

## **Membership misconduct procedures**

### **1. Background**

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1.1 Members of the IMA are expected to demonstrate the highest standards of professional conduct. These standards are set out in the IMA's Professional Code of Conduct for Members of the Institute of Money Advisers ("the Code").

1.2 The IMA may take action in respect of any individual member's conduct which is a breach of the Code through its Membership and Professional Standards Sub-Committee ("the MPSSC").

1.3 This document sets out the procedure to be followed in the event of an allegation of misconduct by a member of the IMA.

### **2. The role of the Membership and Professional Standards Sub-Committee**

2.1 The MPSSC is a sub-committee of the Board of Trustees of the IMA and which has been appointed with responsibility for reviewing any reports of breaches of the Code and for implementing this misconduct procedure. Its Terms of Reference state that:

*"The Committee will*

*8. Investigate reports of misconduct or breaches of the Professional Code of Conduct and will make decisions about misconduct and impose sanction accordingly.*

*9. Receive information about instances of mal-practice relating to qualifications and impose membership sanctions where necessary."*

### **3. Professional Code of Conduct**

3.1 The MPSSC also has relevant powers set out in the Professional Code of Conduct:

*"Breaches of this Code*

*The Institute may take action itself in respect of any individual's conduct which is a breach of this Code. The Professional Conduct Committee is responsible for reviewing any reports of breaches of the code. The Committee will investigate reports of misconduct and sanction accordingly."*

### **4. Misconduct procedure**

4.1 Any allegation of improper conduct including a breach of the Code on the part of a member, received from any source shall be referred to the MPSSC for consideration.

4.2 The MPSSC shall then decide whether the complaint is one which is appropriate for it to investigate. This decision will normally be taken within 10 working days of any report and may be taken by a minimum of three members of the MPSSC.

4.3 If the MPSSC considers that the allegation does not disclose a prima facie case, or that it is of a trivial nature it may decide to take no further action.

4.4 If the MPSSC decides that further investigation is necessary it shall ensure that the member in respect of whom the allegation has been made has been informed of the allegation (if this has not already occurred) and of the procedure involved.

4.5 The MPSSC shall then gather evidence from those involved, including the member, with any investigation to be concluded as soon as reasonably practicable. The MPSSC may delegate the investigation to one of its members or an IMA staff member.

4.6 At the end of the investigation, the member shall be sent a summary of the allegation, any relevant matters and information that the MPSSC had identified as part of its investigation and given a right of reply, which should be in writing (including by e mail). The reply should be sent within 10 working days of the summary being sent or such period as the MPSSC may at its complete discretion decide.

4.7 The member shall also be given the option to make oral representations by teleconference to be conducted by the MPSSC and presided over by the Chair or other nominated member of the MPSSC. The MPSSC may alternatively offer the member a face-to-face meeting at its discretion for him or her to make such representations. Any such meeting or teleconference shall normally be arranged for a date within one month of the member's response or the expiration of the right of reply period, if practicable. The member has the right to be represented during the teleconference or to be accompanied at any such meeting by one person of their choice.

4.8 Once a reply has been received, the right of reply period has expired or such teleconference or meeting in paragraph 4.7 above has taken place, the members of the MPSSC shall meet (face to face or via teleconference) to consider all of the information provided as part of the investigation into the complaint including the reply provided by the member with a view to determining whether the member has been in breach of the Code and if so the appropriate sanction.

4.9 In assessing whether there has been a breach of the Code and whether the matters alleged have been proven the MPSSC shall have regard to the appropriate standard of proof. The standard of proof to be applied will be the civil standard (based on a balance of probabilities) except in the case where the matters alleged have the potential to involve a criminal act (for example fraud) in which case the MPSSC shall apply the criminal standard of proof (based on the facts being proven beyond reasonable doubt).

4.10 The decision as to whether the allegation has been proven shall be made by a majority vote of those members of the MPSSC participating in that decision, with the Chair of the MPSSC having a casting vote.

## **5. Sanctions**

5.1 In the event that a member has been found to be in breach of the Code then the MPSSC has a number of powers available to it pursuant to its appointment by the Board of Trustees and its terms of reference. These powers and responsibilities derive from the powers of the Trustee Board as set out in article 30(d) of the IMA's Memorandum and Articles of Association:

*“30. Without prejudice to the generality of the powers conferred by the last preceding Article and otherwise by these Articles it is expressly declared that the Board of Trustees shall have the following powers, that is to say:*

...

*(d) To admonish, suspend or require any Fellow, Member, Non-Practising Member, Associate and Trainee to withdraw from the Company and to expel any member whom they in their discretion, subject to appeal, think an unsuitable person to be a member of the Company.”*

5.2 In addition to the above, the MPSSC may also at its discretion take action of an informal nature to include for example

- a) warn the member as to his future conduct,
- b) provide guidance to the Member or
- c) recommend that additional training be undertaken.

5.3 In determining the sanction to impose, the MPSSC shall have regard to a number of factors including (but not limited to) the following:

- a) the seriousness of the breach of the Code;
- b) whether any client suffered harm or detriment as a result of the breach or the extent to which the Member’s behaviour breached the trust of the client;
- c) whether the breach was of an isolated nature;
- d) whether (and if so the extent to which) the Member has brought the IMA into disrepute and damaged its reputation and the standing of Members.
- e) What is known about the Member’s previous character and behaviour

5.4 The decision as to the level of sanction shall be made by majority vote of those members of the MPSSC participating in that decision, with the Chair of the MPSSC having a casting vote.

5.5 The members of the MPSCC may consider the appropriate sanction on a separate and later occasion after it has determined the liability of the Member for the breach of the Code. In doing so, it may at its discretion notify the Member that it has established their liability for a breach of the Code and inviting the Member to make representations that it wishes the MPSCC to have regard to before imposing any sanctions.

## **6. Notification of Outcome**

6.1 As soon as reasonably practical after the decision of the MPSCC has been made, the Member shall be notified of the outcome in writing (which could include e mail) by the Chair of the MPSCC. The notification shall include a summary of the allegations, a description of the investigation that has taken place summarising the information obtained and the reasons for the decision. The Member shall be informed of the right to appeal.

## **7. Appeals**

7.1 The Member may appeal any decision of the MPSCC including (in accordance with paragraph 23 of the Institute of Money Advisers Rules and Regulations Membership) a decision to require them to withdraw or to admonish, suspend or expel them. Such appeal must be made within 28 days of receipt of the decision to the MPSCC and be in writing, setting out the grounds and reasons for their appeal.

7.2 In considering the appeal the Board shall select one of its members to chair an independent panel also including two Branch Representatives of the panel chair's choice. Panel members, including the chair, should not have been previously involved in the case. The panel will investigate and determine the matter, reporting its decision to the member concerned and the Board within 48 days of being appointed

## **8. Record Keeping**

8.1 Records of complaints and any sanctions shall be retained by the IMA during the period of the member's membership and for 12 months thereafter.