

# **DISCIPLINARY CODE AND PROCEDURES**

**[Amended by the Council on [day], [date]th [month] 2025]**

*Amendment approved by members of the Institute at the [●]th [●]  
General Meeting held on [day], [date]th [month] 2025*

**Application: Attention is drawn to the transitional provisions in Code 13.**

- 1. The Disciplinary Code and Procedures form part of the By-laws issued by the Institute and must be read in conjunction therewith. In the case of conflict between the By-laws and the Disciplinary Code and Procedures, the By-laws shall prevail.**

## **2. DEFINITIONS**

- 2.1 In the Disciplinary Code and Procedures, unless inconsistent with the context, words and phrases will have the same meanings as those given in the Articles of Association and the By-laws issued by the Institute and the following words and phrases will have the meanings given below:
  - 2.1.1 “Articles” means the latest Articles of Association of the Institute;
  - 2.1.2 “CEO” means the Chief Executive Officer of the Institute as defined in the Articles;
  - 2.1.3 “Complainant” means any person, whether natural or juristic (including the Institute itself), who lodges a Complaint with the Institute as envisaged in this Code. In the case of a report in the media which is brought to the attention of the DDO, the DDO shall deal with the report as prescribed in Code 8 and the media report shall constitute the basis of the Complaint;
  - 2.1.4 “Complaint” means any written report lodged with the Institute or any report in the media which is brought to the attention of the DDO, alleging conduct of a Member, which may amount to misconduct and hence amounts to Punishable Conduct. Unless the DDO determines otherwise, and save in the instances of media reports, all Complaints shall be on affidavit;
  - 2.1.5 “Complaints Register” means a register (which may be in electronic format or print format) kept by the DDO in which recordal shall be made of all Complaints in chronological order of receipt, subsequent findings and penalties imposed;
  - 2.1.6 “Costs” means all actual costs reasonably incurred by the Institute in the investigation and hearing of a Complaint by the DDO and the Disciplinary Committee and matters which are opposed before a disciplinary panel and shall include, but not be limited to:
    - a. the reasonable professional fees and matter-specific costs of any member of the Disciplinary Committee;
    - b. the reasonable professional fees and matter-specific costs of any expert engaged for purposes of assisting a disciplinary panel with the disposal of a disciplinary matter;

- c. the costs of the venue for holding a disciplinary hearing. If more than one disciplinary matter being held at the same venue, the costs to be shared appropriately;
- d. the costs of recording and transcription of the disciplinary hearing;
- e. the costs of copying of all documents relevant to the proceedings;
- f. the costs of any expert witnesses on behalf of the Institute whose evidence is used in a disciplinary hearing;
- g. the reasonable travel and subsistence costs of non-expert witnesses whose evidence is used in a disciplinary hearing on behalf of the Institute; and/or
- h. any other reasonable expenses incurred by the Institute directly related to or connected to the proceedings;

2.1.7 "Day" means a calendar day;

2.1.8 "Debt to the Institute" means the indebtedness of Respondent for an amount certified in a certificate of indebtedness signed by the CEO arising from the imposition of a Fine or Costs or a settlement arrangement reached between the Institute and a Respondent arising from a Complaint and shall constitute prima facie proof of its contents;

2.1.9 "DDO" means the Designated Disciplinary Officer (legal advisor of the Institute or officer of the Secretariat designated to act in that capacity by the Council). The DDO shall, at all times, act independently, carry out his or her activities in accordance with the set roles and responsibilities, consult with the Disciplinary Committee as set out in this Code, and report to the Council on the following:

- a. the adequacy of resources for investigative and disciplinary processes;
- b. constitutions of disciplinary panels from time to time;
- c. compliance with the prescribed disciplinary procedures by the Disciplinary Committee; and
- d. the adequacy of the prescribed disciplinary procedures and the extent to which the procedures meet the expectations in the Profession and public and ways in which to improve the disciplinary procedures.

2.1.10 "Fine" means a monetary penalty imposed against a Respondent arising from the outcome of disciplinary hearing;

2.1.11 "Member" for the purposes of this Disciplinary Code and Procedures means a Member of the Institute other than a Registered Trainee or a Registered Student";

2.1.12 "Punishable Conduct" means conduct referred to in Code 5 or 6 of this Code;

2.1.13 “Respondent” means a Member, former Member, Registered Trainee, former Registered Trainee, Registered Student or former Registered Student, as the case may be, against whom a Complaint has been lodged with the DDO.

2.2 Unless inconsistent with the context, words signifying any one gender will include the others and words signifying the singular will include the plural and vice versa.

2.3 The headings and sub-headings are for ease of reference only and shall not affect the interpretation of these By-laws.

### **3. JURISDICTION**

3.1 A person, who committed any form of misconduct whilst he or she was a Member, Registered Trainee or Registered Student shall continue to be subject to this Code after he or she has ceased to be a Member, Registered Trainee or Registered Student, as the case may be, as if he or she had not so ceased; and references in this Code to a Member, Registered Trainee or Registered Student shall be construed accordingly so far as may be necessary to give effect to this Code.

### **4. AMENDMENT OF THIS CODE**

4.1 This Code shall become effective immediately upon being approved by the Council.

4.2 The Council shall have the power in accordance with the By-laws and Articles to suspend, amend, repeal, or add any provision in this Code at any time in a special meeting. Any decision regarding the suspension, amendment, repeal or addition of any provision in these By-laws shall be determined by a super majority vote.

### **5. PUNISHABLE CONDUCT APPLICABLE TO MEMBERS**

5.1 The following offences whether of commission or omission, upon the part of any Member at the time of the commission or omission of the alleged offence shall constitute Punishable Conduct and such Member or former Member admitting to his or her guilt or found guilty thereof as provided in this Code shall be liable to the penalties prescribed in this Code:

5.1.1 contravening any of the provisions of the Act, the Articles, the By-Laws and any other rules of the Institute, including applicable codes of professional conduct;

5.1.2 directly or indirectly paying any person, other than a Member in public practice or practising as an accountant or auditor outside the Republic a commission,

or giving such a person any monetary or other consideration as remuneration for bringing the Member work, or for inducing any person to give work to the Member;

- 5.1.3 accepting directly or indirectly in monetary or other consideration commission, brokerage or other remuneration in respect of any professional or commercial business referred to others as an incident to his or her service to any client or employer, except with the knowledge and consent of the client or employer;
- 5.1.4 improperly obtaining or attempting to obtain work or employment;
- 5.1.5 soliciting or advertising or canvassing in the Republic (or in any territory other than the Republic designated by the Council from time to time) in any manner not permitted by the By-Laws and any other rules of the Institute;
- 5.1.6 unlawfully failing to account for, or unreasonably delaying accounting for any money or property received for or on behalf of a client, employer or any other person when called upon to do so;
- 5.1.7 seeking, either before or during the training period of a Registered Trainee, to impose any restraint whatsoever on the Registered Trainee which would apply after the end date of the training period or threatening, or attempting to enforce any such restraints after the end date of the training period;
- 5.1.8 stipulating for the cancellation of a Training Contract, or directly or indirectly receiving from a Registered Trainee or from any other person any reward, compensation, payment or consideration for agreeing to the cancellation of such Training Contract: provided that it shall not be deemed a breach of this Code if a Member or a former Member requires to be, or is reimbursed, in respect of disbursements made by him or her to the Institute in connection with such Training Contract which is cancelled and of which disbursements he or she is able to produce proof to the satisfaction of the Institute;
- 5.1.9 without reasonable cause, failing to resign from a professional appointment when requested by the client to do so; and/or
- 5.1.10 failing, after written demand, to pay within prescribed period any subscription or any fee, levy or other charge payable to the Institute.
- 5.2 Notwithstanding the punishable conduct set out in Code 5.1, the following misconduct whether of commission or omission, upon the part of any person who is or was a Practising Member at the time of the commission or omission of the alleged misconduct shall constitute Punishable Conduct and such person admitting to his or her guilt or found guilty thereof as provided in this Code shall be liable to the penalties prescribed in this Code:

- 5.2.1 conducting himself or herself with gross negligence in connection with any work performed by him or her in his or her profession or employment, including but not limited to work or employment in connection with rendering assurance and auditing services, secretaryships, trusteeships, curatorships, liquidations, judicial managements, executorships, administratorships, business rescue or any office of trust that he or she has accepted or undertaken;
- 5.2.2 wherever applicable, wrongly certifying or reporting on accounts, statements, reports or other documents, without taking reasonable steps to ensure the correctness of such certificate or report;
- 5.2.3 wilfully refusing or failing to perform or conform with any of the provisions of any applicable laws, regulations, rules, by-Laws and codes of professional conduct which it is his or her duty to perform or with which it is his or her duty to conform;
- 5.2.4 conducting himself or herself in a manner which, in the opinion of the Disciplinary Committee, is discreditable, dishonourable, dishonest, irregular or unworthy which is derogatory to the Institute or tends to bring the Profession into disrepute;
- 5.2.5 failing to answer or deal with, appropriately and within a reasonable time, any correspondence or other communication from the Institute or any other person which reasonably requires a reply or other response;
- 5.2.6 failing to comply with an order, requirement or request from the Institute on or before the stipulated date or any further extension period granted; and/or
- 5.2.7 failing to notify the Institute of his or her provisional or final Sequestration.

## **6. PUNISHABLE CONDUCT APPLICABLE TO REGISTERED TRAINEES AND REGISTERED STUDENTS**

- 6.1 The following offences whether of commission or omission, upon the part of any Registered Student at the time of the commission or omission of the alleged offence shall constitute Punishable Conduct and such Registered Student or former Registered Student admitting to his or her guilt or found guilty thereof as provided in this Code shall be liable to the penalties prescribed in this Code:
  - 6.1.1 contravening any of the provisions of the Act, the Articles, the By-Laws and any other rules of the Institute, including applicable codes of professional conduct;
  - 6.1.2 directly or indirectly paying a person, other than a Member in public practice or any person practising as an accountant or auditor outside the Republic, a

commission, or some monetary or other consideration as remuneration, for bringing the Registered Student work or inducing the other person to employ or give work to the Associate;

- 6.1.3 accepting directly or indirectly a commission, brokerage or other remuneration in respect of professional or commercial business referred to others as an incident to his or her employment or service to an employer or a client, except with the knowledge and consent of the employer or the client;
- 6.1.4 improperly obtaining or attempting to obtain employment or work;
- 6.1.5 soliciting, advertising or canvassing in the Republic (or in any territory other than the Republic designated by the Council from time to time) in any manner not permitted by the By-Laws and any other rules of the Institute;
- 6.1.6 unlawfully failing to account for, or unreasonably delaying in accounting for, any money or property received for or on behalf of a client or any other person when called upon to do so;
- 6.1.7 failing, after written demand, to pay within prescribed period any subscription or any fee, levy or other charge payable to the Institute.
- 6.2 Punishable Conduct on the part of a Registered Trainee or a Registered Student shall include any conduct which would amount to Punishable Conduct had it been perpetrated by a Member.

## **7. COMPLAINTS ARISING FROM COMPLAINANTS**

- 7.1 All Complaints shall immediately be brought to the attention of the DDO who shall deal therewith as follows:
  - 7.1.1 on receipt of a Complaint, the DDO shall forthwith enter the Complaint in the Complaints Register and if the Complaint emanates from a media report, deal with the same in terms of Code 8;
  - 7.1.2 the DDO shall forthwith:
    - a. assess whether a Complaint relates to Punishable Conduct or any form of misconduct prohibited by the Governing Instruments or By-laws;
    - b. assess whether the Complaint is against a Member, Registered Trainee or Registered Student;
    - c. if a Member, assess whether the Complaint relates to a practising Member or a non-practising Member; and
    - d. if to a practising Member, assess whether the Complaint relates to an audit matter, a non-audit matter, or both;

- 7.1.3 the DDO shall, within 14 (fourteen) days of receipt of a Complaint, in writing:
- a. acknowledge receipt of the Complaint (other than one emanating from a media report);
  - b. inform a Complainant of what investigations, if any, will be made (including requesting for information from the Complainant or any third party other than a Respondent); and
  - c. inform the Complainant of what disciplinary procedures will be taken;
- 7.1.4 the DDO shall, within seven (7) days of receipt of a Complaint, in writing:
- a. notify a Respondent by email to his or her Registered Address of the nature of the Complaint and whether the Complaint will initially be subject to investigations or is ready to be referred to the Disciplinary Committee for a disciplinary hearing;
  - b. if the Complaint is ready to be referred to the Disciplinary Committee for a hearing, prepare a charge sheet which informs the Respondent the nature of the Complaint with sufficient detail to enable the Respondent to respond thereto;
  - c. notify the Respondent by sending him or her the charge sheet and ask him or her to give a response by making his or her representations regarding the merits of the Complaint, including submitting any supporting evidence, within 21 (twenty-one) days or such extended period as the DDO may grant. The notice must also advise the Respondent to indicate in his or her response whether the Respondent admits or denies the issues and/or facts set out in the charge sheet or any portion thereof;
  - d. warn the Respondent that any of his or her response may be taken into account in determining his or her conduct or misconduct and may be used in evidence against him or her;
  - e. of the consequences of admission of misconduct and of potential Costs payable in the event of a disciplinary hearing; and
  - f. warn the Respondent that, if he or she fails to respond to the Complaint within the stipulated time, the Disciplinary Committee may, without inviting further representations, make a finding on the Complaint in the absence of the Respondent's representations.
- 7.1.5 the DDO shall, within 30 (thirty) days of receipt of a Complaint, in writing:
- a. inform all the members of the Disciplinary Committee of the Complaint and whether investigations are required and whether the Complaint is ready to proceed to a disciplinary hearing without investigations;
  - b. ask the members of the Disciplinary Committee to declare whether they have any conflict of interest or not; and



- c. if the Complaint will be subject to investigation, advise the members of the Disciplinary Committee the timeline for conducting investigations and the likely timeline for conducting a disciplinary hearing; or
- d. if the Complaint is ready for a hearing, constitute, in accordance with the applicable provisions in the By-laws, a disciplinary panel from a pool of the members of the Disciplinary Committee who do not have conflict of interest and advise the Disciplinary Committee of names to constitute a disciplinary panel and the timeline for conducting a hearing. A disciplinary panel may be constituted to hear more than one Complaint; and
- e. submit to the disciplinary panel the charge sheet together with the written submissions and supporting evidence received from the Complainant, the Respondent or any other third party.

7.2 In the event in which the Disciplinary Committee imposes a penalty against a Respondent, where the Respondent has failed to give his or her response, the Respondent may, on showing reasonable cause, including providing relevant supporting evidence make a written application to the Disciplinary Committee to have its delivered decision and/or imposed penalty reviewed or set aside.

## **8. COMPLAINTS ARISING FROM MEDIA REPORTS**

8.1 In addition to any powers the DDO has and any obligation a Member, Registered Trainee or Registered Student has in respect of Complaints in terms of this Code, all media reports that make allegations of any misconduct by a Member, Registered Trainee or Registered Student (in this By-Law 8 hereinafter referred to as the “Respondent”), shall as soon as is reasonably possible, be brought by any officer or employee of the Secretariat or any other person within or outside the Institute to the attention of the DDO who shall deal therewith as follows:

- 8.1.1 on receipt of a such a report, the DDO shall, as soon as is reasonably possible, ascertain whether the media report implicates the Respondent;
- 8.1.2 the DDO shall, as soon as is reasonably possible and without unreasonable delay, notify the Respondent in writing to his or her Registered Email Address:
  - a. of the contents of the media report;
  - b. that the Respondent is called upon to respond within 48 (forty-eight) hours regarding the allegations made in the media report for the purposes of the Institute to consider an appropriate response to the media report, if at all;
  - c. that any response and/or evidence by the Respondent will be taken into account if any Public Disciplinary Statement in terms of Code 12 is to be made and in determining the Respondent’s misconduct and may be used in evidence against him or her; and

- d. that if the Respondent fails to respond within the stipulated time, the CEO may make a Public Disciplinary Statement in terms of Code 12 and will be entitled to state that no response from the respondent was forthcoming;
- f. after receipt of a response as required in Code 8.1.2 or if no response is received within the stipulated time, the DDO shall deal with the matter as a Complaint and *mutatis mutandis* follow the disciplinary procedures set in this Code in respect of Complaints.

## **9. DISCIPLINARY HEARING**

- 9.1 A disciplinary panel shall dispose of any Complaint before it within 90 (ninety) days of the disciplinary panel's receipt from the DDO of a Complaint file which is ready for a disciplinary hearing. A Complaint file will be regarded as ready if it is not subject to any investigation or investigation has been completed.
- 9.2 A disciplinary panel may, upon giving reasonable cause, extend the period for disposing of any Complaint for a period not exceeding 30 (thirty) days.
- 9.3 Disciplinary hearings shall be conducted at a venue to be determined by the DDO, in consultation with the CEO, and shall be open to the public, unless exceptional circumstances exist which, in the opinion of a disciplinary panel involved with the matter, warrant such hearings being held in camera.
- 9.4 In the interest of protecting the identity of a Complainant who is acting as a whistleblower, a disciplinary hearing shall be conducted by the disciplinary panel between the Institute, which shall be represented by a designated officer from the Secretariat, and a Respondent. The disciplinary panel will invite the Institute and the Respondent (who will be entitled to legal representation) to make submissions, orally or in writing.
- 9.5 Depending on the nature of a Complaint, a disciplinary hearing will directly involve a Complainant who is not acting as a whistleblower in which case, the disciplinary panel will invite the Complainant and the Respondent (who will both be entitled to legal representation) to make submissions, orally or in writing.
- 9.6 At all times, the Complainant and the Respondent shall be informed of their rights to bring evidence and call witnesses and to cross-examine any witness tendering evidence against them. Where a request to cross-examine a witness has been made, the disciplinary panel must conduct an oral hearing.
- 9.7 If, in the course of proceedings in terms of this Code 9, a disciplinary panel considers it in the interests of a fair process that oral evidence or further documentary evidence may be produced, it may so order.

- 9.8 If a disciplinary panel rules that a Complaint must be decided by holding an oral hearing, the following procedure shall apply:
- 9.8.1 the Respondent, the Complainant if making an appearance (or a designated officer from the Secretariat) and/or any other witnesses shall be given reasonable notice of the date, time and venue of the disciplinary hearing;
  - 9.8.2 a disciplinary panel shall have the power to order the production for inspection of any books, documents and papers, inclusive of electronic records, in the possession or under the control of the Institute, the Respondent, or from any Member, Registered Trainee or Registered Student, if it considers such books, documents and/or papers necessary for a just disposal of a Complaint;
  - 9.8.3 if any person other than the Respondent whose evidence may be material has not been called as a witness, the disciplinary panel may call such person as a witness;
  - 9.8.4 any Member, Registered Trainee and Registered Student from whom evidence is required (including the production of relevant documentary evidence) shall be obliged to provide such evidence whether in person at an oral disciplinary hearing or on affidavit, as the case may be. Failure by a Member, Registered Trainee or Registered Student to cooperate with any hearing or investigation conducted by a disciplinary panel shall constitute Punishable Conduct; and
  - 9.8.5 a disciplinary panel shall retain discretion to admit, in addition to oral evidence, affidavits or other documentary evidence.
- 9.9 If a disciplinary panel rules that a Complaint must be decided on the basis of written submissions and evidence, including affidavits, written statements and documents only, without any oral hearing, the following procedure shall apply:
- 9.9.1 the DDO shall either affirm the Complaint and charge sheet already submitted to the disciplinary panel in accordance with Code 7.1.5 or amend the charge sheet, if necessary, and resubmit to the disciplinary panel the amended charge sheet together with any written submissions and supporting evidence received from the Complainant, the Respondent and/or any other third party;
  - 9.9.2 the disciplinary panel shall meet accompanied by the DDO but in the absence of the Complainant, the Respondent or any other third party to deliberate on the Complaint based on the received submissions and supporting evidence;
  - 9.9.3 the disciplinary panel may request for further and better particulars from the Complainant, the Respondent and/or any other third party at any time before the panel reaches its decision; and

- 9.9.4 if, in the course of a disciplinary hearing by written submissions and evidence, a disciplinary panel considers it in the interests of a fair process that oral evidence or further documentary evidence may be produced, it may so order.
- 9.10 A disciplinary panel shall, upon reaching a decision on a Complaint before it, sign and issue its decision to the Respondent which must forthwith be reported to the Council by the DDO.
- 9.11 If a Respondent fails to respond to the invitation by the DDO to make his or her representations within the period stipulated in Code 7.1.4, a disciplinary panel may consider a Complaint, together with any charge sheet provided, in the absence of the Respondent's representations and may make such findings as to guilt and/or penalties as it considers appropriate having due regard to the evidence before it and provide reasons for its decision.
- 9.12 If a disciplinary panel fails to dispose of a Complaint within the stipulated time limits under this Code 9, a Complainant or a Respondent may refer the matter to the Council.
- 9.13 The DDO shall, on behalf of a disciplinary panel, be permitted to communicate with the Complainant, the Respondent and/or any other relevant person.
- 9.14 The DDO may seek to amend a charge sheet at any time as follows:
- 9.14.1 after the charge sheet has been furnished to a disciplinary panel and before commencement of a disciplinary hearing, such amendment to be effected by way of notice from the DDO to the disciplinary panel, the Respondent and the Institute or the Complainant accompanied by an updated charge sheet reflecting the proposed amendments; or
- 9.14.2 at any time after the commencement of a disciplinary hearing and prior to a disciplinary panel making its determination, on the grounds that an error exists in the formulation of a charge, a charge is not properly articulated in, or has been omitted from the charge sheet or new information comes to light during the disciplinary hearing which requires or precipitates the amendment of the charge sheet. Such amendment shall be effected by way of notice from the DDO to a disciplinary panel and the Respondent and the Complainant/Institute accompanied by an updated charge sheet reflecting the proposed amendment:

Provided that a disciplinary panel shall have power to refuse an amendment to a charge sheet sought in terms of this Code only if the amendment is contrary to the interests of justice or fairness;

- 9.14.3 following the amendment of a charge sheet in terms of this Code, a disciplinary panel shall proceed to hear the matter, consider submissions, and evidence and make a finding accordingly.

## **PENALTIES**

- 9.15 A disciplinary panel<sup>1</sup>, upon reaching a finding that a Respondent is guilty of Punishable Conduct or any misconduct prohibited under the By-laws or the Governing Instruments, may:
- 9.15.1 caution the Respondent in accordance with the Penalty Guidelines;
  - 9.15.2 reprimand the Respondent in accordance with the Penalty Guidelines;
  - 9.15.3 impose a fine on the Respondent in accordance with the Penalty Guidelines;
  - 9.15.4 suspend the Respondent in accordance with the Penalty Guidelines;
  - 9.15.5 impose a combination of any two or all of the penalties above;
  - 9.15.6 order repayment of client money which is the subject matter of the Complaint unlawfully withheld from a Complainant;
  - 9.15.7 order delivery of documents which are the subject matter of a Complaint unlawfully withheld by the Respondent from the Complainant or any person or entity represented by the Complainant; or
  - 9.15.8 recommend to the Council to expel the Respondent from the membership; and
  - 9.15.9 recommend to the Council to refer the Complaint to the Director of Public Prosecution for further investigations and consideration of instituting criminal proceedings against a Respondent.
- 9.16 Any person who has been expelled from membership shall neither be entitled to practise his or her profession nor to apply for readmission as a Member, Registered Trainee or Registered Student until the expiry of a period of 10 (ten) years reckoned from the date of such expulsion.
- 9.17 In imposing disciplinary penalties, a disciplinary panel shall be guided by the Penalty Guidelines set out in the Schedule attached hereto.
- 9.18 In addition to the penalty or penalties imposed under Code 9.15, a disciplinary panel may order a Respondent to:

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<sup>1</sup> Should it be the "Disciplinary Panel" or the "Disciplinary Committee" or the "Council" imposing the penalties upon the "Disciplinary Panel" arriving at a finding of guilty or contravention?

- 9.18.1 pay the Costs or such part of the Costs as the disciplinary panel may consider reasonable, the quantum of which shall be quantified and be certifiable as a Debt to the Institute;
- 9.18.2 pay compensation to a Complainant;
- 9.18.3 pay compensation the Institute or the Board; or
- 9.18.4 pay compensation to any other third party injured by a Respondent's conduct.

## **10. STANDARD OF PROOF AND EVIDENCE**

- 10.1 In all disciplinary hearings to determine whether a Respondent has committed Punishable Conduct dealt with by a disciplinary panel, the standard of proof applied in civil matters by courts of balance of probabilities shall apply.
- 10.2 When a disciplinary panel rules that a Complaint must be decided by holding an oral disciplinary hearing, evidence may be effected in person, electronically or in any other manner which facilitates the oral submission of evidence.
- 10.3 A disciplinary panel shall be entitled to obtain evidence by affidavits from any person if it considers him or her necessary for a just disposal of a Complaint. It shall be sufficient, for the purposes of proving the authenticity, the contents, the terms or the proper execution of a document for a copy of the document purporting to be a copy of the original to be used in evidence, subject to the right of any person to adduce evidence that such copy is not authentic.

## **11. APPLICATION FOR REVIEW OF DECISION OF A DISCIPLINARY PANEL**

- 11.1 Any Respondent or Complainant but not the Institute aggrieved by a decision of a disciplinary panel may, within 14 (fourteen) days of the decision, petition to the Council for a review of the decision by the disciplinary panel.
- 11.2 A review by the Council shall be by way of review and consideration of all the submissions and evidence that was tendered by all the parties involved in the initial disciplinary hearing. No new submissions or evidence shall be tendered on review by the Council.
- 11.3 The Council shall have 45 (forty-five) days within which to review the decision and come up with a decision which may have any of the following conclusions:
  - 11.3.1 upholding the decision of a disciplinary panel, in full or in part;
  - 11.3.2 reserving the decision of a disciplinary panel, in full or in part; or
  - 11.3.3 nullifying the decision and ordering another constituted disciplinary panel (with new set of members of the Disciplinary Committee) to rehear the Complaint.

- 11.4 The Council in its entirety may constitute as a panel to review a decision or may nominate Council members to constitute a panel to review a decision.
- 11.5 The Council may make rules for regulating the conduct of applications for the review of decisions of any disciplinary panel under the Disciplinary Committee.
- 11.6 An application for review of a decision of a disciplinary panel shall not operate as a stay of any such decision.

**12. PUBLICITY OF DISCIPLINARY MATTERS (COMPLAINTS, DISCIPLINARY INVESTIGATIONS, DISCIPLINARY HEARINGS AND DECISIONS)**

- 12.1 Notwithstanding anything contained in this Code, the CEO may, at any time, with assistance of the DDO, make such public statements as he or she thinks fit on any disciplinary matter relating to or connected with the performance by the Institute of its disciplinary obligations and may, at any time, make a public statement concerning any Complaint, disciplinary investigations, disciplinary hearing or decision against a Respondent ("Public Disciplinary Statement").
- 12.2 The Public Disciplinary Statement shall be published on the Institute's website and in at least two (2) newspapers with the widest circulation in the Republic names of Members, Registered Trainees and Registered Students expelled from membership or suspended and, in the case of suspension, the period of suspension.
- 12.3 The CEO may name or otherwise identify a Respondent referred to in Code 12.1 in a Public Disciplinary Statement in the following circumstances:
  - 12.3.1 if the name of a Respondent, the general nature of a Complaint, investigations or hearing instituted against a Member, Registered Trainee or Registered Student is already a matter of public knowledge; or
  - 12.3.2 it reasonably appears to the CEO that:
    - a. the failure to name or otherwise identify such a Respondent would defeat the purpose for which the Public Disciplinary Statement is being made;
    - b. the Public Disciplinary Statement is necessary or desirable in order to maintain public confidence in the Institute or its Members;
    - c. in the event that the Respondent has been issued with a charge sheet, the naming or other identification of the Member is in the public interest;
    - d. in exceptional circumstances and in the event that the Member has not been issued with a charge sheet, the naming or other identification of the Member is both urgent and in the public interest; or
    - e. in the opinion of the CEO, it is otherwise in the public interest to publicly identify the Respondent; or

- 12.3.3 the matter is referred to a disciplinary hearing which is open to the public.
- 12.4 Prior to the making of a Public Disciplinary Statement in which a Respondent is named or otherwise identified, the CEO shall issue the Respondent with a 48 (forty-eight) hour notice of the CEO's intention to make the Statement.
- 12.5 The CEO, with assistance of the DDO, shall cause to be published on the Institute's website the details of future disciplinary hearings. Such details of future disciplinary hearings shall contain the following information:
  - 12.5.1 the name of the Member, Registered Trainee or Registered Student and the membership number;
  - 12.5.2 the case number;
  - 12.5.3 a summary of the charges levelled against the Member, Registered Trainee or Registered Student;
  - 12.5.4 the date of the disciplinary hearing;
  - 12.5.5 the time of the disciplinary hearing; and
  - 12.5.6 the place where the disciplinary hearing will take place.

### **13. TRANSITIONAL PROVISIONS**

- 13.1 All Complaints lodged prior to the adoption of this Code by the Council shall be dealt with, substantively and procedurally, in terms of the rules, by-laws, codes and guidelines applicable at the time of the conduct complained of.



**SCHEDULE TO THE DISCIPLINARY CODE AND PROCEDURES**

**“ICAM DISCIPLINARY PENALTY GUIDELINES”**

*(please refer to the attached Schedule: ICAM Disciplinary Penalty Guidelines)*