispose of the allegation in accordance with paragraph (4).

(4) Where the relevant person admits an allegation and consents to the Panel doing so, the Panel may dispose of the matter by:

- (a) requiring the relevant person to give undertakings as to future conduct;
- (b) imposing conditions on the relevant person in respect of their conduct or, in the case of an individual, their employment;
- (c) reprimanding the relevant person, warning the relevant person as to future conduct or both;

(5) Before reaching a decision under paragraph (4), the Panel may request that the relevant person to attend a meeting of the Panel and failure to comply with such a request may constitute misconduct.

Determination by consent

18. (1) Where, in respect of any allegation:

- (a) the Investigator Officer is of the opinion that the relevant person has a case to answer; and
- (b) the relevant person admits the allegation;

then subject to paragraph (3), the Investigating Officer and the relevant person may agree to determine the allegation by consent.

(2) The terms of any determination by consent shall include:

- (a) a statement to the effect that the relevant person admits the allegations(s) in full;
- (b) the imposition on the relevant person of one or more the sanctions available to the Professional Conduct Panel under Rule 17 or the Disciplinary Tribunal under Rule 31 (other than the imposition of costs); and
- (c) a provision that IPS may in its absolute discretion notify any person or publish the terms of the determination by consent.

(3) A determination by consent shall not take effect until it has been approved by order of the Panel.

(4) Failure by a relevant person to comply with the terms of a determination by consent shall constitute misconduct.

Interim suspension orders

19. (1) The Panel may at any time, on the application of the Investigating Officer or of its own motion, consider whether it is necessary for the protection of the public, in the interests of the relevant person concerned or otherwise in the public interest to suspend a relevant person's Registration pending a hearing before the Disciplinary Tribunal.

(2) The Panel shall give the relevant person not less than 7 days' notice of a meeting to consider the imposition or review of an interim suspension order, unless the Panel consider that due to the seriousness or urgency of the case a shorter period of notice is appropriate.

(3) The notice under paragraph (2) shall inform the relevant person of the time, date and place of the hearing, brief details of the matters giving rise to the application for an interim order for suspension and of the right to appear before and be heard by the Panel.

(4) In considering whether to make an interim suspension order, the Panel shall determine its own procedure in accordance with these Rules, any guidance published by IPS and the overriding requirement of fairness.

(5) The Panel may order that the relevant person's Registration be suspended for a maximum period of 18 months and any such order must be reviewed by the Panel every 3 months.

(6) Where the Panel makes an interim suspension order against an Authorised Body it may also direct IPS to make such arrangements for the orderly transfer of the Authorised Body's client files and monies as are appropriate in the circumstances.

Appeals

20. (1) Decisions of the Panel (other than a decision to impose an interim suspension order which shall take effect immediately) shall only take effect after the period for lodging an appeal against the decision has expired.

(2) An applicant or relevant person may appeal against any decision or order of the Panel other than a decision to refer a matter to the Disciplinary Tribunal

(3) A complainant may make an application to the Panel seeking the review of a decision of an Investigator under Rule 16 to reject an allegation.

(4) An application under paragraph (3) must be made in writing within 21 days of notification of the decision of the Investigator and, in conducting any review, the Panel shall deal with the application as if it was a referral made under Rule 17, but subject to such modifications as the Panel consider appropriate.

(5) An appeal under paragraph (2) must be made in accordance with Part IV.

PART III: THE DISCIPLINARY TRIBUNAL

Interpretation of Part III

21. (1) In this Part, unless the context otherwise requires:

Chair:	means the Chair of a Disciplinary Tribunal Panel;
Clerk:	means the clerk to the Disciplinary Tribunal;
complainant:	means a person who made a complaint to IPS against a relevant person;
finalised hearing date:	means either the first hearing date or where the first hearing date is varied by the Panel not more than 14 days before the hearing is due to commence, that varied hearing date;
first hearing date:	means the hearing date set under Rule 38(2) or such later date as may be fixed by the Clerk;
Panel:	means the members of the Disciplinary Tribunal appointed to hear a particular matter;
party:	means IPS and the respondent;
respondent:	means the relevant person against whom an allegation is made;
sanction and costs hearing:	has the meaning given in Rule 31(4)

(2) In this Part any reference to the Professional Conduct Panel or Investigating Officer having referred a matter to the Disciplinary Tribunal includes a decision by an Appeals Panel under Part IV to refer a matter to the Disciplinary Tribunal.

Constitution and jurisdiction of the Disciplinary Tribunal

22. (1) The Disciplinary Tribunal has jurisdiction to hear matters referred to it under Part II by the Professional Conduct Panel or Investigating Officer or by an Appeals Panel under Part IV.

(2) The Tribunal shall determine its own procedure in accordance with these Rules, the guidance published from time to time by IPS and the overriding requirement of fairness.

Commencing proceedings

23. (1) Where the Professional Conduct Panel or Investigating Officer has referred a matter to the Tribunal, the Clerk shall, as soon as reasonably practicable:

(a) notify the respondent (and the complainant, if any) that the matter has been

referred to the Tribunal; and

- (b) make all necessary arrangements for the matter to be heard, including fixing a date, time and venue for the hearing of the matter by the Tribunal.

(2) Where the Professional Conduct Panel or Investigating Officer has referred a matter to the Tribunal, IPS shall, not less than 42 days before the first hearing date, lodge with the Clerk a notice setting out:

- (a) the allegations against the relevant person that are to be heard by the Tribunal;
- (b) the nature of the evidence that IPS will present to the Tribunal to prove the allegations, and
- (c) any other information relevant to the allegations that is in the possession of IPS,

and shall, within the same time, serve a copy on the Respondent.

Disciplinary Tribunal Panel

24. (1) Where a matter has been referred to the Tribunal, that matter will be heard by a Panel of 3 members from the list of panellists maintained under Rule 2(1)(b), of whom 2 shall be lay members and 1 shall be a professional member.

(2) The members of the Panel shall choose one of their number to act as Chair for the purposes of that hearing.

(3) If, during the course of any hearing, a member of the Panel is unable to continue to attend the hearing, the remaining members may with the consent of the parties continue with the hearing.

(4) Where, pursuant to paragraph (3), a matter is heard wholly or in part by the remaining two members and they are unable to arrive at a determination, the matter shall be re-heard by a new Panel comprising members of the Disciplinary Tribunal who were not members of the original Panel.

Preliminary meetings

25. (1) The Panel may at any time determine any preliminary issues raised by any party including (without limitation):

- (a) the calling of witnesses;
- (b) the adjournment of the hearing;
- (c) directions as to the parties for a hearing;
- (d) the admission of new evidence;
- (e) the variation of time limits;
- (f) the variation or postponing of the first hearing date;

- (g) evidential and procedural issues;
- (h) the withdrawal of the referral to the Disciplinary Tribunal.

(2) The Panel may determine issues under paragraph (1) without a meeting of the Panel but by two or more of the Panel advising the Clerk of their decision and, in that event, the Clerk shall notify the parties of the decision

(3) Where all parties consent, a single Panel member may determine an issue under paragraph (1).

Additional allegations

26. (1) Where the Panel is satisfied that it would not cause unfairness to the respondent, the Panel may allow IPS to add allegations to the matter referred to the Tribunal, and those additional allegations shall be treated as if they were included in the original matter referred by the Professional Conduct Panel or Investigating Officer.

(2) The Panel shall not allow IPS to add to the allegations referred to the Tribunal less than 14 days before the commencement of the finalised hearing date.

Service of documents and statements

27. (1) Not less than 28 days before the first hearing date, each party will serve on the other copies of any documentary evidence in their possession or power relating to the allegations and any witness statements upon which they intend to rely.

(2) A party shall be deemed to admit the authenticity of any document disclosed under paragraph (1) above unless, within 7 days of disclosure of the document, that party serves notice requiring the document to be proved at the hearing.

(3) The general rule is that any fact which needs to be proved at a hearing by the evidence of witnesses is to be proved by evidence given in a witness statement.

(4) Any party who requires a witness to attend the hearing for the purpose of cross-examination upon the content of a witness statement served in accordance with paragraph (1) above must serve notice to that effect upon the opposing party within 7 days of disclosure of the statement.

Evidence

28. (1) The Panel may control the evidence by giving directions as to:

- (a) the issues on which it requires evidence;
- (b) the nature of the evidence which it requires to decide those issues; and
- (c) the way in which the evidence is to be placed before the Panel.

- (2) Subject to the requirements of a fair hearing, the Panel may:
- (a) admit evidence whether or not it would be admissible in civil proceedings; and
 - (b) exclude evidence that would otherwise be admissible to ensure fairness between the parties.
- (3) The Panel may limit cross-examination.
- (4) Subject to any other provisions of these rules, the Civil Evidence Act 1968 and the Civil Evidence Act 1995 shall apply in relation to the hearing of a matter as they apply in relation to civil proceedings.
- (5) Production before the Panel of:
- (a) a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a respondent has been convicted of a criminal offence shall be conclusive evidence of the offence committed.
 - (b) a copy of the determination of any Tribunal in or outside England and Wales exercising a professional disciplinary jurisdiction shall be conclusive evidence of the facts found proved in relation to that determination.
 - (c) a copy of the judgment of any Civil Court shall be conclusive evidence of the facts found proved in relation to that judgment.

Hearing documentation

29. (1) IPS shall produce an indexed and paginated hearing bundle comprising:
- (a) the allegations;
 - (b) the documents relied upon by the parties;
 - (c) the witness statements; and
 - (d) any relevant notices.
- (2) Not less than 7 days before the finalised hearing date, IPS shall provide the Clerk with copies of the hearing bundle.

Conduct of hearings and representation

30. (1) Hearings shall be held in public unless the Panel is satisfied that, in the interests of justice or for the protection of the private life of the respondent, the complainant, a person giving evidence or any other person, the public should be excluded from all or part of a hearing.

(2) The Panel shall give IPS and the respondent and, at its discretion, any other person, the opportunity of being heard.

(3) A party may be represented at a hearing by any person, whether or not legally qualified, but the Panel may refuse to permit a particular person to assist or represent a party if the Panel is satisfied that there are good and sufficient reasons for doing so.

Decisions

31. (1) The burden of proof to prove the facts and misconduct alleged against the respondent shall rest upon IPS.

(2) The standard of proof shall be the balance of probabilities.

(3) A decision as to an allegation may be by a majority of the Panel and no panellist may abstain from voting.

(4) The Panel may:

- (a) announce its decision at the conclusion of the parties' cases and announce its findings then;
- (b) announce its decision at the conclusion of the parties' cases and give its findings on a later date; or
- (c) reserve its decision and findings to a later date,

but in any case where the decision or findings are not announced at the conclusion of the parties' cases, the Panel shall notify the parties of its findings, decision and any order made within 10 days of the conclusion of the parties' cases and, where necessary, the notice shall specify a date, not more than 21 days after the date of the notice, for a hearing to consider sanction and costs (a **sanction and costs hearing**).

(5) Where the Panel's decision is that one or more of the allegations against the respondent has been proved:

- (a) IPS shall inform the Panel of any previous disciplinary proceedings in which any allegation has been proved against the respondent; and
- (b) the respondent may then make submissions in mitigation and, where appropriate, in respect of costs.

(6) Where the Panel finds that one or more of the allegations against the respondent has been proved the Panel:

- (a) may:
 - (i) take no further action;

- (ii) reprimand the respondent, warn the respondent as to future conduct or both;
 - (iii) impose conditions on the respondent as it may think appropriate in respect of the respondent's conduct or employment (and such conditions may be imposed in addition to any reprimand or warning); or
 - (iv) order that the respondent be excluded from Registration for such period (which may be fixed or indefinite) as it shall decide; and
- (b) may order the respondent:
- (i) except where the Panel has ordered that the respondent be excluded from Registration, to pay a fine not exceeding an amount determined by IPS from time to time; and
 - (ii) to pay costs to IPS in respect of the proceedings.

(7) Where the Panel finds that one or more of the allegations against the respondent has not been proved, it may order IPS to pay the reasonable costs of the respondent.

(8) An Order of the Panel shall take effect 21 days after notification under paragraph (4) or, where a sanction and costs hearing has been convened, 21 days after the conclusion of that hearing, unless before then a written notice of appeal has been given to the Tribunal.

(9) Where the Panel makes an Order against a respondent under paragraph (6)(a), it may order that the respondent's Registration be suspended immediately or made subject to immediate conditions until the Order takes effect in accordance with Paragraph (8) if it considers that doing so is necessary for the protection of the public, in the respondent's own interests or otherwise in the public interest.

(10) Where the Panel makes an Order under paragraph (6) any certificate previously issued to the relevant person by CILEx shall cease to have effect and shall be delivered by the respondent to IPS.

Interim suspension orders

32. (1) The Tribunal may at any time, on the application of the Investigating Officer or of its own motion, consider whether it is necessary for the protection of the public, in the interests of the relevant person concerned or otherwise in the public interest to suspend a relevant person's Registration pending the conclusion of proceedings before the Tribunal.

(2) The Tribunal shall give the relevant person not less than 7 days' notice of a meeting to consider the imposition or review of an interim suspension order, unless the Tribunal consider that due to the seriousness or urgency of the case a shorter period of notice is appropriate.

(3) The notice under paragraph (2) shall inform the relevant person of the time, date and place of the hearing, brief details of the matters giving rise to the application for an interim order for suspension and of the right to appear before and be heard by the Tribunal.

(4) In considering whether to make an interim suspension order, the Tribunal shall determine its own procedure in accordance with these Rules, any guidance published by IPS and the overriding requirement of fairness.

(5) The Tribunal may order that the relevant person's Registration be suspended for a maximum period of 18 months and any such order must be reviewed by the Panel every 3 months.

(6) Where the Tribunal makes an interim suspension order against an Authorised Body it may also direct IPS to make such arrangements for the orderly transfer of the Authorised Body's client files and monies as are appropriate in the circumstances.

Right of appeal

33. (1) Decisions of the Tribunal (other than a decision to impose an interim suspension order which shall take effect immediately) shall only take effect after the period for lodging an appeal under paragraph (2) has expired.

(2) The respondent may appeal against:

- (a) a finding by the Tribunal that one or more allegations has been proved; or
- (b) any sanction or costs imposed by the Tribunal.

(3) IPS may appeal against:

- (a) a decision of the Tribunal which, in the opinion of IPS, was made based upon a manifest error, is irrational or similarly flawed; or
- (b) the imposition by the Tribunal of a sanction which, in the opinion of IPS, is unduly lenient.

(4) An appeal must be made in accordance with Part IV.

PART IV: THE APPEALS PANEL

Interpretation of Part IV

34. In this Part, unless the context otherwise requires:

Appeals Clerk:	means the Clerk to the Appeals Panel;
appellant:	means the person in whose name an appeal is made to the Appeals Panel and, in the case of an appeal under Rule 33(3), means IPS;
Chair	means the Chair of an Appeals Panel
Disciplinary Tribunal:	includes a Panel of the Disciplinary Tribunal that has heard a case under Part III.

Notice of appeal

35. (1) An appeal shall be made by giving notice in writing in accordance with this Rule.

(2) The notice shall be addressed to the Appeals Panel at the offices of IPS and shall:

- (a) state that it is a notice of appeal and whether the appeal is made under Rule 20 or Rule 33;
- (b) include:
 - (i) the name and address of the appellant,
 - (ii) the date, nature and other relevant details of the decision which is the subject of the appeal
 - (iii) a concise statement of the grounds of the appeal, and
 - (iv) the name and address of the appellant's representative (if any) and state whether correspondence concerning the appeal should be sent to the representative instead of the appellant;
- (c) be signed by or on behalf of the appellant;
- (d) be accompanied by a copy of any documents on which the appellant proposes to rely for the purposes of the appeal.

(3) A notice of appeal must be lodged no later than 42 days after the date on which the decision that is the subject of the appeal was made.

Appeals Panel

36. (1) The Appeals Panel shall comprise 2 lay members and 1 professional member from the list maintained under Rule 2(1)(c).

(2) The members of the Appeals Panel shall choose one of their number to act as Chair for the purposes of the appeal.

(3) An Appeals Panel shall consider and determine any appeal made in accordance with Rules 20 or 33.

(4) At the beginning of the hearing the Chair shall explain to the parties the order of proceedings which the Appeal Panel proposes to adopt.

(5) The Appeal Panel may conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings and the parties shall be heard in such order as the Panel shall determine, taking into account that the burden of proof rests upon the appellant.

(6) In determining an appeal, the Appeals Panel may admit any evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a civil proceedings.

(7) Having considered an appeal, the Appeals Panel may

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against; or
- (c) substitute for the decision appealed against any other decision that the Professional Conduct Panel or Disciplinary Tribunal (as the case may be) could have made.

and may make such ancillary orders, including orders for costs, as it considers just and appropriate.

(8) Decisions of the Appeals Panel shall be made by a majority.

(9) Notice of the decision of the Appeals Panel shall be given in writing to the appellant within 21 days and shall take effect 28 days after the date on which it was made.

(10) Where the decision in an Appeal under Rule 20(2) has the effect of referring a matter to the Disciplinary Tribunal, that referral shall be treated for all purposes as if it was made by the Professional Conduct Panel.

(11) Appeals under Rule 20 shall normally be heard in private unless the appellant requests otherwise.

(12) Appeals under Rule 33 shall be heard in public, unless the Appeals Panel is satisfied that, in the interests of justice or for the protection of the private life of the appellant, any complainant, person giving evidence or any other person, the public should be excluded from all or part of a hearing.

Representation

37. (1) The Appeals Panel shall give the appellant and the respondent to the appeal and, at its discretion any other person who appeared before the Professional Conduct Panel or Disciplinary Tribunal, the opportunity of being heard.

(2) A party may be represented at a hearing by any person, whether or not legally qualified, but the Appeals Panel may refuse to permit a particular person to assist or represent a party if the Appeals Panel is satisfied that there are good and sufficient reasons for doing so.

PART V: OTHER MATTERS

Notice and publication etc. of decisions

38. (1) IPS shall cause all adverse findings and orders of the Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel (**Decisions**) to be recorded against the relevant entry in the relevant CLEEx register.

(2) Where a relevant person against whom a Decision is made is

- (a) employed, or
- (b) is a partner, director, manager of, or holds a financial interest in, a relevant body;

IPS shall notify the employer or relevant body of the Decision.

(3) in this Rule **relevant body** means:

- (a) an Authorised Body;
- (b) a legal services body within the meaning of s.9A of the Administration of Justice Act 1985; or
- (c) a body licensed under Part 5 of the Legal Services Act 2007.

(4) IPS shall give notice of all decisions to such other regulatory and oversight bodies as it considers appropriate.

(5) IPS shall cause all decisions and the name of the relevant person concerned to be published in such manner as it considers appropriate.

(6) Paragraphs (2), (4) and (5) shall not apply to the extent that the Professional Conduct Panel, Disciplinary Tribunal or Appeals Panel directs otherwise.

Maintenance of exhibits and transcripts

39. (1) Any exhibits produced or used at a hearing of the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal and any recording or transcript of those proceedings shall be kept by IPS for a period of at least one year after the proceedings to which they relate.

Annual Report

40. An annual report shall be made to the IPS Board of the work of the Investigating Officers, Professional Conduct Panel, Disciplinary Tribunal and Appeals Panel during the previous year.

Transitional Provisions

41. (1) These Rules shall come into force on [DATE] (the **Commencement Date**).

(2) Any allegation received by IPS before the Commencement Date but which on that date has not been referred to the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal in accordance with the Investigation, Disciplinary and Appeals Rules dated 4th January 2010 (**the Old Rules**) shall be dealt with under these Rules.

(3) Any allegation received by IPS before the Commencement Date and which on that date has been referred to the Professional Conduct Panel, Disciplinary Tribunal or Appeals Tribunal under the Old Rules shall continue to be dealt with in accordance with the Old Rules.

(4) Any allegation received by IPS after the Commencement Date shall be dealt with in accordance with these Rules.