



TREASURY  
EXCELLENCE  
AS STANDARD

# **THE ASSOCIATION OF CORPORATE TREASURERS**

## **DISCIPLINARY RULES**

*Updated and approved by Council 7 October 2024*

## THE ASSOCIATION OF CORPORATE TREASURERS – DISCIPLINARY RULES

### 1. DEFINITIONS AND INTERPRETATION:

(a) The following definitions apply in this document:

<b>the ACT</b>	the Association of Corporate Treasurers, a body incorporated by Royal Charter
<b>Appeal Fee</b>	£500.00 (five hundred pounds)
<b>Appeal Chair</b>	the person appointed from the Disciplinary Pool by Council as chair of all Appeal Panels
<b>Appeal Panel</b>	the tribunal appointed to determine any appeal against a decision of a Disciplinary Panel in accordance with the Rules
<b>Appellant</b>	a party to a Disciplinary Panel decision (either the ACT or a Respondent) seeking to appeal that decision in accordance with these Rules
<b>ARAC</b>	the ACT's Appointments, Remuneration and Audit Committee for the time being
<b>Business Day</b>	any day except a Saturday, Sunday or a bank holiday in England and Wales
<b>Case Examiner</b>	a person appointed by Council to make determinations pursuant to these Rules
<b>Case Investigator</b>	a person appointed by Council to investigate Complaints and to produce reports for a Case Examiner
<b>Chair</b>	the chair for the time being of a Panel
<b>Chief Executive</b>	the Chief Executive for the time being of the ACT
<b>Complaint</b>	an allegation in any form made either by a third party to the ACT or by an employee of the ACT [to the Case Investigator] concerning a Member's breach of the Ethical Code
<b>Complainant</b>	the person (where that person is a third party) who has made a complaint to the ACT about a

	Member
<b>Consensual Order</b>	an agreement prepared by the Case Examiner for acceptance by the Respondent for the disposal of a Complaint as defined in Rule 8
<b>Council</b>	the Council for the time being of the ACT, being the ACT's governing body
<b>CPD Members</b>	as defined in paragraph 22(a)
<b>Director of Membership &amp; Governance</b>	the Director of Membership & Governance from time to time of the ACT
<b>Disciplinary Chair</b>	the person appointed from the Disciplinary Pool by Council as chair of all Disciplinary Panels
<b>Disciplinary Pool</b>	<p>a pool of individuals appointed by Council to have responsibility for the implementation of the Rules insofar as they relate to Disciplinary Matters and from which the Panels are drawn.</p> <p>It shall consist of Members other than members of Council and Lay Members, and not any members of ACT staff</p>
<b>Disciplinary Matter</b>	as defined in Rule 3
<b>Disciplinary Panel</b>	the tribunal appointed to determine the complaint in accordance with the Rules.
<b>Ethical Code</b>	the ACT's Ethical Code, which precedes these Rules
<b>First Offence</b>	a first disqualification from an ACT assessment, as more particularly defined in Rule 23
<b>Indicative Sanctions Guidance</b>	the guidance promulgated by the ACT to which the Case Examiner, Disciplinary and Appeals Panels shall refer when imposing a Sanction
<b>Lay Member</b>	a member of the Disciplinary Pool who is not a Member
<b>Member</b>	as defined in clause 1 of the ACT's Bye-laws and includes in each case where applicable a former Member, and the word <b>Membership</b> shall be

	<p>construed accordingly.</p> <p>For the avoidance of doubt, <b>Member</b> includes Student Member and does not include any:</p> <ul style="list-style-type: none"> <li>• eAffiliate member (not studying for an ACT qualification); and</li> <li>• Business Membership Representative.</li> </ul>
<b>Notice of Appeal</b>	a notice of appeal against the decision and/or the Sanction(s) imposed by a Disciplinary Panel to an Appeal Panel, described, and served, in accordance with Rule 16.
<b>Notice of Response</b>	a notice responding to the Notice of Appeal, described, and served, in accordance with Rule 16(d)
<b>Panel</b>	a Disciplinary Panel or an Appeal Panel as appropriate
<b>Professional Complaint Form</b>	the form promulgated by the ACT by which a Complainant is encouraged to make a Complaint
<b>Repeat Offence</b>	a disqualification from an ACT assessment that is not a First Offence, as more particularly defined in Rule 23
<b>Respondent</b>	a Member the subject of a Disciplinary Matter
<b>Rules</b>	these, the ACT's, Disciplinary Rules
<b>Sanctions</b>	the sanctions listed in Rule 9

- (b) Any phrases introduced by the words **include, including, includes, in particular** and **such as** are to be construed as illustrative and shall be read as if followed by the words **without limitation**.
- (c) Any meeting may be convened either electronically (whether by virtual means or email) or in person.
- (d) The singular includes the plural and vice versa.

## 2. INTRODUCTION

- (a) The ACT is the leading professional body for those working in treasury, risk and corporate finance. Its purpose is to represent the interests of its members and to act as the voice of corporate treasury. The ACT is committed to promoting and upholding the highest level of

professional standards in the treasury profession so as to safeguard the trust and confidence invested in the profession by all those who deal with it. To reflect this the ACT promulgates the Ethical Code to provide clear guidance to its members on their ethical responsibilities.

- (b) The ACT treats breaches of the Ethical Code as a matter of serious concern. These Rules describe and explain the process for raising complaints about alleged breaches. They apply to all Members.
- (c) In devising these Rules the ACT has sought to reflect the following principles:
  - (i) the ACT has a duty to act fairly in the context of promoting the public interest by seeking to maintain high standards in the treasury profession;
  - (ii) any decisions the ACT makes shall be reasonable and taken having regard to relevant matters and without regard to irrelevant matters;
  - (iii) any Member the subject of a Complaint has the right to be heard even though it is not necessary that the Member is in fact heard;
  - (iv) the ACT shall deal with alleged breaches of the Ethical Code in a manner that is timely, impartial and, as far as possible, confidential;
  - (v) the overriding aim of the Rules is to uphold high standards of professional conduct in accordance with the Ethical Code. If necessary, the ACT shall instigate disciplinary proceedings in order to deal with a Complaint, but it will never do so lightly.
- (d) The Director of Membership & Governance has overall responsibility for these procedures, ensuring they are implemented as intended, held under review and updated when required. In order that Council may have visibility of, and exercise some control over, the procedures in practice (but not the detail of the cases), the Director of Membership & Governance shall report at each meeting of ARAC on all current and outstanding Disciplinary Matters, on a no-names basis.
- (e) The ACT shall, throughout the disciplinary procedures, have regard to the principles of natural justice and procedural fairness and applicable articles of the European Convention on Human Rights, and any hearing pursuant to these Rules shall be conducted with due regard to the principles of natural justice and all decisions and determinations made whatsoever pursuant to these Rules shall be reached on the balance of probabilities.
- (f) For the ACT to investigate any third party Complaint, the Complainant is encouraged to complete a Professional Complaint Form including full name and contact information (address, telephone number and email address). The Complainant may retain anonymity, but this may restrict the ACT's ability to investigate the Complaint. In most cases the Case Examiner or Disciplinary Panel, as applicable, will gather independent evidence and should not need to identify the Complainant. However, if a Complainant is the main source of evidence of the alleged breach the ACT will, if relevant, seek the Complainant's consent to supply the Complainant's details to the Respondent as part of the investigation.
- (g) Once a Complaint has been received the ACT shall investigate it in accordance with the Rules. The ACT shall during its investigations endeavour to keep the Complainant informed of progress and the outcome as far as it can subject to any duties of confidentiality or other legal restrictions.

- (h) The ACT will consider the outcomes of investigations, on the same or a related matter, by other recognised organisations (such as employers, professional bodies, regulatory bodies and law enforcement authorities) of a member's actions where these actions constitute a breach of the Ethical Code. The ACT will only consider these when they have been completed and any judgment becomes final or on termination of the proceedings (if the proceedings are terminated before judgment is given). The ACT requires the Respondent to notify it as soon as judgment becomes final or the proceedings are terminated.

### **3. DISCIPLINARY MATTERS**

- (a) The ACT shall (subject to the provisions of Rule 23) investigate a person if that person is the subject of a Disciplinary Matter.
- (b) A Disciplinary Matter is one where:
  - (i) it is alleged that the person is guilty of a breach of the Ethical Code; or
  - (ii) the person has been convicted by any competent court on a criminal charge involving dishonesty, violence or indecency or is found by a competent court in any civil action to have acted fraudulently or dishonestly; or
  - (iii) the person has failed to comply with these Rules;
  - (iv) the Complaint is submitted within 36 months of the date the events complained of took place or the date the Complainant became (or should reasonably have become) aware that the events complained of took place (whichever is the later); and
  - (v) in each case, the person is a Member or was a Member at the time the alleged action complained of took place.

### **4. CASE INVESTIGATOR, CASE EXAMINER AND DISCIPLINARY POOL**

- (a) Council shall designate a person (the **Case Investigator**), who shall not be a member of Council nor of a Pool, to undertake the preliminary investigation of Complaints.
- (b) Council shall designate a person (the **Case Examiner**), who shall be any member of Council and who may, in cases of plagiarism or other similar misdemeanours in relation to an assessment, consult with the ACT's chief examiner. The Case Examiner will consider, in accordance with these Rules, the results of the Case Investigator's investigations and, in appropriate cases, decide on whether a Complaint should be dealt with summarily under the Rules or whether it should be referred to a Disciplinary Panel for hearing.
- (c) Council shall appoint a Disciplinary Pool, comprising no fewer than nine members, of whom no fewer than three shall be Lay Members.
- (d) To facilitate independence and impartiality, members of the Disciplinary Pool shall be appointed for terms of six years and may be re-appointed at the end of their term. Members may resign from the Disciplinary Pool on three months' written notice to Council or at the end of their involvement on any current Panel, whichever is the later.
- (e) Council shall appoint such other members of the Disciplinary Pool as necessary at any time to ensure that the minimum number of nine members of the Disciplinary Pool and three Lay

Members is maintained, and shall make such other arrangements in order to empower members of the Pool to form Panels as necessary.

## **5. CHAIRS AND PANELS**

- (a) Council shall appoint, from the Disciplinary Pool, a Disciplinary Chair and an Appeal Chair, who shall act as Chairs of all Disciplinary Panels and Appeal Panels as appropriate. If any Chair is unavailable in any particular case, then Council may appoint an alternative.
- (b) A person appointed to a Panel may not sit as a member of that Panel in any case where that person has participated previously in the consideration (unless sitting as a member of the Disciplinary Panel reconvened following a direction from an Appeal Panel under the Rules) or where there is a personal connection with the Respondent or Complainant or witnesses.
- (c) The quorum for a meeting of a Panel shall be three, which must include at least one lay representative (that is, a person who is not and who never has been a Member).
- (d) Meetings of Panels may be convened at any time by or on the authority of the Chair. The Chair may also appoint to the Panel as a specialist adviser a person who in the Chair's opinion has knowledge or expertise relevant to a particular Disciplinary Matter not otherwise available to the Panel. The specialist adviser is not entitled to vote.
- (e) A Disciplinary Panel shall be made up of members of the Disciplinary Pool. The Disciplinary Panel shall determine Disciplinary Matters against Respondents referred to it by a Case Examiner in accordance with these Rules.
- (f) An Appeal Panel shall be made up of members of the Disciplinary Pool. The Appeal Panel shall hear any Respondent's Appeal against a Disciplinary Panel decision in accordance with these Rules.

## **6. RECEIPT AND PRELIMINARY INVESTIGATION OF COMPLAINT**

- (a) If the ACT either receives a Complaint, or is otherwise made aware of an event, that constitutes a Disciplinary Matter then it shall refer the matter to a Case Investigator.
- (b) Upon such referral of a Disciplinary Matter, the Case Investigator shall investigate it by such means as the Case Investigator considers appropriate (including investigating the details of any applicable First Offence, pursuant to Rule 23) and shall prepare a written report summarising the conclusions of that investigation.
- (c) The Case Investigator shall notify in writing the Respondent of the Disciplinary Matter within 20 Business Days of it coming to the attention of the ACT. This notification shall include details of:
  - (i) the nature of the complaint made against the Respondent, including, where known, a short summary of the alleged facts upon which the complaint is based; and
  - (ii) the relevant provisions of these Rules and/or the Ethical Code in respect of which it is alleged the Respondent is in breach.

The Case Investigator may, in the Case Investigator's discretion, disclose the identity of the Complainant. However, the Respondent shall have no right to require disclosure of the identity of the Complainant.

- (d) Save in cases that appear to the Case Investigator to be vexatious, frivolous or otherwise an abuse of the functions of the ACT or where the 36-month time limit has expired, neither the investigation nor the report will be finalised until the Respondent has been given not less than 15 Business Days to:
  - (i) consider the allegations notified by the Case Investigator to the Respondent;
  - (ii) respond to them in writing; and
  - (iii) provide details of mitigating factors, if any.
- (e) When finalised, the Case Investigator will send the report to a Case Examiner as soon as reasonably practicable.

## **7. DETERMINATION BY CASE EXAMINER**

- (a) Having considered the report and sought such clarification from the Case Investigator or others (which may include requiring the Case Investigator to make further enquiries of third parties) as the Case Investigator sees fit, the Case Examiner shall determine whether:
  - (i) the 36-month time limit has expired;
  - (ii) even if the allegations prove to be true, the Respondent would not be guilty of a Disciplinary Matter (i.e. no *prima facie* case has been made out against the Respondent),
  - (iii) the Complaint is not substantiated by sufficient evidence;
  - (iv) the Complaint is vexatious, frivolous or otherwise an abuse of the functions of the ACT;
  - (v) pursuit of the Disciplinary Matter under the Rules would, in the Case Examiner's reasonable opinion, constitute an abuse of process;
  - (vi) it is not, in the Case Examiner's reasonable opinion, in the public interest for the Disciplinary Matter to proceed further under the Rules; and/or
  - (vii) the facts surrounding the Disciplinary Matter have been, are currently or are likely to be, before the courts or before any other professional or regulatory body or other tribunal.
- (b) If the Case Examiner determines that any of Rule 7(a) above (i)-(vi) applies, then the Disciplinary Matter shall be rejected.
- (c) If the Case Examiner determines that Rule 7(a)(vii) [*other proceedings*] applies the Case Examiner may, with full discretion, defer consideration of the Disciplinary Matter pending determination of the other proceedings.
- (d) The ACT shall notify the Complainant (if any) of the rejection or deferral of the Complaint and the reasons for the rejection or deferral in writing within 10 Business Days.
- (e) If the Case Examiner determines that none of the circumstances of 7(a) applies, the Case Examiner will determine whether the Disciplinary Matter satisfies any one or more of the



following criteria such that a Sanction may be imposed by the Case Examiner without reference to a Disciplinary Panel:

- (i) the allegations constituting the Disciplinary Matter are accepted by the Respondent;
  - (ii) there is no material evidence in dispute between the Complainant and the Respondent;
  - (iii) the parties agree to a determination by the Case Examiner;
  - (iv) all reasonable endeavours have been made to contact the Respondent and the Case Investigator and/or Case Examiner has received no response from the Respondent;
  - (v) in the Case Examiner's opinion, the response provided by the Respondent has no real prospect of successfully defending the Disciplinary Matter.
- (f) If any of the above criteria are satisfied, the Case Examiner may make a determination on the Disciplinary Matter based on the Case Investigator's report and any other documents obtained and may impose any Sanction or a combination of Sanctions the Case Examiner considers fair and reasonable taking into account any mitigation provided by the Respondent and the current Sanctions Guidance. The Case Examiner shall notify the Respondent accordingly and the Sanction will take effect from the date 15 Business Days after the date of service of this notice on the Respondent, unless the Respondent lodges a valid notification of appeal pursuant to this Rule prior to that date. Notice of the Case Examiner's determination shall also be given to Council.
- (g) If neither 7(b), 7(c) nor 7(f) applies, the Case Examiner shall formulate and refer a formal complaint to a Disciplinary Panel, together with:
- (i) a summary of the facts upon which the Disciplinary Matter is based;
  - (ii) copies of any relevant written representations, documents or witness evidence in relation to the Disciplinary Matter; and
  - (iii) a summary of any relevant oral representations or evidence in relation to the Disciplinary Matter.
- (h) In deciding whether to refer a Disciplinary Matter to a Disciplinary Panel, the Case Examiner shall be entitled to take into account the result of investigations into any previous Complaints concerning the Respondent (and/or, the details of any First Offence, pursuant to paragraph 23). If the Case Examiner intends to take account of such matters in reaching a decision, the Case Examiner shall notify the Respondent of the relevant prior Complaint(s) (and/or First Offence if applicable) and the Respondent may make representations in relation to the prior Complaint(s) (and/or First Offence if applicable).
- (i) The Respondent shall have the right of appeal against the Case Examiner's determination and the ACT shall notify the Respondent of that right and its consequences at the same time as notifying the Respondent of the determination.
- (j) The Respondent must notify the ACT of any wish to appeal within 15 Business Days of being notified of the Case Examiner's determination and, for the avoidance of doubt, if the Respondent does not provide such notice, the determination shall stand.

- (k) The Respondent's notification under this Rule must be in writing and shall be in the form of a request for a full hearing before a Disciplinary Panel. The effect of a notification of appeal under this Rule will be that the Sanction will be reversed, and the Disciplinary Matter will be referred to a Disciplinary Panel as if the Case Examiner had made no determination under this Rule.

## **8. CONSENSUAL ORDER**

- (a) The Case Examiner may at any time invite the Respondent to approve and sign a consensual order to be prepared by the Case Examiner that sets out a brief summary of the facts surrounding the Disciplinary Matter and the proposed Sanction(s) (**Consensual Order**).
- (b) The effect of a Consensual Order is to dispose of the matter on the terms as agreed in the Consensual Order without the need for further process.
- (c) By agreeing to a Consensual Order, the Respondent agrees there shall be no right to appeal.
- (d) Where a Consensual Order is not agreed under this Rule, the Case Examiner may, under Rule 7 impose a Sanction or refer the Disciplinary Matter to a Disciplinary Panel.

## **9. SANCTIONS**

A Panel or Case Examiner as appropriate may impose any one or more of the following sanctions (**Sanctions**) in accordance with these Rules:

- (a) the Respondent be reprimanded;
- (b) the Respondent be required as a condition of Membership, and at the Respondent's expense, to attend such additional training or to undertake such further tests of competence as the Panel/Case Examiner may determine;
- (c) the Respondent be fined an amount not exceeding a maximum (currently £1,000) determined from time to time by Council;
- (d) the Respondent be suspended from Membership for a specified period of up to three (3) years;
- (e) the Respondent be expelled from Membership;
- (f) the Respondent's examination candidature be rescinded, or script or paper or submission be disallowed;
- (g) the Respondent be excluded, for a specified period of up to three (3) years, from ACT examinations;
- (h) such other sanction or order as the Panel/Case Examiner considers reasonable and appropriate having regard to the objective of dealing with Complaints justly and in ways that are proportionate in the context of securing and justifying the confidence of the public, employers and Members; and/or
- (i) the Respondent be required to pay any subscription arrears or other monies due to the ACT.

## **10. DISCIPLINARY PANEL PREPARATION**

- (a) Within 10 Business Days of the referral of a Disciplinary Matter to a Disciplinary Panel, the ACT shall provide the Respondent with the following documents and information:
  - (i) a copy of the Rules;
  - (ii) a copy of the Ethical Code in force at the time the events complained of took place;
  - (iii) a summary of the Disciplinary Matter;
  - (iv) copies of any documents in whatever form in ACT'S possession at that time and upon which the ACT may rely or that may undermine any case subsequently brought before the Disciplinary Panel.
- (b) The ACT shall advise the Respondent in writing that:
  - (i) the Respondent may attend the hearing to speak and give evidence (including evidence in relation to mitigation of sanction) and may also be represented;
  - (ii) the Respondent may call witnesses and cross-examine witnesses called on behalf of the ACT;
  - (iii) if the Respondent does not attend the hearing the matter may be determined in the Respondent's absence; and
  - (iv) the Respondent may make written submissions relating both to the substantive Disciplinary Matter and to mitigation.
- (c) The Disciplinary Panel may meet, either in person or by telephone, in advance of the hearing to discuss the Disciplinary Matter and to schedule a date for the hearing.
- (d) The ACT shall give the Respondent not less than 15 Business Days' notice of the date of the hearing.
- (e) The Respondent shall notify the ACT not later than 10 Business Days prior to the hearing whether the Respondent wishes to attend or be represented at the hearing. If the ACT does not receive such notification from the Respondent or if the Respondent fails to attend the hearing then, provided that the Disciplinary Panel is satisfied that the notice of the hearing was properly served on the Respondent in accordance with these Rules, the Disciplinary Panel may proceed with the hearing in the Respondent's absence.
- (f) The ACT shall supply to the Respondent (or any nominated representative) no later than 10 Business Days before the proposed hearing, to the extent not already supplied:
  - (i) copies of any documents in whatever form in the ACT's possession at that time and upon which the ACT may rely or that may undermine any case subsequently brought before the ACT, to the extent not already supplied; and
  - (ii) the names of any witnesses it proposes to call together with copies of written statements signed by those witnesses and verified by a statement of truth, which statements shall contain the substance of the evidence the witnesses will give.

- (g) The Respondent shall provide to the ACT no later than 10 Business Days before the proposed hearing:
  - (i) the names of any witnesses the Respondent proposes to call together with copies of written statements signed by those witnesses and verified by a statement of truth, which statements shall contain the substance of the evidence the witnesses will give; and
  - (ii) any documentary evidence the Respondent proposes to rely upon at the hearing.
- (h) At any time before the date of the proposed hearing, a party may request in writing sent to the other party and the Disciplinary Chair that the Disciplinary Chair waive or otherwise vary the time limits imposed by above Rule 10(f) (the ACT) and Rule 10(g) (the Respondent). The Disciplinary Chair shall invite representations from the other party before determining the application.
- (i) If a party fails to comply with Rule 10(f) or 10(g) as applicable and no order has been made on an application under Rule 10(h) above, then that party will not be able to rely on that evidence unless, having heard representations from both parties, the Disciplinary Chair orders otherwise.

#### **11. HEARINGS – GENERAL PRINCIPLES**

- (a) Hearings shall take place at the ACT’s headquarters or at such other venue reasonably determined by the Panel.
- (b) Any hearing shall be conducted with due regard to the principles of natural justice and conclusions on the merits of a Complaint shall be reached on the balance of probabilities.
- (c) Hearings shall be held in public unless and to the extent that the Chair decides that it is in the public interest or in the interests of justice to be held in private. The Chair may exclude the public at any time at the Chair’s discretion.
- (d) Any member of the Panel shall have the right to question the Respondent, any accompanying person and witnesses as appropriate.
- (e) At the conclusion of the hearing, all except the Panel shall withdraw to allow the members of the Panel to deliberate in private.
- (f) The ACT shall retain a written record of the proceedings.

#### **12. CHAIR’S POWERS OF CASE MANAGEMENT**

- (a) The Chair of any Panel may, upon the application of the Respondent or the ACT or otherwise, make any order and/or give any direction or instruction considered necessary for the proper conduct of the proceedings, including:
  - (i) extending or shortening the time for compliance with any Rule;
  - (ii) adapting or dispensing with any procedural steps set out in these Rules;
  - (iii) requiring a record to be made of the proceedings or any part of them;

- (iv) requesting any person to attend the hearing;
  - (v) holding a preliminary hearing;
  - (vi) adjourning (for such period and upon such terms as the Chair considers appropriate) or bringing forward a hearing;
  - (vii) requiring a party or a party's representative to attend a preliminary or other hearing (either in person or by such other means as the Chair may determine such as by video conferencing or telephone);
  - (viii) directing that part of any proceedings be dealt with as separate proceedings;
  - (ix) staying the whole or part of any proceedings;
  - (x) suspending the hearing at any time to consult with the Panel or its advisors or at the reasonable request of the Respondent;
  - (xi) consolidating Disciplinary Matters or appeals;
  - (xii) directing that two or more Disciplinary Matters or appeals be heard on the same occasion;
  - (xiii) directing a separate hearing in relation to any issue;
  - (xiv) deciding the order in which issues are to be determined;
  - (xv) excluding an issue from consideration;
  - (xvi) dismissing or determining a Disciplinary Matter or an Appeal after a decision on a preliminary issue;
  - (xvii) directing that evidence provided to the Panel either by the Respondent or the ACT after the deadlines laid down in these Rules have expired may be considered;
  - (xviii) directing that any technical defect in the Disciplinary Matter or in the procedure followed by the parties or the Panel shall be remedied or waived and shall not invalidate any step in the disciplinary proceedings provided that the proceedings are fair to the Respondent and the ACT's Disciplinary Rules have been complied with;
  - (xix) taking any other step or making any other order for the purpose of managing or dealing with the case and furthering the objective of dealing with Disciplinary Matters and appeals justly and in ways that are proportionate in the context of securing and justifying the confidence of the public, employers and Members.
- (b) The Chair's decision in respect of the matters set out in (a) above shall be final.

### **13. ADMISSIBILITY OF EVIDENCE**

- (a) Subject to Rule 13(b) below, at any hearing before a Panel the rules on the admissibility of evidence that apply in civil proceedings in England and Wales shall apply.

- (b) The Panel may hear or receive evidence that would not be admissible in such proceedings if it is satisfied that it is fair and relevant to the case before it and that its admission is necessary in furtherance of its role to make due inquiry into the issue(s) it is called upon to determine.
- (c) Production of a certificate purporting to be under the hand of a competent officer of any court worldwide that a person has been convicted of a criminal offence shall be conclusive evidence of the offence committed and of the findings of fact upon which it was based.
- (d) Production of a certificate signed by a police officer or Crown prosecutor or, outside England and Wales, a public prosecutor, that a person has been cautioned for a criminal offence shall be conclusive evidence of the offence committed and of the facts upon which the caution was based.
- (e) Production of a certificate signed by an officer of a regulatory body shall be a rebuttable presumption that it has made a determination about the conduct of a person and shall be conclusive prima facie evidence of that determination and the facts found proved in relation to it. For the purposes of this Rule, the official publication of such determination or finding of fact by the regulatory body on its website or in any other official publication shall be deemed to be a certificate signed by an officer of that regulatory body.
- (f) For the purposes of this Rule 13(c)-(e), the burden of rebutting the evidence shall be upon the Respondent who shall, as a condition of rebuttal, produce to the ACT, within 10 Business Days of indicating an intention to challenge the said determination, all documents in the Respondent's possession, custody or control in relation to the proceedings that led to the determination.

#### **14. DISCIPLINARY PANEL HEARINGS**

- (a) Subject to the Rules, the Disciplinary Panel may decide its own procedure and the Disciplinary Chair shall have discretion in relation to the procedures to be followed at the hearing.
- (b) Council shall have power to pay the reasonable expenses of the members of the Disciplinary Panel.
- (c) The hearing may proceed in the absence of the Respondent. Applications for adjournments may be made at any time up to five Business Days before the proposed hearing date. Adjournments will only be granted in exceptional circumstances and at the Chair's absolute discretion.
- (d) The Disciplinary Matter shall be presented to the Disciplinary Panel by the Case Examiner, who may be supported by a barrister or solicitor. The Case Examiner shall put the Disciplinary Matter and the relevant evidence before the Disciplinary Panel.
- (e) The Disciplinary Panel may instruct a solicitor or barrister to act as legal advisor to the Disciplinary Panel.
- (f) If the Respondent does not attend and is not represented at the hearing but has provided written submissions relating to mitigation then the ACT shall withhold those submissions from presentation of the Disciplinary Matter to the Disciplinary Panel until after it has reached a decision in relation to the Disciplinary Matter. The ACT shall present the written submissions made by the Respondent relating to mitigation to the Disciplinary Panel before it commences its deliberations in relation to sanction.

- (g) If the Respondent admits the Disciplinary Matter (or part of it) but does not attend the hearing and has provided a statement by way of mitigation, then the ACT shall present the statement immediately after presenting the Disciplinary Matter.
- (h) Each Party may call witnesses. Where a witness is called to give oral evidence the witness's statement shall stand as the witness's evidence in chief, unless the Disciplinary Chair orders otherwise.
- (i) Each party will have the right to cross-examine the other party's witnesses. Each party may re-examine a witness called by that party. The Disciplinary Chair may control cross-examination either by limiting the issues to be explored or by limiting the time to be devoted to cross-examination of a particular witness.
- (j) Where a witness does not attend, the Disciplinary Panel may proceed in the witness's absence and take into account any written statement or representation from a witness and give such weight to that evidence as it sees fit.
- (k) Save in cases where the Respondent admits all the charges, the Disciplinary Panel, having considered the Disciplinary Matter and the evidence shall adjourn the hearing to determine the Disciplinary Matter. The Disciplinary Panel may, at its discretion, reserve its decision in relation to the Disciplinary Matter and/or the Sanction for up to 20 Business Days.
- (l) The Disciplinary Panel shall make its determination by simple majority decision. When it has done so, it will reconvene the hearing to announce its determination.
- (m) If the Disciplinary Panel determines that the Disciplinary Matter has been proved wholly or in part, it shall make an order to that effect. This order may, in the Disciplinary Panel's discretion, include such of the Sanctions, to be imposed at such time, as it considers appropriate.
- (n) When considering a Sanction, the Disciplinary Panel shall consider and have regard to:
  - (i) any mitigation provided by the Respondent;
  - (ii) any representations made by the ACT as to the appropriate Sanction to be imposed;
  - (iii) the Respondent's status;
  - (iv) the nature and seriousness of the Disciplinary Matter; and
  - (v) any other circumstances the Disciplinary Panel considers relevant.
- (o) In the case of any determination involving exclusion from Membership under Rule 9 the order shall take the form of a recommendation to Council that Council resolves to remove the Respondent from Membership in accordance with the ACT's Bye-laws.
- (p) If the Disciplinary Panel determines that the alleged Disciplinary Matter is wholly unfounded, it shall make an order to that effect.
- (q) The ACT shall notify the Respondent of the Disciplinary Panel's determination within 10 Business days of the date of the order and, if the Disciplinary Matter is upheld, inform the Respondent of the right of appeal under Rule 16 below.

- (r) The Disciplinary Panel's order shall take effect from the date 15 Business Days after the date of its service on the Respondent, unless the Respondent lodges a valid Notice of Appeal prior to that date. Notice of the order shall also be given to Council.
- (s) Where the order takes the form of a recommendation to Council, the ACT shall notify the Respondent within 10 Business Days of the date Council resolves that the Respondent be excluded from Membership.

#### **15. APPEALS – GENERAL PRINCIPLES**

- (a) Subject to the Rules, the Appeal Panel shall not hear evidence, but shall consider whether:
  - (i) the Disciplinary Matter has been properly heard under the Rules;
  - (ii) whether the rules of natural justice and any relevant principles of human rights have been satisfactorily observed; and
  - (iii) whether the Disciplinary Panel has reached a reasonable decision in the circumstances.
- (b) If the Appeal Panel concludes that the handling of the Disciplinary Matter has been unsatisfactory it may overturn the finding of the Disciplinary Panel or remove the Sanction imposed or substitute a different Sanction.
- (c) The Appeal Panel may remit back to the relevant Disciplinary Panel any question relevant to the determination of the Appeal.
- (d) An Appeal Panel will not consider evidence that was not before the Disciplinary Panel unless it is new evidence of a material nature that could not reasonably have been available at the Disciplinary Panel hearing. If the Appeal Panel permits new evidence to be adduced, then the Appeal Chair may (but shall not be required to) direct that the Disciplinary Panel reconvene to hear the new evidence and reconsider its decision.
- (e) The Respondent's or the ACT's rights of appeal under this Rule shall apply equally to the outcome of a reconvened hearing of the Disciplinary Panel.
- (f) Subject to the Rules, the Appeal Panel may decide its own procedure and the Appeal Chair may decide in any particular case whether the proceedings shall be open, in full or in part, to the public, who may be excluded at any time at the Appeal Chair's discretion.

#### **16. APPEALS – PROCEDURE**

- (a) A Respondent against whom an adverse finding has been made, or the ACT, may appeal to an Appeal Panel against the decision and/or the Sanction(s) imposed by a Disciplinary Panel, provided the following conditions are satisfied:
  - (i) in the case of an appeal by a Respondent, the Respondent serves on the ACT a written Notice of Appeal within 15 Business Days of the date the Respondent has received a copy of:
    - (A) the written record of the Disciplinary Panel's decision; and
    - (B) the written record of the reasons for the decision; and



- (ii) in the case of an appeal by the ACT, the ACT serves a written Notice of Appeal on the Respondent, and sends a copy to the Disciplinary Panel, within 15 Business Days of the date the Respondent has received a copy of both:
    - (A) the written record of the Disciplinary Panel's decision; and
    - (B) the written record of the reasons for the decision; and
  - (iii) in either case, the Notice of Appeal contains all the elements set out in 17(b) below.
- (b) To be valid, the Notice of Appeal must:
- (i) state the order being appealed;
  - (ii) state the order being sought from the Appeal Panel;
  - (iii) set out the ground(s) of appeal and the substantive injustice of allowing the order appealed against to stand. The Respondent may not amend the grounds so stated except with the Appeal Panel's permission;
  - (iv) set out the facts upon which the appeal is based;
  - (v) attach a copy of every document and witness statement that was placed before the Disciplinary Panel in connection with the order appealed against;
  - (vi) where appropriate, apply for permission to present any new evidence that was not placed before the Disciplinary Panel in accordance with Rule 16(o) below;
  - (vii) be signed by or on behalf of the appellant; and
  - (viii) in the case of an appeal by the Respondent, be accompanied by the Appeal Fee. The Appeal Fee shall not be repaid to the Respondent unless the Appeal Panel allows the appeal.
- (c) The only permitted grounds of appeal are that:
- (i) the Disciplinary Panel's decision was:
    - (A) based on an error of law or fact;
    - (B) a perverse exercise of its discretion; or
    - (C) unjust because of a serious procedural error or irregularity, or
  - (ii) significant new evidence has become available; or
  - (iii) the Sanction imposed was too severe or too lenient.
- (d) The party responding to the appeal may file and serve a Notice of Response no later than 10 Business Days before the appeal hearing.
- (e) The fact that an appeal has been made has no effect on the execution of the decision of the Disciplinary Panel save that a decision to publish may be deferred until after any Appeal Panel decision. If either party wishes there to be a stay of execution, then it must apply to the

Appeal Chair in writing for such a stay setting out the circumstances that in that party's opinion justify a stay being granted. The Appeal Chair has power under Rule 12 to order a stay where exceptional circumstances exist meaning it would be unjust to enforce the Disciplinary Panel's order pending determination of the appeal. No appeal lies from the Appeal Chair's decision, which will take effect immediately.

- (f) The appeal shall be heard by an Appeal Panel, which shall be convened on receipt of a valid Notice of Appeal.
- (g) Council shall have power to pay the reasonable expenses of the members of the Appeal Panel.
- (h) The ACT shall notify the Respondent of the date and time of the appeal hearing giving at least 15 Business Days' notice.
- (i) The hearing should not normally be delayed because a party or other person(s) cannot attend. Applications for adjournments can be made to the Appeal Chair at any time up to five Business Days before the proposed hearing date.
- (j) The Respondent shall notify the ACT not later than five Business Days prior to the hearing if the Respondent wishes to attend the hearing. If the ACT does not receive such notification from the Respondent or if the Respondent fails to attend the hearing then, provided that the Appeal Panel is satisfied that notice of the hearing was properly served in accordance with these Rules, the Appeal Panel may proceed with the hearing in the Respondent's absence.
- (k) The Appeal Panel may instruct a solicitor or barrister to act as legal advisor to the Appeal Panel and may require one or more representatives of the Disciplinary Panel to attend the hearing to answer its questions.
- (l) The Appeal Panel shall only hear new evidence not placed before the Disciplinary Panel where the Appeal Panel has given permission for that new evidence to be presented. An application for permission to present new evidence must be made in writing in the Notice of Appeal, setting out the nature and the relevance of the new evidence and the reason(s) it was not presented to the Disciplinary Panel at the original hearing.
- (m) The Appeal Panel shall not, except in exceptional circumstances, grant permission to present new evidence unless it is satisfied that:
  - (i) there was good reason that it was not, or could not have been, presented to the Disciplinary Panel; and
  - (ii) this evidence is relevant,and the Appeal Panel's decision as to whether permission shall be granted to present the new evidence shall be final.
- (n) At the hearing the relevant Case Examiner, with the assistance of a barrister or solicitor if required, shall present the Disciplinary Matter to the Appeal Panel and may call witnesses and cross-examine witnesses called by the Respondent.
- (o) At the hearing the Respondent shall be entitled to be heard in person and/or be represented (at the Respondent's cost) whether by a barrister, a solicitor or any other person. The Respondent and/or the Respondent's representative shall be entitled to call witnesses, cross-

examine witnesses called against the Respondent and address the Appeal Panel (subject to the restriction on introduction of new evidence referred to in Rule 16(m) above.

- (p) The Appeal Panel, having heard the appeal, shall adjourn the hearing to determine the outcome. The Appeal Panel may, at its discretion, reserve its decision in relation to the appeal and/or any Sanction(s) for up to 20 Business Days.
- (q) The Appeal Panel will consider the appeal and then, by a simple majority, affirm, vary or rescind any order of the Disciplinary Panel (including any Sanction(s) imposed, which may be varied either to greater or lesser severity) or may substitute any other order(s), on such terms and conditions, if any, as it thinks appropriate. In the case of any order involving expulsion from Membership under Rule 9 the order shall take the form of a recommendation to Council that it resolves to remove the Respondent from Membership in accordance with the ACT's Bye-laws.
- (r) When the Appeal Panel has reached a decision, it will reconvene the hearing to announce its determination.
- (s) In addition, the Appeal Panel may at any stage in the appeal remit the Disciplinary Matter back to the Disciplinary Panel that heard it, for any purpose(s) the Appeal Panel considers, in its absolute discretion, will best achieve the objective of dealing with matters justly and in ways that are proportionate in the context of securing and justifying the confidence of the public, employers and Members.
- (t) All decisions of the Appeal Panel are final, shall take immediate effect and are binding on all parties.
- (u) The ACT shall notify the Respondent of the Appeal Panel's order within 10 Business Days of the date of the order. The ACT shall also notify Council. The Appeal Panel's order shall take effect upon its service on the Respondent.
- (v) Where the Appeal Panel's order takes the form of a recommendation to Council, the ACT shall notify the Respondent within 10 Business Days of the date Council resolves that the Respondent be excluded from Membership.

## **17. COSTS**

- (a) A Panel may make any award in its discretion against a Respondent in respect of the costs incurred by the ACT in bringing the case.
- (b) These costs may include:
  - (i) the ACT's legal expenses;
  - (ii) witness expenses;
  - (iii) the costs of undertaking the investigation;
  - (iv) the Panel's costs.
- (c) In determining the award for costs, the Panel should have due regard to the Respondent's means.

- (d) The Panel shall give the Respondent the opportunity to make representations in respect of any cost's application.
- (e) The Respondent shall pay any costs ordered within 15 Business Days of the date of the service of the order save that, if valid notice of appeal is given, these costs shall not be payable until determination of the appeal and shall then be subject to any order made by the Appeal Panel. Any costs payable by the ACT shall be paid within 15 Business Days of the date of the order.
- (f) The Appeal Panel may in its order cancel, reduce or increase any costs order made by the Disciplinary Panel, and may order that the Respondent pay to the ACT or the ACT pay to the Respondent, as the case may be, a sum to be specified by way of costs of the appeal.
- (g) Any costs ordered by the Appeal Panel, together with any other costs due under this Rule (as varied by the Appeal Panel) shall be paid to or by the ACT within 15 Business Days of the date of service on the Respondent of the Appeal Panel's order.

## **18. NOTICES**

- (a) Notices, orders or other documents may be sent by prepaid post or email.
- (b) Any notice sent to the ACT shall be addressed to the Director of Membership and Governance at her email address and/or at the registered office for the time being of the ACT.
- (c) Anything sent by prepaid post will be deemed received by the addressee on the third Business Day after the date of posting to an address within the UK and on the fifth Business Day after the date of posting to an address outside the UK.
- (d) Anything sent by email will be deemed received on the next Business Day after the date of sending.
- (e) Service of a notice is proven by showing that the notice was properly addressed and sent:
  - (i) if a notice to the Respondent: to the last address (including any email address) notified by the Respondent to the ACT; or
  - (ii) if a notice to the ACT: in accordance with Rule 18(b) above.

## **19. PUBLICATION**

- (a) Subject to Rule 19(b) below, the ACT shall publish such details of any Disciplinary Matter in any of the ACT's publications, whether printed or electronic, as the Panel and/or (where the Rules permit a Case Examiner to determine a Disciplinary Matter and impose a Sanction) the Case Examiner may determine, provided that if a Panel has ordered that the Disciplinary Matter is unfounded, the order shall not be published unless the Respondent so requests.
- (b) If, in exceptional circumstances, the Panel (and/or in appropriate cases the Case Examiner) decides that publication would be inappropriate, it may direct that details shall not be published.
- (c) The details to be published will not usually extend beyond the name of the Respondent, the offence alleged, the outcome and Sanction (if any), the name of the Respondent's employer or trading name at the time of the hearing and the Respondent's professional address or such other details of the Respondent's location as the Panel in question considers appropriate.

- (d) No publication shall be made until after the expiry of the appeal periods referred to in above Rules 7(f) (determination by Case Examiner) or 16(a) (Disciplinary Panel) and if a valid Notice of Appeal is given then, unless the appeal is abandoned, publication shall be as ordered by the Disciplinary Panel or Appeal Panel, as applicable.
- (e) The ACT may also provide to other regulatory authorities such details as are consistent with the ACT's obligations but subject to relevant data protection legislation.

## **20. RESIGNING AND FORMER MEMBERS**

- (a) In accordance with the Articles, Council is not obliged to accept the resignation of a Respondent until the Disciplinary Matter has been finally resolved in accordance with these Rules.
- (b) Former members of the ACT remain liable to disciplinary action in accordance with these Rules (notwithstanding the cessation of their Membership) to the extent that the matters complained of occurred during their Membership of the ACT.

## **21. APPLICATIONS FOR RE-ADMISSION TO MEMBERSHIP**

- (a) A person who has been expelled from Membership may seek to have that status reviewed after the expiry of five (5) years from the date of the decision to expel.
- (b) Council (or any delegated committee of Council set up for the purpose) shall consider the person's request for re-admission and make a decision as to whether to allow re-admission, and on what terms, at its discretion. Council shall then inform the Chief Executive of its decision.

## **22. FAILURE TO COMPLY WITH ACT'S CPD REQUIREMENTS**

- (a) It is a condition of membership of the ACT that ACT Fellows and ACT Associate Members (together **CPD Members**) make an annual declaration of satisfactory compliance with the ACT's CPD requirements (**CPD Declaration**).
- (b) Should a CPD Member fail to make a CPD Declaration for two consecutive years and/or fails to provide satisfactory evidence of compliance with the ACT's CPD requirements, then that CPD Member's Membership shall be lapsed, and the CPD Member shall cease to be a Member, until such time as the CPD Member meets the ACT's CPD requirements and pays any Membership fees due and unpaid.
- (c) For the avoidance of doubt, failure to meet the ACT's CPD requirements is not a Disciplinary Matter.

## **23. DISQUALIFICATION FROM AN ASSESSMENT**

- (a) Notwithstanding the provisions of paragraph 3(a), the ACT shall have the power to choose not to investigate a Complaint where that Complaint comprises a Member's first instance of disqualification from any ACT assessment (a **First Offence**).
- (b) The power under paragraph (a) above shall be at ACT's full discretion and the ACT retains the right to investigate a First Offence as a Complaint at its discretion.

- (c) For the avoidance of doubt:
- (i) the ACT shall always investigate a Complaint, pursuant to these Rules, that comprises a disqualification from an ACT assessment that is not a First Offence (a **Repeat Offence**), irrespective of whether the reasons for the disqualification in each case are the same or different; and
  - (ii) in dealing with a Complaint that comprises a Repeat Offence, the ACT shall, throughout these Rules, consider the details of the First Offence as part of the Complaint that comprises the Repeat Offence.