

## Regulatory Tribunal Rules

These Regulatory Tribunal Rules are made by the Standards and Regulation Board of the Royal Institution of Chartered Surveyors (RICS) under Article 18 of the Supplemental Charter 1973 of RICS and Bye-Laws made under Article 17 of that Charter. Version 8 of these Rules came into force on (date). In accordance with RICS Bye-Law B5.6, any complaints or allegations that came to the attention of RICS before the date of implementation of any new Rules, shall be dealt with under the Charter, Bye-Law, Regulation and Rules provisions in force at the time when the matter came to the attention of RICS.

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## Part I General

### 1. Interpretation

In these Rules unless the context otherwise requires:

- a. "Allegation" means an allegation or complaint in writing which raises a question as to whether the Regulated Member may be liable to disciplinary action
- b. "Appeal" means an application by a Regulated Member against a finding or Regulatory Sanction imposed by the Disciplinary Panel pursuant to Rule 26 or Part VII or against a decision made by the Registration Panel pursuant to Part VIII
- c. "Appeal Panel" as defined in Bye-Law B1 is the name given to the RICS members and lay persons appointed from the Regulatory Tribunal to hear Appeals
- d. "Appellant" means any Regulated Member seeking an appeal under Part X of these Rules
- e. 'Applicant to a Registration Panel' means a Regulated Member or an individual or firm who has been expelled by a Disciplinary Panel
- f. "Attached Classes" means persons as defined by RICS Bye-Laws
- g. "Bye-Laws" means Bye-Laws made under Article 17 of the Supplemental Charter 1973
- h. "Chair" means either a Chair of a Registration, Disciplinary or Appeal Panel or Deputy Chair of the Regulatory Tribunal
- i. "Charge" means details of the act(s) or omission(s) which may give rise to liability to disciplinary action
- j. "Conference call" means a telephone, video, internet or other connection whereby all participants can communicate with all other participants
- k. "Days" – references to 'days' relate to calendar days
- l. "Disciplinary Panel" as defined in Bye-Law B1, is the name given to the RICS members and lay individuals from the Regulatory Panel constituted to hear disciplinary cases brought by RICS against a Regulated Member
- m. "Firm" means a Firm registered with RICS under the Rules for the Registration of Firms
- n. "Fixed Penalty" means a Penalty imposed in accordance with the Supplement to the Regulatory Sanctions Policy approved by the Standards and Regulation Board
- o. "Fixed Penalty Review" means a review of a fixed penalty, requested by a Regulated Member, in accordance with Rule 8a of these rules
- p. "Fixed Penalty Reviewer" means the person appointed under Rule 9 of the Constitution of Regulatory Tribunal Rules
- q. "Head of Regulatory Tribunals" means the person appointed by the Chief Executive to manage the listing and administration of Panels or the person or persons to whom the Standards and Regulation Board delegates responsibility
- r. "Head of Regulation" means the person appointed by the Chief Executive to manage the regulatory regime or the person or persons to whom the Standards and Regulation Board delegates responsibility
- s. "Information" means information which raises a question as to whether the Regulated Member may be liable to disciplinary action

# Regulation



- t. “Interim measures” means measures that may be taken by RICS pursuant to Bye-Law 5.4.4 and includes temporary suspension or a requirement that a Regulated Member refrains from practising all or part of the role of a surveyor or pending the outcome of an RICS enquiry or of another regulatory or judicial body
- u. “Liability to disciplinary action” is as defined in Bye-Law 5
- v. “Member” means a Chartered Member, a Non-Chartered Member, Honorary Member or a member of the Attached Classes
- w. “Oral Hearing” means a hearing before a Panel at which the parties are present in person, not via a conference call.
- x. “Parties” means the Regulated Member whose case is being considered by the Panel (or their representative) and the RICS Presenting Officer.
- y. “RICS Presenting Officer” means the person appearing on behalf of RICS
- z. “Reasonable notice” means notice which is reasonable in all the circumstances with regard to the seriousness of the matter
- aa. “Registration Panel” as defined in Rule 26 of the Constitution of Regulatory Tribunal Rules, is the name given to in Bye-Law B1, is the name given to the RICS members and lay individuals from the Regulatory Tribunal constituted to review decisions relating to the registration of Firms or Members in accordance with the powers and procedures as set out in the Bye-laws, Rules and these Rules
- bb. “Regulations” means regulations made under Article 18 of the Supplemental Charter
- cc. “Regulated Member” means a Member or a Registered Firm, or an individual or firm subject to an RICS disciplinary procedure, Disciplinary Panel or Appeal Panel
- dd. “Regulatory Compliance Order” means an order imposed by Head of Regulation
- ee. “Regulatory Tribunal” refers to the Panel constituted by the Standards and Regulation Board, and includes the Registration, Disciplinary and Appeal Panels
- ff. “Regulatory Tribunal Steering Committee” means the Committee constituted under the Constitution of Regulatory Tribunal Rules
- gg. “Regulatory Sanction” means a Regulatory Sanction referred to in B5.4.2 of RICS Bye-laws, as set out within these Rules
- hh. “Review” means a request by RICS’ Secretary to the Profession pursuant to Bye-Law 5.5.2
- ii. “Single Member” means an individual who is part of the of the Regulatory Tribunal
- jj. “Single Member Decision” means a decision made by a Single Member of the Regulatory Tribunal, pursuant to Part VI of these rules
- kk. “Special post” means either email by which the delivery of the email can be confirmed or a method of delivery by which the delivery of the post can be confirmed, or a method of delivery specifically agreed between the Regulated Member and RICS; any special post shall be sent to the address provided by the Regulated Member to RICS
- ll. “Standards and Regulation Board” means the Board established by Governing Council to exercise the regulatory function of RICS
- mm. “Panel” means Disciplinary, Registration or Appeal Panel as constituted under the Constitution of Regulatory Tribunal Rules

# Regulation



## 2. General

In these Rules, unless the context otherwise requires:

- a. words denoting the masculine gender include the feminine
- b. words in the singular include the plural and words in the plural include the singular

## Part II Initial Stages

### 3. Receipt of information or allegation

On receipt of an allegation or information Head of Regulation may:

- a. make any further enquiries which s/he considers necessary
- b. refer the matter to the Disciplinary Panel for consideration under Rule 18 (interim measures)
- c. in cases that fall within Section 12 of part D of the Regulatory Sanctions Policy, impose upon the Regulated Member a Regulatory Compliance Order.

### 4. Decision to begin an investigation

Unless Head of Regulation determines that the allegation or information could not give rise to a case to answer s/he shall write to the Regulated Member:

- a. informing her/him of the allegation or information
- b. providing her/him with copies of any documentation received or obtained by RICS which Head of Regulation considers to be relevant
- c. inviting her/him to provide a written response within a period specified by Head of Regulation which will be no more than 28 days from the date of the letter; and
- d. advising her/him that any response may be disclosed to the maker of the allegation (if any) for comment.

### 5. Decision as to realistic prospect

Having considered any written representation provided by the Regulated Member and having made further enquiries s/he considers necessary (including seeking comments on any representations), Head of Regulation shall decide whether there is a realistic prospect of establishing that the Regulated Member is liable to disciplinary action.

### 6. Action if no realistic prospect

Where Head of Regulation has determined that there is no realistic prospect of establishing that a Regulated Member is liable for disciplinary action s/he will:

- a. in cases where representations have been sought, write to the Regulated Member to notify her/him of the decision. This letter or email may include advice about future practice or conduct
- b. advise the Regulated Member that the case may be reconsidered if RICS receives evidence which was not available to RICS at the time that Head of Regulation made the decision; and
- c. write to any maker of the allegation to notify her/him of the decision and reasons for it.

**7. Decision as to whether to take action where there is a realistic prospect**

Where Head of Regulation has determined that there is a realistic prospect of establishing that a Regulated Member is liable for disciplinary action s/he shall:

- a. decide, having regard to the seriousness of the allegation or information and the public interest, whether or not RICS will take disciplinary proceedings in the matter; and
- b. inform the Regulated Member and any maker of the allegation of the decision and her/his reasons.

**8. Disciplinary proceedings**

Where Head of Regulation has determined that RICS should take disciplinary proceedings s/he shall do one of the following:

- a. Impose a Fixed Penalty or
- b. Make a Regulatory Compliance Order or
- c. Refer the matter to a Single Member of the Disciplinary Panel, if one of the following circumstances apply:
  - (i) where a Regulated Member has failed to meet the requirements in respect of Rule 6 of the Rules of Conduct for Members for a third or subsequent time, in accordance with paragraph 23 of the Regulatory Sanctions Policy
  - (ii) where a Regulated Member may be liable to disciplinary action as a result of a criminal conviction
  - (iii) where in the opinion of the Head of Regulation, there is not a substantial dispute of the facts, the public interest does not require a hearing and the case is not likely to result in expulsion or removal of registration (other than for CPD breaches or non-engagement) for the Regulated Member;

and inform the Regulated member that the matter has been referred to a Single Member of the Regulatory Tribunal pursuant to Part VI of these Rules.

- d. In all other circumstances, inform the Regulated Member that the matter is referred directly to a Disciplinary Panel.

**Action if new evidence received**

**9.** Where Head of Regulation has determined that a Regulated Member is not liable for disciplinary action in accordance with Rule 6, and evidence is subsequently received which was not previously available and is relevant to the actions of the Regulated Member, s/he shall decide whether the evidence, if it had been available at the time the Rule 6 decision was made, would materially have affected the decision and,

- a. if s/he decides that it would, s/he shall refer the matter to a Single Member of the Regulatory Panel to decide whether the matter should be reopened or to open a new enquiry.

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- b.** if s/he decides that it would not, Head of Regulation shall take no further action and may inform the Regulated Member of the new evidence which has been received, provided Head of Regulation determines that it is in the public interest to do so.

## **10. Matter referred pursuant to Rule 9**

When a matter is referred to a Single Member of the Disciplinary Panel under Rule 9, s/he will consider the matter and decide whether it is appropriate, fair, proportionate and in the public interest to direct Head of Regulation to:

- a.** re-open the original matter and undertake further investigation, or
- b.** open a new enquiry, or
- c.** take no action and inform the Regulated member as per Rule 9b, if s/he considers that it is in the public interest to do so.

## Part III Action by Head of Regulation

### 11. Fixed Penalty notices

A Fixed Penalty shall be imposed in accordance with the supplement to the Regulatory Sanctions Policy.

### 12. Regulatory Compliance Orders made by Head of Regulation

Head of Regulation may impose a Regulatory Compliance Order upon a Regulated Member.

A Regulatory Compliance Order

- a. must contain details of the charge relating to the Regulated Member and
- b. may only be imposed with the express written agreement of the Regulated Member.

### 13. A Regulatory Compliance Order shall consist of one or more of the following:

- a. Caution
- b. Reprimand
- c. A requirement that the Regulated Member give one or more undertakings as to future conduct
- d. A requirement that the Regulated Member take or stop taking certain actions within a specified period of time
- e. Conditions on the Regulated Member's continued membership of RICS
- f. Conditions on a Firm's registration for regulation
- g. A requirement that the Regulated Member pay a fine in accordance with the provisions of the published Regulatory Sanctions Policy
- h. A requirement that the Regulated Member pay costs to RICS in accordance with published scales.

### 14. Head of Regulation may invite the Regulated Member to provide their written agreement to a Regulatory Compliance Order within a specified period.

### 15. Head of Regulation may refer the Regulated Member to a Single Member of the Disciplinary Panel where:

- a. the Regulated Member has not provided their written agreement to a Regulatory Compliance Order within the time specified by Head of Regulation
- b. any of the terms of the Regulatory Compliance Order have been breached.

In such circumstances, the procedure and powers set out in Part VI shall apply.

### 16. Publication of Regulatory Compliance Orders

Publication of Regulatory Compliance Orders shall be in accordance with the Standards and Regulation Board's publication policy.

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## 17. Reconsideration of Referral to Disciplinary Panel

Head of Regulation may rescind a decision to refer a matter to a Disciplinary Panel under Rule 7 in the following circumstances:

- a. the death of a person who is a Regulated Member, or in the case of a registered Firm, it ceases to exist
- b. on application of a Regulated Member to resign their membership of RICS, Head of Regulation is of the opinion that exceptional circumstances permit resignation
- c. in circumstances where there is no longer a realistic prospect of establishing that the Regulated Member is liable for disciplinary action
- d. in other circumstances as determined by Head of Regulation, having regard to the seriousness of the allegation or information and consideration of the public interest.

## Part IV Interim Measures Applications

18. Where Head of Regulation refers the matter to the Disciplinary Panel for a hearing to consider Interim Measures, or where the Disciplinary Panel has directed consideration of Interim Measures or a review of Interim Measures, the Head of Regulatory Tribunals shall serve reasonable notice of the hearing by special post on the Regulated Member.
19. Applications for Interim Measures shall be heard by a Disciplinary Panel, and the procedures at Part V shall apply, unless otherwise stated in Part IV, in which case Part IV will apply.
20. When serving notice of the Interim Measures hearing, the Head of Regulatory Tribunals shall, by
  - a. The allegation or information which is relevant to the application and
  - b. Any relevant evidence which RICS intends to rely upon in support of the application
21. Interim Measures applications shall be heard or dealt with by way of Conference Call, unless
  - a. either party, in advance of the hearing, has made a written application for the hearing to take place by way of an oral hearing and such application has been granted by the Chair of Disciplinary Panel allocated to consider the Interim Measures application or
  - b. the Chair, of her/his own volition, determines that the application will take place by way of an oral hearing or
  - c. either party, during the hearing, makes an application for the hearing to take place by way of an oral hearing and the Disciplinary Panel determines that an oral hearing is necessary and proportionate in the circumstances of the case.
22. Interim Measures applications shall be heard or dealt with in private; unless
  - a. either party, in advance of the hearing, has made a written application for the hearing to take in public and such application has been granted by the Chair of Disciplinary Panel allocated to consider the application or
  - b. the Chair, of her/his own volition, determines that the application will take place in whole or in part in public or
  - c. either party, during the hearing, makes an application for the hearing to be heard in public and the Disciplinary Panel determines that it is necessary for such application to be heard in whole or in part in public.
23. In determining whether an Interim Measures application will take place in whole or in part in public
  - a. prior to a hearing, the Chair of the Disciplinary Panel allocated to consider the application, shall consider whether it is in the public interest for such application to be heard in whole or in part in public.
  - b. during a hearing, the Disciplinary Panel allocated to consider the application, shall consider whether it is in the public interest for such application to be heard in whole or in part in public.
24. If an interim measures hearing is held, no person, other than the Regulated Member, shall give oral evidence unless the Disciplinary Panel considers such evidence is necessary to enable it to discharge its function.
25. Except where the Disciplinary Panel decides otherwise, the hearing will proceed as follows:

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- a. the RICS Presenting Officer may outline the allegation or information received by RICS and address the Disciplinary Panel as to why it might be necessary to impose or renew interim measures, and may adduce relevant evidence
  - b. the Regulated Member may present her/his case in relation to the imposition of interim measures and may adduce relevant evidence
  - c. the Disciplinary Panel may put questions to any witnesses and parties
  - d. where an oral hearing takes place, the parties may ask questions of any witnesses.
  - e. the Disciplinary Panel shall consider its decision in the absence of the parties and announce its decision and give reasons.
- 26.** Where the Disciplinary Panel is satisfied that:
- a. it is necessary for the protection of the public and/or
  - b. it is otherwise in the public interest and/or
  - c. it is in the interests of the Regulated Member
- the Panel may impose either of the following interim measures:
- (i) suspend the Regulated Member's registration with RICS, with immediate effect, for a period not exceeding eighteen months;
  - (ii) impose conditions upon the Regulated Member with immediate effect, for a period not exceeding eighteen months.
- 27.** Where the Disciplinary Panel has imposed an Interim Measure in accordance with Rule 26 then before the expiry of the interim measure the matter shall be referred to a Disciplinary Panel for review, for hearing prior to the expiry of the interim measure.
- 28.** In circumstances where a Regulated Member requests a review following the imposition, variation or extension of an Interim Measure, the Disciplinary Panel must, as soon as practicable, undertake a review of an Interim Measure imposed under Rule 26, subject to the proviso that a Regulated Member may only request a review six months after the imposition, variation or extension of an Interim Measure.
- 29.** Where there has been a material change of circumstances or new evidence has become available or on the application of the Regulated Member, or of her/his own volition, Head of Regulation may refer a case to a Disciplinary Panel for review of an Interim Measure.
- 30.** When reviewing an Interim Measure made under Rule 26, the Disciplinary Panel may, if satisfied that it is necessary to protect the public and / or is in the public interest and / or is in the interests of the Regulated Member, add to, revoke, reduce, vary or extend the order for a further period not exceeding the overall maximum of eighteen months,
- 31.** A Disciplinary Panel or Appeal Panel shall have the power to amend or revoke Interim Measures.
- 32.** The RICS Presenting Officer may apply in writing to the Presiding Chair of the Regulatory Tribunal, to extend the maximum period of eighteen months for any Interim Measure imposed. Any written application to extend the maximum period of eighteen months shall be served upon the Head of Regulatory Tribunals by the RICS Presenting Officer, prior to the expiry of the duration of the Interim Measure/s.

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- 33.** The Head of Regulatory Tribunals shall send such application to the Regulated Member by special post with reasonable notice.
- 34.** The Presiding Chair of the Regulatory Tribunal shall have the power to extend the maximum period of eighteen months for a further maximum of six months in respect of any Interim Measure imposed, provided s/he is satisfied that extending the period of the Interim Measure:

  - a.** is necessary for the protection of the public; and/or
  - b.** is otherwise in the public interest and/or
  - c.** is in the interests of the Regulated Member.
- 35.** In the circumstances where the Presiding Chair of the Regulatory Tribunal extends the period for the imposition of an Interim Measure, a Disciplinary Panel must, prior to the expiry of the extension granted by the Presiding Chair of the Regulatory Tribunal, undertake a review of the Interim Measure imposed.
- 36.** Following the expiry of the six month period imposed by the Presiding Chair of the Regulatory Tribunal, the RICS Presenting Officer may apply for the continuation or variation of an existing Interim Measure or imposition of a new Interim Measure, but must do so before a Disciplinary Panel constituted from members of the Regulatory Tribunal who have not adjudicated on the case elsewhere in any other capacity, in accordance with Rule 6 of the Constitution of Regulatory Tribunal Rules.
- 37.** Head of Regulation shall revoke an Interim Measure imposed by a Disciplinary Panel in circumstances where s/he concludes an investigation and does not refer the matter to either a Single Member of the Regulatory Tribunal or Disciplinary Panel.

## Part V General Procedures for Registration, Disciplinary and Appeal Panels

38. Proceedings before a Panel of the Regulatory Tribunal shall be conducted in accordance with the law of England and Wales.
39. If there is a referral to a Panel of the Regulatory Tribunal in relation to a Regulated Member who either lives or practises his or her profession or a firm which operates outside England and Wales, the Presiding Chair or Deputy Chair of the Regulatory Tribunal may, on application by the Head of Regulatory Tribunals, adapt these Rules, with the exception of Rule 38, so far as is necessary to ensure that the case is heard and conducted fairly.
40. Provided a procedure is not prohibited by these rules or by statute, a Panel of the Regulatory Tribunal may establish its own procedure.
41. The Presiding Chair of the Regulatory Tribunal may vary a Practice Direction from time to time as s/he deems necessary.

### Directions

42. The Presiding Chair of the Regulatory Tribunal may impose standard practice directions from time to time, which will be followed by Panels of the Regulatory Tribunal and the parties.
43. Either party may apply in writing to the Head of Regulatory Tribunals for case management directions.
44. Any application for case management directions shall be made at least 21 days before the hearing date and shall specify the directions sought. The Chair of the Panel allocated to hear a case will retain discretion as to whether to consider any application sought less than 21 days prior to the hearing date.
45. The other party shall respond in writing to the application within seven days of receipt of the application.
46. A Chair of the Regulatory Tribunal shall consider the application either:
  - a. by considering the application on the papers and issuing written directions; or
  - b. by convening a directions hearing, either before a Single Member of the Regulatory Tribunal or relevant Panel, which may take place either orally or by way of conference call, in which both parties are given the opportunity to make oral representations and following which s/he shall make directions regarding case management.

### Modification of the Standard Directions

47. A party wishing to vary any of the timeframes set out within the Rules, or seeking to vary any of the Standard Directions set out within a Practice Direction, or to seek additional directions, must apply in writing to the Head of Regulatory Tribunals.
48. Any such application shall:
  - a. be made without delay and, in any event, no later than 21 days before the hearing date;
  - b. specify the variation(s) or direction(s) sought, and provide reasons as to why such variation(s) or direction(s) are required; and
  - c. set out the reasons for the party's inability to comply with any direction or time period as specified by the rules, for which variation is sought.

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49. Within three days of receiving the application, the Head of Regulatory Tribunals will forward a copy of the application to the other party, and request a response.
50. The other party shall respond in writing to the application within seven days of receipt of the application.
51. A member of the Regulatory Tribunal shall consider the application and the procedure as set out in Part V shall apply.
52. A Chair of a Panel may modify the timeframes provided for within these rules, of her/his own volition, provided s/he determines that it is in the interests of justice to do so. In such circumstances, the Chair of the Panel will provide written reasons for her/his decision; such reasons to be sent to both parties by the Head of Regulatory Tribunals.

## Notices

53. When a hearing is required to consider a matter under the provisions of these Rules, the Head of Regulatory Tribunals shall fix a date, place and time for the hearing and, in correspondence sent by special post, shall:
  - a. set out the charge, or the decision subject to appeal or review, or the allegation or information received which gave rise to an application for interim measures under Rule 26, or confirm that Rules pursuant to Part XI (Single Member case) or Part VIII (Registration Panel) apply
  - b. give the Regulated Member notice of the hearing which shall be:
    - (i) not less than 56 days from the date of an oral hearing or
    - (ii) not less than 28 days from the date of case to be heard on the papers
  - c. inform her/him of the date, time and place of the hearing
  - d. provide her/him with a copy of these Rules or the relevant rules which apply to the matter
  - e. in cases referred to a Single Member of the Regulatory Tribunal pursuant to Rule 8c or Registration Panel pursuant to Part VIII require her/him to indicate within seven days of service of the notice, whether s/he wishes to request an oral hearing.

## Service of Evidence

54.
  - a. At least 56 days before an oral hearing or at least 28 days before a case to be heard on the papers, the RICS Presenting Officer shall send to the Regulated Member:
    - (i) The documents upon which s/he intends to rely when presenting the case, including any witness statements
    - (ii) A listing questionnaire relating to the hearing, including in Disciplinary Panel cases a requirement for the Regulated Member to indicate admission or denial of the charge
  - b. In the case of an oral hearing, within 28 days of service of papers by the RICS Presenting Officer, the Regulated Member shall send to the RICS Presenting Officer:
    - (i) The completed listing questionnaire
    - (ii) The documents upon which s/he intends to rely when presenting her/his case, including any witness statements.

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- c. Where a case is to be heard on the papers, within 14 days of service of papers by the RICS Presenting Officer, the Regulated Member shall send to the RICS Presenting Officer:
  - (i) The completed listing questionnaire
  - (ii) The documents upon which s/he intends to rely when presenting her/his case, including any witness statements

## Public or Private hearings

- 55. Disciplinary and Appeal Panels shall be in public, except where otherwise stated in these rules, or where the Disciplinary or Appeal Panel has determined that a case will be heard in whole or in part in private.
- 56. A Regulated Member or Head of Regulation may apply for a Disciplinary or Appeal hearing to be held in whole or in part in private.
- 57. Applications by either a Regulated Member or Head of Regulation for a matter to be heard in private, shall be made:
  - a. in writing and
  - b. a minimum of 14 days prior to a matter being heard and
  - c. served on the other party to the proceedings and the Head of Regulatory Tribunals.
- 58. A Panel may only grant a request pursuant to Rule 56 where it has considered representations from both parties and considers that exceptional circumstances apply which justify that decision.
- 59. A Chair of a Panel dealing with a Disciplinary or Appeal case may, of her/his own volition, determine that the matter shall be heard in private, in whole or in part, provided s/he is satisfied that there are exceptional circumstances which justify that decision.
- 60. Registration Panels shall sit in private, with the exception of cases under Rule 130 or where the Registration Panel has determined that a case will be heard in whole or in part in public.
- 61. In the case of an application to a Registration Panel or Head of Regulation pursuant to Rule 130, the Applicant or Head of Regulation may apply for a hearing to be held in whole or in part in private.
- 62. Applications by an Applicant to a Registration Panel or Head of Regulation for a matter to be heard in private shall be made:
  - a. in writing and
  - b. a minimum of 14 days prior to a matter being heard and
  - c. served on the other party to the proceedings and the Head of Regulatory Tribunals.
- 63. A Panel may only grant a request pursuant to Rule 61 where it has considered written representations from both parties and considers that exceptional circumstances apply which justify that decision.
- 64. Either party may request that a Registration Panel dealing with a case hold the hearing in public. The Registration Panel may grant such a request unless it considers that the interests of justice justify the hearing being in private.
- 65. Applications by a Regulated Member, or Head of Regulation, for a matter to be heard in public, shall be made:

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- a. in writing and
  - b. a minimum of 14 days prior to a matter being heard and
  - c. served on the other party to the proceedings and the Head of Regulatory Tribunals.
- 66.** In circumstances where a Panel or Chair of a Panel dealing with a case determines that a case shall be heard in whole or in part in private or public, pursuant to Rules 56, 59, 61 or 64, the Chair will provide written reasons for her/his decision, such reasons to be sent to both parties by the Head of Regulatory Tribunals.

## Oral Hearings

- 67.** Hearings of the Registration, Disciplinary and Appeal Panels will by default be oral hearings except
- a. where the matter has been referred by the Head of Regulation under Rule 8 (c) or Rule 130, in which circumstances the case will be considered on the papers or
  - b. applications for interim measures dealt with by way of conference call pursuant to Rule 21 or
  - c. where the Chair of the relevant Panel, having received representations from both parties, determines that it is appropriate for the case to be considered on the papers.

## Cases Considered on the Papers

- 68.** The Single Member or Panel shall consider a case on the papers in private, but decisions shall be published in accordance with the Publication Policy.

## Conference Calls

- 69.** Either party may apply to a Registration, Disciplinary or Appeal Panel, for a case to be heard in whole or in part by Conference Call.
- 70.** Hearings dealt with by way of Conference Call are by default public hearings.
- 71.** Applications by a Regulated Member, or Head of Regulation for a matter to be heard by way of Conference Call, shall be made:
- a. in writing and
  - b. a minimum of 14 days prior to a matter being heard and
  - c. served on the other party to the proceedings and the Head of Regulatory Tribunals.
- 72.** The Chair of a Registration, Disciplinary or Appeal Panel may, of her/his own volition, determine that a case may be held in whole or in part by Conference Call,
- 73.** In determining whether a case may be dealt with by way of Conference Call pursuant to Rule 71 or 72, both parties must have the opportunity of making representations to the Chair of the Panel and s/he must be satisfied that it is appropriate, fair, proportionate and in the public interest for the matter to be heard by Conference Call.
- 74.** Hearings taking place in the absence of the parties may be in the form of a Conference Call.
- 75.** In circumstances where a Chair of a Panel dealing with a case determines that a case shall be dealt with by way of Conference Call pursuant to Rule 71 or 72, the Chair will provide written reasons for her/his decision, such reasons to be sent to both parties by the Head of Regulatory Tribunals.

## Representation

76. Where there is to be an Oral Hearing or hearing by way of Conference Call, the Regulated Member has the right to appear in person before a Panel and may, if s/he so wishes, be represented by a lawyer, a representative from any professional organisation of which s/he is a member or, at the discretion of the Panel, any other individual of her/his choice. A representative may not give evidence at the hearing, other than with the permission of the Panel.

## Legal Adviser

77. Disciplinary, Registration and Appeal Panels may be advised by an independent, suitably qualified Legal Adviser who is not an employee of RICS.
78. The Legal Adviser shall be appointed by the Head of Regulatory Tribunals.
79. The Legal Adviser may
- a. advise a Panel on any question of law
  - b. advise a Panel on any other matter arising in connection with these Rules including any relevant associated guidance issued by RICS
  - c. remind a Panel of evidence
  - d. ask questions of witnesses and parties to clarify the evidence or relevant issues
  - e. assist the Panel with the drafting of any written decision and the structuring of the Panel's reasons.
80. When a Legal Adviser gives advice to a Panel, pursuant to Rule 79 (a) and (b) above, s/he shall do so in the presence of the parties (if present) or, if the advice is tendered after the Panel has retired for any reason, the parties shall be informed as to what advice has been given prior to the Panel reaching any decision.

## Proceeding in Absence of Regulated Member

81. Where the Regulated Member or Applicant whose case is being considered by a Panel is not present and is not represented, a Panel proceed in the absence of the Regulated Member or Applicant provided it is satisfied that relevant notification as required by these Rules has been given and the Panel is satisfied that it is appropriate to do so, having considered the public interest and the rights of the parties.

## Postponement

82. Either party may apply to the Chair of the Panel appointed by the Head of Regulatory Tribunals to deal with a case, application or matter, for a postponement, at any stage prior to the day of the hearing. The Chair of the Panel may, having considered representations by both parties if available, grant a postponement where s/he is satisfied that it is in the interests of justice to do so.

## Adjournments

83. Either party may apply to the Panel for an adjournment at any point prior to the conclusion of the proceedings.
84. The Panel may, having considered representations by both parties, grant an adjournment where it considers it necessary and in the interests of justice to do so. The Chair of the Panel or Head of Regulatory Tribunals shall give the parties reasonable notice of the date of the resumed hearing.

# Regulation



85. If for any reason any member of the Panel is, during the course of the hearing, unable to continue to attend, or to attend the adjourned hearing, the case may:
- a. continue to be heard by the remaining members at their discretion; but only with the consent of the Regulated Member, Applicant or their legal representative, or
  - b. be re-heard by a new Panel constituted in accordance with the Constitution of the Regulatory Tribunal Rules, or
  - c. continue to be heard by the remaining members and a new member appointed by Head of Regulatory Tribunals; but only with the consent of the Regulated Member, Applicant or their legal representative.
86. A Panel may determine to adjourn a case of its own motion, provided it is satisfied that it is in the interests of justice to do so in all the circumstances of the case.

## **Applications to anonymise Third Parties**

87. Either party may apply to the Chair of a Panel dealing with the case for a direction to anonymise the names of any third parties connected with a case.
88. Any application to anonymise third parties shall ordinarily be made at least 21 days before the hearing date and shall specify the names of those third parties it seeks to anonymise.
89. The other party shall respond in writing to the application within seven days of receipt of the application.
90. A Chair of a Panel dealing with a case shall consider such application either:
- a. by considering such application on the papers and issuing written directions; or
  - b. by convening a directions hearing which may take place either by way of Conference Call or in person at which both parties are given the opportunity to make oral representations and following which s/he shall make directions; or
  - c. by convening a directions hearing before a Panel which may take place by way of Conference Call or in person at which both parties are given an opportunity to make oral representations, following which the Panel shall make directions.
91. An application to anonymise third parties may be granted by a Chair of a Panel or Panel, provided s/he/it is satisfied that it is in the interests of justice to grant the application in all the circumstances of the case.

## **Costs**

92. A Panel may make such order for costs against the Regulated Member, Applicant or RICS as it considers fair and reasonable, subject to the requirement that an estimate of costs incurred by a party shall ordinarily be served on the other parties at least 24 hours before the hearing.

## **Notification of Regulatory Tribunal Decision**

93. All Regulatory Tribunal decisions under these Rules shall be notified by the Head of Regulatory Tribunals to the Regulated Member or Applicant where relevant, and RICS by special post within 14 days of the conclusion of the hearing.

## **Publication and records**

94. Publication of all decisions under these Rules shall be in accordance with the Regulatory Board's publication policy.

# Regulation



95. All Regulatory Tribunal decisions under these Rules shall be recorded on the Regulated Member's or Applicant's record in accordance with the provisions of *Supplement 4 to the Sanctions Policy, Disciplinary History*.

## Slip Rule

96. Either party or any member of the Regulatory Tribunal may make an application to the Panel having dealt with a case to correct an error or omission in a decision or order.
97. An application pursuant to Rule 96 may be made at any time.
98. A Panel which dealt with a case may correct an error or omission in a decision or order provided both parties have had the opportunity to make written representations and the Panel is satisfied that it is in the interests of justice to rectify the error or omission in all the circumstances of the case.

## Part VI Regulatory Action by Single Members of the Regulatory Panel

### Circumstances of referral by Head of Regulation to Single Member

99. The Rules in Part VI apply where the Head of Regulation refers a case to a Single Member of the Regulatory Tribunal for consideration pursuant to Rule 8(c).

### Procedure following referral

100. On referral, Head of Regulation will provide to the Head of Regulatory Tribunals, case papers which will consist of the following:
- a. Investigation Report
  - b. Any material written representation from the complainant and/or Regulated Member; subject to any redactions agreed by the parties
  - c. Head of Regulation's recommendation
  - d. Regulated Member's disciplinary history
101. On receipt of the case papers from Head of Regulation, the Head of Regulatory Tribunals will
- a. allocate the case to a Single Member of the Regulatory Tribunal for consideration and a decision on the papers and
  - b. inform the Regulated Member that the matter has been allocated to a Single Member of the Regulatory Tribunal for consideration and decision.
102. Rule 53 (notice provision) does not apply to matters dealt with by Single Members of the Regulatory Tribunal.
103. Any case referred to a Single Member of the Regulatory Tribunal will be considered and dealt with by the Single Member within 14 days of receipt of the case.
104. Cases referred to Single Members of the Regulatory Tribunal will be dealt with in private.
105. A Single Member of the Regulatory Tribunal will consider the papers and decide:
- a. if the facts as alleged are proved, and if so
  - b. decide if the Regulated Member is liable to disciplinary action; and if so
  - c. consider if sanction is appropriate and proportionate and if so,
  - d. impose sanction.
106. Any reference to a Regulated Member's disciplinary history indicated in Rule 100(d) shall only be submitted to the Single Member dealing with the case after s/he has decided that
- a. the facts as alleged are proved and
  - b. the Regulated Member is liable to disciplinary action and
  - c. it is appropriate and proportionate to impose a sanction
107. If the Single Member is so satisfied, the Single Member may impose one or more of the following Regulatory Sanctions:
- a. Caution



## **Taking effect of orders**

- 114.** Following the expiry of 14 days from service of the Single Member's decision upon the Regulated Member, the Regulatory Sanction will be deemed to be accepted by the Regulated Member and the Regulatory Sanction imposed will take effect forthwith, unless notification has been received under Rule 116.
- 115.** Within 14 days of receipt of the Single Member decision, the Regulated Member or RICS must notify the Head of Regulatory Tribunals in writing, if s/he considers that the findings made by the Single Member are wrong and/or considers that the Regulatory Sanction imposed by the Single Member is wrong.
- 116.** In circumstances where the Head of Regulatory Tribunals receives notification in accordance with Rule 115, or a Single Member decision or referral to Head of Regulation in accordance with Rules 109 or 110, the Head of Regulatory Tribunals will:
- a.** inform Head of Regulation of such notification or decision as the case may be, and/or
  - b.** acknowledge receipt of such notification to the Regulated Member and/or
  - c.** Serve a copy of the Single Member decision upon the Regulated Member and/or
  - d.** allocate the case to a Disciplinary Panel for the case to be heard, as the case may be.
- 117.** In circumstances where a case is allocated to a Disciplinary Panel in accordance with Rule 109 or 110, Part VII of these rules will apply.
- 118.** A Disciplinary Panel shall consider the matter afresh.

## **Costs**

- 119.** A Single Member may, when dealing with a case in accordance with Part VI, make such order for costs against the Regulated Member or RICS as it considers fair and reasonable, subject to the requirement that an estimate of costs incurred by a party shall ordinarily be served on the other parties at least 24 hours before the hearing.

## **Publication of Single Member Decisions**

- 120.** In accordance with the Regulatory Sanctions Publication Policy:
- (i)** pending the expiry of 14 days following service of the record of decision upon the parties, the Regulated Member's name, charge/s and Single Member's decision as to whether the charge/s were found proved or not proved, and Regulatory Sanction if applicable will be published in accordance with the Regulatory Sanctions Policy and
  - (ii)** The Single Member's Record of Decision will be published following the expiry of 14 days.

## Part VII Disciplinary Panel Procedures

### Evidence

- 121.** At any hearing before a Disciplinary Panel, regardless of where a case is heard:
- a.** All questions of admissibility of evidence and law before the Panel are to be decided by the Panel
  - b.** Subject only to the requirements of relevance and fairness, the Panel may receive any documentary evidence; and where a hearing is held, any oral evidence, unless otherwise stated in these rules
  - c.** Evidence will not be taken on oath
  - d.** where the Regulated Member has been convicted of a criminal offence, a certified copy of the memorandum of conviction or equivalent formal admission shall be admissible as conclusive evidence of that conviction and of the Regulated Member's commission of that offence
  - e.** the fact that a Regulated Member has had a disqualification order made against her/him or has given a disqualification undertaking which has been accepted by the Secretary of State under the Company Directors Disqualification Act 1986 shall be admissible as conclusive evidence of the commission by her/him of the acts or defaults admitted or found in those proceedings
  - f.** a finding of a court, Panel, Tribunal or regulatory body in the United Kingdom or elsewhere shall be admissible as prima facie evidence of the facts found
  - g.** nothing in paragraphs d to f shall affect the evidential status of any other report or document not referred to in those paragraphs
  - h.** the parties shall be permitted to call witnesses to give oral evidence and the Disciplinary Panel may request the attendance of witnesses or the provision of documents
  - i.** any witness called shall first be examined by the party calling her/him, may be cross-examined by the other parties or their representatives, may be re-examined and may be asked questions by the Panel and Legal Adviser.
  - j.** Where a witness is called to give oral evidence under paragraph (i), her/his witness statement shall stand as her/his evidence in chief unless the Panel orders otherwise.
  - j.** a Regulated Member may make submissions without giving evidence.

### Panel's power to amend the charge

- 122.** Where it appears to the Panel at any time that the charge sent to the Regulated Member in accordance with Rule 53 should be amended and the amendment can be made without injustice, after hearing the parties and consulting with the Legal Adviser, the Panel may amend the charge.

### Order of proceedings - Oral Cases and Conference Calls

- 123.** The hearing will proceed as follows:
- a.** the Regulatory Tribunal Executive shall read out the charge
  - b.** the Chair shall ask the Regulated Member or his representative (if present) if any of the matters are admitted

# Regulation



- d. the Panel may deliberate in camera, in the absence of the parties and of their representatives, at any time.
- e. the Chair shall
  - (i) announce the decision of the Disciplinary Panel as to whether the facts alleged are found proved and if so
  - (ii) announce whether the Regulated Member is liable to disciplinary action
- f. if the Regulated Member is found liable to disciplinary action, the Chair shall invite the parties present to address the Disciplinary Panel as to any mitigation, Regulatory Sanction, costs and publication, and to adduce evidence as to any previous disciplinary record held by RICS
- g. the Disciplinary Panel shall then retire to make its decision, in the absence of the parties, in relation to any Regulatory Sanction to be imposed, costs and publication and before retiring, the Disciplinary Panel may seek legal advice from the Legal Adviser
- h. the Chair shall then announce the Disciplinary Panel's decision as to Sanction and its decision as to costs and publication before those parties who are present.
- i. The Panel may either
  - (i) provide written reasons as to its findings on the facts and if proved, liability to disciplinary action in the hearing or
  - (ii) may indicate that the Disciplinary Panel's findings as to the facts together with the Panel's reasons will be served in writing upon the parties by a given date.

## **124. Burden of Proof and Standard of Proof**

The burden of proof shall be on RICS and where the Disciplinary Panel must determine issues of fact, the standard of proof shall be on the balance of probabilities.

## **125. Regulatory Sanctions**

In accordance with Bye-Laws B5.4.2, B5.4.3, the Regulatory Sanctions available to a Disciplinary Panel are:

- a. to caution the Regulated Member against repeating the conduct or action which has resulted in the liability to disciplinary action
- b. to reprimand the Regulated Member
- c. to require the Regulated Member to give one or more undertakings as to future conduct
- d. to fine the Regulated Member in accordance with the guidance provided in the Supplement to the Regulatory Sanctions Policy – Fines, Costs and Administration Fees approved by the Standards and Regulation Board
- e. to impose conditions on the Regulated Member's continued membership/registration with RICS
- f. to expel Regulated Members from RICS or remove a Firm's registration

# Regulation



- g. to make an order requiring a Regulated Member to take a specified action, and stating the Regulatory Sanction to be imposed if the Regulated Member fails to comply with that action.

## **Taking effect of orders**

- 126. All decisions of the Disciplinary Panel, excluding Interim Measures decisions, shall take effect on expiry of any relevant appeal period, unless the Panel directs otherwise.

## **Publication Pending Appeal from a Disciplinary Panel**

- 127. In accordance with the Regulatory Sanctions Publication Policy, pending the expiry of 28 days following service of the record of decision upon the parties, the Regulated Member's name, charge/s and respective findings of the Disciplinary Panel as to whether the charge/s were found proved or not proved, and Regulatory Sanction if applicable will be published in accordance with the Regulatory Sanctions Policy and
- 128. The Panel's Record of Decision will be published following the expiry of any appeal period.

## Part VIII Registration Panel Procedures

### 129. Types of cases to be considered by the Registration Panel

The Registration Panel shall consider any application made by a Regulated Member, former Regulated Member, individual or firm to the Registration Panel for a review of a decision relating to:

- a. readmission to membership (excluding disciplinary cases)
- b. registration of a Firm
- c. membership of a particular class
- d. transfer between classes of membership
- e. recognition of any particular specialist qualification or specialism awarded recognised by RICS as part of the exercise of their functions
- f. any decision of Head of Regulation made under the Rules for the Registration of Schemes
- g. any decision of Head of Regulation made under the Designated Professional Body Rules.

### 130. The Registration Panel shall consider all applications made:

- a. by an Applicant seeking readmission after disciplinary expulsion or removal
- b. by an individual seeking for admission where the application has been referred to the Panel under Regulation 2.3.1(a)(iv).

## Evidence

### 131. At any hearing before a Registration Panel, regardless of where the hearing takes place:

- a. all questions of admissibility of evidence and law before the Panel are to be decided by the Panel
- b. subject only to the requirements of relevance and fairness, the Panel may receive any documentary evidence; and where a hearing is held, any oral evidence, unless otherwise stated in these rules
- c. evidence will not be taken on oath
- d. where the Regulated Member has been convicted of a criminal offence, a certified copy of the memorandum of conviction or equivalent formal admission shall be admissible as conclusive evidence of that conviction and of the Regulated Member's commission of that offence
- e. the fact that a Regulated Member has had a disqualification order made against her/him or has given a disqualification undertaking which has been accepted by the Secretary of State under the Company Directors Disqualification Act 1986 shall be admissible as conclusive evidence of the commission by her/him of the acts or defaults admitted or found in those proceedings
- f. a finding of a court, Panel or regulatory body in the United Kingdom or elsewhere shall be admissible as prima facie evidence of the facts found
- g. nothing in paragraphs d to f shall affect the evidential status of any other report or document not referred to in those paragraphs

# Regulation



- 132.** Where the Registration Panel is reviewing a decision made by RICS pursuant to Rule 129:
- a. the hearing will take place in private and on the papers
  - b. the Registration Panel shall be provided with a copy of the decision which is subject to review
  - c. the Registration Panel shall have the power to impose its own decision in relation to the matter, subject to the requirement that any such decision must have been a decision available to the person or persons who made the original decision.
- 133.** When the Registration Panel is considering an application pursuant to Rule 130:
- a. the hearing will be an oral hearing, unless following application by either party and having considered representations by both parties, the Chair of the Registration Panel considering the case, determines that the matter in whole or in part shall be heard on the papers
  - b. the hearing will take place in public, unless following application by either party and having considered representations by both parties, the Chair of the Registration Panel considering the case, determines that the matter in whole or in part shall be heard in private
  - c. the Applicant will have the right to attend the hearing and be represented
  - d. RICS may respond to the application and may appoint an RICS Presenting Officer to appear on behalf of RICS at the Registration Panel hearing.
  - e. the Panel will consider the application in accordance with the “Rules setting out the procedure for re-admission to membership following disciplinary expulsion”.

## Procedure at Oral Hearing

- 134.** At an oral hearing before the Registration Panel, the hearing will proceed as follows:
- a. the Panel may adopt any method of procedure which it may consider fair and which gives the parties an opportunity to present their case
  - b. the Panel may deliberate in camera, in the absence of the parties and of their representatives, at any time
  - c. the Chair shall announce the decision of the Registration Panel and may either:
    - (i) announce the Panel’s reasons, before those parties who are present or
    - (ii) indicate that the Panel’s reasons will be served in writing upon the parties
  - d. Where applicable, the Chair shall invite the parties present to address the Panel as to any costs and publication
  - e. the Chair shall then announce the Panel’s decision as to costs and publication before those parties who are present.

## Burden on the Applicant

- 135.** The burden shall be on the Applicant to satisfy the Registration Panel that the order being sought should be made.

# Regulation



## **Taking effect of orders**

- 136.** All decisions of the Registration Panel shall take immediate effect, unless the Panel direct otherwise or, if fees are payable, upon payment of the appropriate fees.

## **Publication of Registration Panel decisions**

- 137.** Publication of Registration Panel Decisions shall be in accordance with the Standards and Regulation Board's publication policy.

# Regulation



## Part IX Fixed Penalty Reviews

### Fixed Penalty reviews

138. A Regulated Member may request a review of a Fixed Penalty by a Fixed Penalty Reviewer.
139. Any request for review shall be lodged with RICS within 28 days of service of notification of the Fixed Penalty and be on the prescribed form, together with the appropriate administration fee, as set out in the *Supplement 2 to the Regulatory Sanctions Policy – Fines, Costs and Administration Fees*.
140. A request for review of a Fixed Penalty shall be referred to the Fixed Penalty Reviewer who shall, having reviewed the papers, either confirm or revoke the Fixed Penalty, or propose modifications and may make an order as to the costs of the review.
141. A Fixed Penalty Reviewer may request further information from either RICS or the Regulated Member, in order to assist her/his decision making in any case.
142. If a Fixed Penalty Reviewer revokes a Fixed Penalty, the administration fee will be repaid to the Regulated Member.

## Part X Appeals

### Interim Measures Appeals

143. A Regulated Member may appeal to the Appeal Panel against a decision of a Disciplinary Panel in respect of an order pursuant Rule 26.
144. Any application to appeal such an order must be served by the Regulated Member upon the Head of Regulatory Panels, within seven days of service of the decision to be appealed.
145. Any application to Appeal must stipulate the grounds relied on in support of the Appeal.
146. An Appellant in respect of an order pursuant to Rule 26, may withdraw his/her notice of Appeal at any stage.
147. An Appeal Panel may make an award for costs against either party where an Appeal is withdrawn, or in any other circumstances.
148. The Head of Regulatory Tribunals shall fix a date, place and time for the hearing and, in correspondence sent by special post, shall give the Regulated Member reasonable notice of the hearing which shall not be less than three days from the date of the letter and inform him/her of the date, time and place of the hearing.
149. An Appeal Panel shall review the decision of the Disciplinary Panel pursuant to Rule 26, having regard to:
  - a. the evidence presented to the Disciplinary Panel;
  - b. any representations made to the Disciplinary Panel if available in written form, including a transcript of any hearing if one is available;
  - c. the Appellant's grounds of appeal; and
  - d. any response from the other party, regarding the interim measures imposed by the Disciplinary Panel.
150. The parties may not provide new evidence to the Appeal Panel without leave of the Appeal Panel. An application to adduce new evidence must be submitted by the party applying for an appeal with his application for appeal, and by the responding party as soon as possible but no later than 24 hours before the hearing.
151. The burden shall be on the Appellant to satisfy the Appeal Panel that the order being appealed was wrong.
152. An Appeal Panel may remove, vary or extend an interim measure imposed by the Disciplinary Panel, save that the maximum term of the interim measure may not exceed eighteen months.

### Appeals from the Disciplinary Panel and Registration Panel

152. A Regulated Member may appeal to the Appeal Panel against:
  - a. a decision of the Registration Panel made in respect of an application under Rule 130;
  - b. a finding made or Regulatory Sanction imposed by a Disciplinary Panel.
153. An application to Appeal must be served upon the Head of Regulatory Tribunals within 28 days of service of notification of the decision to be appealed.
154. An Appeal shall only be accepted by RICS if it is:

- a. in writing in the form prescribed by RICS from time to time and
- b. specifies the grounds relied on in support of the Appeal.

## Appeals Out of Time

155. Applications to Appeal shall not be accepted following the expiry of 28 days after service of a Registration Panel or Disciplinary Panel decision upon the Regulated Member, unless the Presiding Chair of the Regulatory Tribunal grants permission to the Appellant to appeal out of time.
156. The Appellant may apply in writing, to the Presiding Chair of the Regulatory Tribunal for permission to appeal out of time.
157. Any application to appeal out of time must be sent to the Head of Regulatory Tribunals who will:
  - a. Send the application to appeal out of time to the RICS Presenting Officer requesting a response within seven days of service of such application and
  - b. Following the expiry of seven days and/or receipt of the RICS Presenting Officer's response, send the Appellant's application and the response to the Presiding Chair of the Regulatory Tribunal for consideration and determination.
158. The Head of Regulatory Panels will inform both parties of the outcome of the application.
159. If permission to Appeal out of time is granted, the Appellant shall serve grounds of appeal upon the RICS Presenting Officer within 14 days of service of the decision of the Presiding Chair of the Regulatory Tribunal upon the Appellant, and the procedure set out at Rules 160 to 185 will apply.

## Appeals Generally

160. The Head of Regulatory Tribunals shall fix a date, place and time for the hearing and, in correspondence sent by special post, shall give the Regulated Member notice of the hearing which shall not be less than 28 days from the date of the letter and inform him of the date, time and place of the hearing.
161. RICS must serve a copy of all the documentation that was before the Disciplinary Panel or Registration Panel, together with any transcript of the Disciplinary Panel or Registration Panel hearing, upon the Head of Regulatory Tribunals and the other party, at least 28 days prior to the Appeal hearing.
162. In determining any Appeal, an Appeal Panel shall consider the decision of the Disciplinary Panel or Registration Panel having regard to:
  - a. the evidence presented to the Disciplinary Panel or Registration Panel
  - b. any representations made to the Disciplinary Panel or Registration Panel if available in written form, including any transcript of any hearing
  - c. the Appellant's grounds of appeal; and
  - d. any representations which the parties may wish to make to the Appeal Panel regarding the findings and/or Regulatory Sanction imposed by the Disciplinary Panel, or decision made by the Registration Panel.
163. The parties may not provide new evidence to the Appeal Panel without leave of the Appeal Panel.

# Regulation



164. Any application to adduce new evidence must be served upon the other party at least 28 days prior to the Appeal hearing.
165. The burden shall be on the Appellant to satisfy the Appeal Panel that the finding made or Regulatory Sanction imposed by the Disciplinary Panel, or decision made by the Registration Panel, was wrong.

## **Applications for Review by RICS's Secretary to the Profession**

166. In accordance with Bye-law B5.5.2, RICS' Secretary to the Profession may apply to the Appeal Panel for a review of a finding or Regulatory Sanction imposed by a Disciplinary Panel.
167. The Secretary to the Profession, must serve the application for review upon the Head of Regulatory Tribunals within 28 days of receipt of receiving the request.
168. The Secretary to the Profession's application for review, must:
  - a. be in writing and
  - b. contain the grounds for the application for review.
169. The RICS Presenting Officer will act on behalf of the Secretary to the Profession in the course of the review proceedings.
170. The Secretary to the Profession may withdraw her/his application for review at any stage.
171. The application for review by the Secretary to the Profession will be heard and dealt with by the Appeal Panel.
172. The Head of Regulatory Tribunals shall fix a date, place and time for the hearing and, in correspondence sent by special post, shall give the Regulated Member notice of the hearing which shall not be less than 28 days from the date of the letter and inform him of the date, time and place of the hearing.
173. RICS must serve a copy of all the documentation that was before the Disciplinary Panel, together with any transcript of the Disciplinary Panel hearing, upon the Head of Regulatory Tribunals and the other party, at least 28 days prior to the Appeal hearing.
174. In determining any review by the Secretary to the Profession, an Appeal Panel shall consider the decision of the Disciplinary Panel having regard to:
  - a. the evidence presented to the Disciplinary Panel
  - b. any representations made to the Disciplinary Panel if available in written form, including any transcript of any hearing
  - c. the Secretary to the Profession's grounds for the application for review; and
  - d. any representations which the parties may wish to make to the Appeal Panel regarding the findings and/or Regulatory Sanction imposed by the Disciplinary Panel.
175. The parties may not provide new evidence to the Appeal Panel without leave of the Appeal Panel.
176. Any application to adduce new evidence must be served upon the other party at least 21 days prior to the Appeal hearing.
177. The burden shall be on RICS to satisfy the Appeal Panel that the Regulatory Sanction imposed by the Disciplinary Panel was unduly lenient.

## Directions

**178.** Rules 42 - 52 apply to Appeal Panels.

## Order of Proceedings

- 179.** At an oral hearing before the Appeal Panel, except where the Panel decides otherwise, the hearing will proceed as follows:
- a.** the Panel shall hear and consider any preliminary legal arguments
  - b.** the Appellant shall address the Panel on their grounds of Appeal or application for review and direct the Panel to any relevant evidence including transcripts of any hearing
  - c.** the Respondent shall respond and direct the Panel to any relevant evidence including transcripts of any hearing
  - d.** the Panel may allow either party present an opportunity to make a closing address
  - e.** the Panel may then retire to make its decision, in the absence of the parties, in relation to the Appeal and in relation to costs,
  - f.** the Chair shall announce the Appeal Panel's decision on the merits of the appeal and its decision as to costs before those parties who are present.
  - g.** The Chair may either announce the reasons for the Panel's decision as to the Appeal and/or as to costs at the hearing, or may provide such reasons in writing to both parties following conclusion of the Appeal hearing. If reasons are provided in writing, such written reasons will ordinarily be provided to the parties no later than 14 days following conclusion of the Appeal hearing.
- 180.** The Appeal Panel may:
- a.** grant the Appeal only where the Panel considers that the finding made or Regulatory Sanction imposed by the Disciplinary Panel, or decision made by the Registration Panel, was wrong or
  - b.** grant the application for review pursuant to Rule 166 where the Panel considers that the Regulatory Sanction imposed by the Disciplinary Panel was unduly lenient.
- 181.** Where the Appeal Panel grants the Appeal or application for review it may either:
- a.** revoke or vary the Disciplinary Panel's finding that the Regulated Member was liable to disciplinary action and/or
  - b.** revoke or vary the Sanction imposed by the Disciplinary Panel to one of greater or lesser severity, in accordance with Rule 124 or
  - c.** revoke or vary the Registration Panel's decision and/or
  - d.** refer the matter back to a Disciplinary Panel or Registration Panel for additional consideration including, if warranted, a new hearing.

## Taking Effect of Orders

**182.** All decisions of an Appeal Panel shall take effect from the date specified by the Appeal Panel.

# Regulation



## Publication

- 183.** Publication of Appeal Panel decisions shall be in accordance with the Standards and Regulation Board's publication policy.

## Costs

- 184.** Either party may make an application for costs to the Appeal Panel.
- 185.** An Appeal Panel may make an order for costs in favour of either party, at any point following service of Application to Appeal or application for review; provided the party seeking the costs has served a costs schedule upon the other party ordinarily at least 24 hours prior to any order made by the Appeal Panel.