



MRS Disciplinary Regulations

Commencement and Introduction

1. These regulations were made by the MRS Main Board of The Market Research Society ("MRS") pursuant to the powers conferred upon it by the Articles of Association. These Disciplinary Regulations came into force on 1 November 2023, superseding all previous disciplinary regulations¹, and apply to all members of MRS.

Definitions

2. The following definitions apply to these Regulations:
 - a. **MRS Accredited Company Partner:** means a business and/or a business unit or team that has entered into an agreement with MRS under its Company Partner accreditation scheme.
 - b. **MRS Member:** is a member of the MRS as defined in Articles 9 to 18 of the MRS Articles of Association.
 - c. **Fellow:** has the meaning given at Article 13 of the MRS Articles of Association.
3. References to the "MRS Code of Conduct" or the "Code" in these Regulations are to be read as including all associated regulations and binding guidelines in place from time to time.

Delegation

4. The powers of the MRS Main Board under Articles 24.4 and 96.1 of the MRS Articles of Association are delegated to the Market Research Standards Board ("MRSB") and to the Disciplinary Authority ("DA") in accordance with MRS byelaws.

¹ Where a complaint has been received and disciplinary proceedings commenced prior to these Disciplinary Regulations coming into force, these Disciplinary Regulations will be applicable unless both the member and MRS agree to be bound by the previous version of these regulations.

Complaints

5. Any person may make a complaint in writing² to the Standards Department of MRS concerning the conduct of a member if there is an alleged breach of the MRS Code of Conduct or of these Disciplinary Regulations.
6. MRS shall consider and, where appropriate, investigate any complaint under paragraph 5 above, provided that it is made within six months of when the issue occurred or could have reasonably come to the attention of the complainant. MRS may, in exceptional circumstances and at its discretion, accept complaints outside that period.
7. MRS will not usually consider a complaint made by a complainant who does not consent to their identity being made known to the member under complaint and/or does not consent to the disclosure to the member of all documents and information provided to MRS in the investigation.
8. MRS will not usually consider a complaint if there are legal proceedings contemplated or ongoing in respect of, or closely linked to, the matter.
9. MRS will usually require a complainant to satisfy MRS that it has taken all reasonable steps to try and resolve the matter with the member before MRS will consider the complaint under these Disciplinary Regulations.
10. MRS may require a complainant to confirm in writing³ what, if any, interest they have in relation to a complaint.
11. MRS can itself initiate a complaint where it becomes aware of any fact or matter concerning the conduct of a member which it considers warrants inquiry under these Regulations.
12. MRS shall keep the complainant informed as provided in these Regulations in relation to the progress of their complaint at it deems appropriate.
13. Where more than one MRS member is involved in a matter under complaint, whilst MRS reserves the right to proceed with an investigation and other relevant processes against all such members under these Regulations, it will usually apply

² We will consider accepting a complaint made otherwise than in writing on a case-by-case basis where this would be a reasonable adjustment to make in the circumstances.

³ We will consider accepting confirmation made otherwise than in writing on a case-by-case basis where this would be a reasonable adjustment to make in the circumstances.

its discretion to proceed only against the most senior MRS member(s) involved.

14. Where a complaint concerns the activities or omissions of an organisation that is not an MRS Accredited Company Partner, and the organisation concerned cannot, or fails to, identify the MRS member(s) directly involved in the matters concerned, MRS reserves the right to proceed with an investigation and other relevant processes under these Regulations against senior MRS member(s) who are employees of the organisation concerned.
15. If a member resigns from MRS membership whilst a complaint is being considered pursuant to these Regulations, the matter will continue as if the member had remained in membership unless, in the opinion of MRS, there is good reason not to proceed, in which case the complaint will be closed until and unless the previous member re-applies for membership when it will be considered de novo prior to any re-application for membership being decided.
16. Whilst the complainant may withdraw their complaint at any time, if MRS has commenced the procedures under these Regulations, it may nonetheless choose to proceed if it considers there are compelling reasons to do so.
17. Documents or information provided by an MRS member and/or complainant during the course of the investigation or determination of any complaint shall be treated as confidential to the extent that MRS will not disclose or use such documents or information other than in the ordinary course of its investigation and determination and to the extent that it is necessary to show or disclose the contents of such documents or information to any third party in connection with such investigation or determination. MRS may also refer to such documents or information as are reasonably necessary in order to communicate the determination and the reasons for it to the MRS member, complainant and/or in wider publication of the determination as provided for under these Regulations. In all such cases the MRS member and/or complainant will be taken to have waived any right to claim confidence to the extent that disclosure or use of the documents or information is reasonably necessary for the purposes set out in this paragraph.

Grounds for disciplinary action

18. Disciplinary action may be taken if a member is deemed not to have met/upheld the standards of professional conduct as set out in the MRS Code of Conduct. This is defined as a member:
 - a. having acted or behaved in any way which, it is considered by a body

appointed by MRS Main Board, might bring discredit on the profession, the professional body or its Members; or being found by a body appointed by MRS Main Board to have breached any of the rules set out in the MRS Code of Conduct; or

- b. being found by a body appointed by MRS Main Board to have breached any of the provisions set out in any MRS binding guidelines laid down from time-to-time by the MRS Main Board; or
- c. being found by a body appointed by MRS Main Board to have breached any of the other regulations laid down from time-to-time by MRS Main Board; or
- d. failing without good reason to assist the professional body in the investigation of a complaint; or
- e. in the absence of mitigating circumstances, having become bankrupt or having made any arrangement or composition with their creditors; or
- f. being found to be in breach, of relevant data protection legislation.

19. The fact that a member has, before a Court of competent jurisdiction, pleaded guilty to or has been found guilty of an indictable offence (or in such a Court outside the United Kingdom has pleaded guilty to or been found guilty of a comparable offence) may be considered conclusive proof of conduct bringing discredit on the profession, MRS or its members under paragraph 18(a) above.

STAGE I - INVESTIGATION

Standard Procedure

Initial investigation by Standards Department

20. When MRS receives or initiates a complaint under paragraphs 5 to 17 above, the Standards Department shall carry out such initial investigations, if any, as it considers appropriate, informing the member, where questions are raised directly with them (as appropriate), that such questions are asked in connection with possible disciplinary proceedings and providing a brief summary of the nature of the complaint against them.

21. The Standards Department shall determine if the complaint is to be referred to MRSB or should not be referred as:

- a. the allegations are inadmissible as the evidence provided does not clearly support a potential breach of the Code;
- b. the allegations do not refer to specific behaviour or actions covered by the Code;
- c. the allegations are a misuse of these Regulations;
- d. the allegations are 'out of time' (see paragraph 6);
- e. there are legal proceedings contemplated or ongoing in respect of the matter (see paragraph 8);
- f. processing the complaint further would be disproportionate and not in the public interest;
- g. the allegations fall outside of MRS's functions/remit; and/or
- h. the allegations are trivial or vexatious.

22. If the Standards Department determines that a complaint should not be referred to MRSB, it shall reject the complaint and notify the complainant and the MRS member in writing, providing brief reasons.

23. If the Standards Department determines that the complaint is to be referred to MRSB, it shall follow the process in paragraph 25.

24. The decision whether or not to refer allegations for investigation is final.

Appointment of MRSB Investigations Committee

25. Upon completion of its initial investigations (or if none are made, upon receipt or initiation of the complaint), the Standards Department shall make a report to the Chair of MRSB who shall appoint a Sub-Committee of members of MRSB, to be called the Investigations Committee, to consider the matter further and to report to MRSB with its recommendations.

26. The Investigations Committee in each case shall be comprised of any three members of MRSB (not having an interest in the matter).

Duties and powers of the Investigations Committee

27. The Investigations Committee shall consider the report from the Standards Department and carry out such investigations or further investigations, if any, as it considers appropriate, and by whatever means it considers appropriate.

28. Wherever questions are raised for the first time in any case directly with the member concerned, they shall be informed that such questions are asked in

connection with possible disciplinary proceedings and providing a brief summary of the nature of the complaint against them.

29. The identity of the complainant shall be made known to the member concerned unless the Investigations Committee determines that there are compelling reasons why the complainant should not be so identified taking into account the need for the member to fully understand the case against them.
30. If at any stage the Investigations Committee decides that there appears to be a case which should be pursued against the member concerned, the Standards Department shall write to the member:
 - a. setting out the conduct complained of;
 - b. identifying the possible ground(s) for disciplinary action;
 - c. providing them with copies of any documentation received or obtained by MRS that the Standards Department considers to be relevant; and
 - d. inviting them to provide a written response within a specified period, which will be no more than 14 days from the date of the notification.
31. Upon receipt of the member's written response (or if none is received within the prescribed period), the Investigations Committee will undertake such further investigations, if any, as it considers necessary.
32. The Investigations Committee may, where it considers appropriate (and with MRSB's approval), instruct an external investigator to carry out any investigations under paragraphs 27 and 31 on its behalf, such investigator to act in accordance with a protocol issued by MRSB and to report their findings to the Investigations Committee.
33. For the avoidance of doubt, the Investigations Committee (or an external investigator on its behalf) may, at any stage, require the member under complaint to attend for interview. The Investigations Committee (or external investigator) may be legally represented at any such interview. The member concerned has the right to be represented by a lawyer, another member or, at the discretion of the Investigations Committee, any other individual of their choice.
34. Upon completion of its investigation, the Investigations Committee shall report to MRSB with a summary of its findings and recommendations, drawing MRSB's attention to any aspects of the matter which it considers particularly complex or important. The Investigations Committee will also make a recommendation as to the appropriateness or not of MRSB deciding the case (pursuant to paragraph 42)

by email circulation.

35. The Investigations Committee may obtain legal advice at any stage.

Informal Procedure

36. If, at any stage, it appears to the Investigations Committee that the complaint (or fact or matter) relates to a minor or isolated breach under paragraphs 18 (a), (b) and (c) of these Regulations, it may, if it considers it appropriate, adopt the "informal procedure".

37. In such cases, the member concerned shall be contacted and informed of the apparent breach of the MRS Code of Conduct, being advised where appropriate of any steps they should take to remedy the breach and/or any other recommended action. The Standards Department shall also inform the complainant (where applicable) that the matter has been dealt with under the informal procedure.

38. The informal procedure is not part of MRS's formal Disciplinary Procedure. Copies of all communications between MRS and the member under the informal procedure shall, however, be kept in line with MRS's Privacy Policy and may be taken into account in future cases either in determining whether disciplinary action shall be taken against a member or as part of their past history in determining the appropriate disciplinary sanction. MRSB shall also be informed of matters dealt with under the informal procedure.

39. The Investigations Committee may, at any stage, determine that notwithstanding any action already taken in respect of a matter under paragraphs 36 to 38 above, the matter should proceed in accordance with the standard procedure set out at paragraphs 20 to 35 above.

Cases raising issues regarding the conduct of an MRS Accredited Company Partner

40. The Standards Department or the Investigations Committee may decide at any time that the matter relates to, or includes an issue (or issues), which concern(s) or may concern the conduct of an MRS Accredited Company Partner which issue(s) should be dealt with under MRS Accredited Company Partner Complaints Procedures. In this event, the Standards Department or Investigations Committee shall:

- a. proceed to investigate the issue(s) concerning the MRS Accredited Company Partner in accordance with the relevant provisions set out in MRS Accredited

Company Partner Procedures; and

- b. as it deems necessary inform the MRS Accredited Company Partner of any actions taken, or to be taken, with regard to any member in connection with the matter under these Disciplinary Regulations; and
- c. inform the member of the issue(s) which is/are to be investigated under the MRS Accredited Company Partner Complaints procedure.

STAGE II - MRSB DECISION AND RECOMMENDATION

- 41. MRSB shall consider the finding(s) and recommendation(s) of the Investigations Committee and shall decide (i) whether or not there is a case to be pursued against the member for disciplinary action in accordance with paragraphs 18 and 19 above and, if so, (ii) what disciplinary action, if any, it recommends in accordance with paragraph 60 below.
- 42. MRSB may, in its ultimate discretion and under advisement from the Investigations Committee/Standards Department, undertake its functions pursuant to paragraph 41 by email circulation. Where email circulation is not appropriate, as decided by MRSB, MRSB shall conduct its functions pursuant to paragraph 41 by means of an in-person, virtual or hybrid meeting as it sees fit.
- 43. Deciding cases by email circulation is likely to be appropriate in one or more of the following circumstances:
 - a. the Investigation Committee has recommended that there is no case to be pursued;
 - b. disciplinary action is being pursued under the ground set out at paragraph 18(a) pursuant to the circumstances described in paragraph 19;
 - c. the subject matter of the case is not deemed to be of a serious nature;
 - d. the member has admitted the alleged breach/breaches;
 - e. any alleged breach is of a purely technical, minor or isolated nature;
 - f. the case is factually straightforward;
 - g. there is not a substantial dispute of the facts;
 - h. the case is not likely to result in demotion, suspension or expulsion of the member concerned;
 - i. there have been no previous cases or complaints brought in relation to the member concerned; and/or

- j. there are no other factors present that would suggest the case would be better dealt with at a meeting of the MRSB.
44. Where a case has been determined as an appropriate case for decision by email circulation, any member of MRSB can, at any point, request that the case be remitted for decision at a meeting of the MRSB. Any such request should be made to the Chair of the MRSB with reasons and in writing.
45. The procedures and requirements in these Regulations apply equally to MRSB decisions made by email circulation as they do to decisions made at a meeting of the MRSB.
46. If MRSB is minded to decide that there is a case to be pursued against a member where the Investigations Committee did not find a potential case to be pursued and provide the member with an opportunity to respond under paragraph 30 above, the member shall be notified with brief written reasons and allowed a period of 14 days to provide a written response prior to MRSB reaching a final decision.
47. Decisions of MRSB are made by simple majority. In the case of an equality of votes, the Chair shall have a second or casting vote.

Notification of MRSB decision - No case to be pursued

48. Upon a decision by MRSB that there is no case to be pursued against the member, the Standards Department shall inform the complainant (where applicable), giving the complainant brief written reasons for its decision and notifying them in writing of their right to apply to the Reviewer of Complaints under paragraph 50. The right of the complainant to notice under this paragraph is unaffected by the provisions in paragraph 70 below.
49. The Standards Department shall also, at the same time, inform the member of the decision in writing with brief written reasons, advising them that the matter may be referred to the Reviewer of Complaints.

Reviewer of Complaints

50. The Reviewer of Complaints (who shall be a barrister or solicitor of not less than 10 years standing) shall consider any application made by a complainant for the review of a decision by MRSB that there is no case to be pursued against the member, provided that it complies with the requirements in paragraph 51.

51. Applications to the Reviewer of Complaints must (i) be in writing⁴, (ii) set out the decision for review and the grounds for requesting the review (the grounds must be at least one of those set out in paragraph 55), (iii) where the ground under paragraph 55.a is argued, provide any supporting evidence, and (iv) be received no later than 14 days after the date on which the decision complained of was notified to the complainant.
52. The complainant may make a request for an extension of time in writing to the Reviewer of Complaints, which may be granted if there are, in the opinion of the Reviewer of Complaints, exceptional circumstances justifying such consideration. Such a request for extension of time must be received no later than 28 days after the date on which the decision complained of was notified to the complainant.
53. Where the Reviewer of Complaints accepts an application for review, a copy of the application (and any additional supporting evidence provided by the complainant) will be shared with the member inviting them to provide any written representations within a specified period, which will be no more than 28 days from the date of the notification.
54. If, after considering an application made in accordance with paragraph 51 above, the Reviewer of Complaints is of the opinion that one or more of the grounds referred to in paragraph 55 below applies, the matter shall be remitted to the Investigations Committee with a request that it should be reconsidered in accordance with paragraphs 27 to 35 and 41 above.
55. The grounds referred to in paragraph 51 above are that:
- a. fresh evidence of a material nature has become available to the complainant since the decision of MRSB complained of;
 - b. the procedure for the investigation of complaints as laid down in these regulations has not been followed;
 - c. there is reason to suspect bias in the decision complained of; or
 - d. the decision of MRSB was not one which could reasonably have been arrived at upon due consideration of the facts and matters before it.
56. Where, in the circumstances referred to in paragraph 55.c above, the suspected

⁴ We will consider accepting an application made otherwise than in writing on a case-by-case basis where this would be a reasonable adjustment to make in the circumstances.

bias relates to possible lack of independence on the part of any member of the Investigations Committee involved in making the recommendation to MRSB, the matter must be remitted to a newly constituted Investigations Committee not consisting of any member who took part in recommending the decision complained of. In all other cases referred to in paragraph 55 above, the matter may, but need not necessarily be, remitted to a newly constituted Investigations Committee.

57. In considering any matter remitted to it by the Reviewer of Complaints, the Investigations Committee must have regard to (i) all information and representations that were previously available when it made its report to MRSB under paragraph 34 above, (ii) any new information and/or representations which have been made since the MRSB came to its decision that there was no case to be pursued and (iii) any written reasons given by the Reviewer of Complaints for remitting the matter.

58. If, following reconsideration of the matter under paragraph 54 above, MRSB remains of the view that there is no case to be pursued, it shall give to the complainant and the member brief written reasons for its decision. The right of the complainant to notice under this paragraph is unaffected by the provisions in paragraph 70 below.

Notification of MRSB Decision – Case to be pursued

59. Upon a decision by MRSB that there is a case to be pursued against the member, the Standards Department shall write to the member setting out the case fully, together with any relevant statements or documents, informing them of MRSB's decision and of the disciplinary action, if any, that it recommends, inviting them to consent and explaining the procedure that will be followed should the member not provide their consent/fail to respond in the permitted period.

Disciplinary action

60. Any one or more of the following courses of action may be recommended by MRSB (or ordered by the Disciplinary Tribunal in accordance with paragraphs 83 and 107 below) as is considered appropriate (and in the case of demotion or suspension from membership for such period as is considered appropriate) having regard to MRS' Indicative Guidance on Use of Sanctions:

- a. that a warning be given
- b. that a reprimand be given

- c. that the member give a written undertaking to refrain from continuing or repeating the unprofessional conduct in question
 - d. that the member be demoted
 - e. that the member be suspended
 - f. that the member be expelled from MRS
61. Where the member concerned has been subject to previous disciplinary action under these Regulations for allegations of a substantively similar nature to the allegations being considered, it will be open to MRSB/the Disciplinary Tribunal to proceed to recommend (in the case of MRSB) or order (in the case of the Disciplinary Tribunal) a more restrictive sanction(s) than it might have otherwise done in circumstances where this was the member's first instance of misconduct. MRSB/ the Disciplinary Tribunal will decide as to whether an allegation is substantively similar to any previous allegations.
62. MRSB/the Disciplinary Tribunal may determine that no action be taken notwithstanding a finding that there is a case to be pursued or that an allegation of unprofessional conduct is proven.
63. A member may not be ordered to pay legal or other costs of MRSB/the Disciplinary Tribunal, nor may MRSB/the Disciplinary Tribunal award legal or other costs to the member.
64. If the sanction(s) imposed requires action or compliance by the MRS member, MRSB/ the Disciplinary Tribunal may determine: how a review of compliance will be undertaken; the period within which compliance is required; and any further sanction to be imposed if the MRS member does not comply.
65. MRSB/the Disciplinary Tribunal may also, wherever it considers it appropriate and whether or not it decides to recommend/order any disciplinary action, communicate to the member its advice as to their future conduct and/or its recommendation as to any steps to be taken in respect of the complaint.
66. Where a member is expelled from MRS under paragraph 60.f above, MRSB/the Disciplinary Tribunal may recommend a period of time which must elapse before the member shall be permitted to reapply for membership.

STAGE III - MEMBER'S RESPONSE

67. The member must respond in writing⁵ no later than 21 days after the date of the notice sent to them under paragraph 59 above either providing their consent to both the decision and the recommended disciplinary action or refusing such consent. The member may make a written request⁶ for extension of time to the Standards Department, which the Standards Department may grant in exceptional circumstances. Such a request for extension of time must be received no later than 21 days after the date of the notice.

68. If the member provides their written consent to both the decision of MRSB and the recommended disciplinary action, or does not respond within the period permitted, the decision and recommendation of MRSB will stand as its Order and the Standards Department shall provide written confirmation of this to the member.

69. The Standards Department shall also, at the same time, inform the complainant (where applicable) of MRSB's decision and recommendation to stand as its Order under paragraph 68 above with a brief summary of MRSB's reasons.

Publication

70. An Order made under paragraph 68 above shall be published as soon as is practicable in such form and manner as MRSB requires, unless MRSB considers the particular circumstances outweigh the public interest in publication. There shall be no publication (save for notifying the complainant under paragraph 69 above) where no action is taken unless the member so requests (and MRSB agrees to publish the matter).

STAGE IV - DISCIPLINARY TRIBUNAL

Referral to Disciplinary Authority ('DA')

71. If within the period permitted the member refuses in writing to consent to the decision of MRSB and/or the recommended disciplinary action, or does not respond, MRSB shall refer the case to the Chair of the DA and shall inform the complainant (where applicable) accordingly.

Composition of the Disciplinary Tribunal

72. Upon receiving a referral from MRSB under paragraph 71, the Chair of the DA shall

⁵ We will consider accepting the member's response made otherwise than in writing on a case-by-case basis where this would be a reasonable adjustment to make in the circumstances.

⁶ We will consider accepting such a request made otherwise than in writing on a case-by-case basis where this would be a reasonable adjustment to make in the circumstances.

appoint a Disciplinary Tribunal which they will chair, together with one independent member of the DA and one Fellow member, not having an interest in the matter.

73. The Chair of the DA may, at their discretion, appoint another independent DA member to act as Chair of the Tribunal.

The Legal Assessor

74. The Chair of the DA shall appoint, and the DA will remunerate, a barrister or solicitor of not less than ten years' standing to act as a Legal Assessor to the DA/the Disciplinary Tribunal to advise and assist the Disciplinary Tribunal as it shall require and to be present at any hearing of the matter (but to have no vote in determining the case).

The Presenter

75. MRSB shall present the case before the Disciplinary Tribunal and for this purpose may instruct and remunerate a legally qualified representative.

Procedure before the Disciplinary Tribunal

76. The hearing of the matter shall be conducted in accordance with the following paragraphs except where to do so would be unjust or inconvenient when the Chair of the Disciplinary Tribunal may, after consultation with the Legal Assessor, modify the procedure to the extent that the Chair deems necessary, provided that the result is fair to the member under complaint.

77. Proceedings before the Disciplinary Tribunal will be conducted in accordance with the law of England and Wales.

78. If there is a referral to the Disciplinary Tribunal in relation to a member who either lives or practises their profession outside England and Wales, the Chair of the Disciplinary Tribunal may, on the application of MRSB (or their legally qualified representative), adapt these Regulations, with the exception of paragraph 77, so far as is necessary to ensure the case is conducted fairly.

79. The hearing may take place either in-person or by virtual means (i.e. a video or telephone conference call whereby all participants can communicate with all other participants).

80. The member concerned has the right to appear in person at a hearing and may, if they so wish, be represented by a lawyer, barrister, another member or, at the

discretion of the Disciplinary Tribunal, any other individual of their choice.

81. Following appointment of the Disciplinary Tribunal, the Chair shall request the Standards Department to serve written notice on the member including:

- a. A statement of the intention to hold a hearing before the Disciplinary Tribunal;
- b. Sufficient particulars of the alleged unprofessional conduct as to enable the member adequately to understand the allegations made;
- c. A summary of the facts and matters relied upon by MRSB in presenting the case; and
- d. Copies of any written statement and other document that MRSB intends to rely upon, and requesting the member to indicate in their response whether they wish to have the matter dealt with on paper only or at a hearing.

82. Within 28 days of the date of the notice referred to in paragraph 81 above the member shall serve upon the Standards Department notice in writing giving:

- a. Brief particulars of any defence intended to be made;
- b. A summary of the facts and matters that will be relied upon in that defence; and
- c. Copies of any written statement and other documentation that is intended to adduce in evidence, and stating whether they wish to have the matter dealt with on paper only or at a hearing and, if at a hearing, whether they will attend.

Determination on paper

83. If, within the period permitted, the member notifies the Standards Department that they wish the matter to be dealt with on paper only, or if they do not respond within the period permitted, the Disciplinary Tribunal will proceed to determine the matter on paper as soon as is practicable.

84. The Disciplinary Tribunal may, following a finding of breach of the MRS Code of Conduct in appropriate circumstances, at its discretion, reserve its decision as to what, if any, disciplinary action to order pending receipt of any representations the

member may wish to make in mitigation of sanction.

85. The decision of the Disciplinary Tribunal together with any disciplinary action ordered and its reasons shall be provided in writing to the MRSB and to the member as promptly as is practicable following the paper determination.

86. The Standards Department shall at the same time inform the complainant (where applicable) of the decision and any disciplinary action ordered together with a brief summary of the Disciplinary Tribunal's reasons.

Notification of Date for Hearing and further exchange of information

87. If, within the permitted period, the member notifies the Standards Department that they wish their case to be dealt with at a hearing, the matter will proceed to a hearing before the Disciplinary Tribunal in accordance with the following paragraphs.

88. The Standards Department shall, as soon as is practicable, serve upon the member at least 28 days' written notice of the date, time and place of the hearing.

89. The Standards Department shall also indicate in the notice referred to in paragraph 88 above:

- a. any further facts, matters, written statements and/or documents not previously supplied that it intends to reply upon at the hearing;
- b. the name and position of any witnesses it intends to call in person to attend the hearing with an outline of what each witness is expected to say; and
- c. whether it proposes to request that the hearing be held in public.

90. Within 21 days from the date of the notice referred to in paragraphs 88 and 89 above, the member shall serve upon the Standards Department written notice indicating as follows:

- a. their intention to attend the hearing together with the name of any solicitor, barrister, other member or individual who will be representing them;
- a. any further facts, matters, written statements and/or other documents they intend to rely upon;
- b. the name and position of any witnesses they intend to call in person to

attend the hearing with an outline of what each witness is expected to say;
and

- c. whether they propose to request that the hearing be held in public or to apply for any direction under paragraph 98.b below.

91. Neither party shall, without the consent of the other or the permission of the Disciplinary Tribunal, call any witness or adduce any written statement or document other than those accompanying or identified in the written notices referred to in paragraphs 81, 82, 89 and 90 above.

92. Any written submissions, responses to enquiries and details of witnesses shall be circulated to all parties by the Standards Department at least 7 days before the hearing. Documentation will be redacted if necessary, to remove personal data relating to other individuals.

Adjournment

93. At the request of either party, or at their own volition, the Chair of the Disciplinary Tribunal may at any time adjourn the hearing if satisfied that it is necessary and in the interests of justice so to do. An application for the adjournment of a hearing that has not begun may be agreed between the parties.

94. In the event that any member of the Disciplinary Tribunal is unwilling or unable to hear an entire case and the matter cannot be dealt with by adjournment of the hearing, then the Chair of DA must appoint a new Disciplinary Tribunal and the matter re- heard. Members of the Disciplinary Tribunal who sat previously and were not the member unable or unwilling to attend shall be eligible to be appointed to the new Disciplinary Tribunal.

The absence of the member

95. If at the hearing the member is not present or represented, the Disciplinary Tribunal may proceed to hear the matter in the member's absence if it is satisfied that notice has been served upon the member in accordance with paragraphs 88 and 89 above and the Disciplinary Tribunal is satisfied that it is appropriate to do so having considered the public interest and the rights of the parties.

Joinder of cases

96. The Disciplinary Tribunal may hear two or more cases against a member at the same time.

Joinder of members

97. The Disciplinary Tribunal may also hear cases against two or more members at the same time if it considers it convenient to do so.

Public hearing

- 98.
- a. The hearing shall be conducted in private unless the Standards Department or the member requests otherwise when, subject to the below, it shall take place in public;
 - b. Where a request is made under paragraph 98.a above for the hearing to be held in public, either party may apply to the Disciplinary Tribunal for a direction that the hearing, or any part of it, shall be conducted in private;
 - c. An application under paragraph 98.b above for the hearing, or any part of it, to be held in private, shall be heard by the Disciplinary Tribunal in private, and shall be granted only after consultation with the Legal Assessor and to the extent that the Disciplinary Tribunal considers it strictly necessary, in special circumstances where publicity would prejudice the interests of justice.

Order of proceedings

99. The order of proceedings for the hearing before the Disciplinary Tribunal, unless the Disciplinary Tribunal otherwise directs, will be as follows:
- a. submissions by or on behalf of MRSB;
 - b. hearing of any witnesses called by MRSB followed by cross examination of such witnesses by or on behalf of the member;
 - c. submissions by or on behalf of the member;
 - d. hearing of any witnesses called by the member followed by cross-examination of such witnesses by or on behalf of MRSB;
 - e. closing submissions by or on behalf of MRSB;
 - f. closing submissions by or on behalf of the member;
 - g. after retiring as necessary, the Disciplinary Tribunal shall advise the member whether or not it finds any and each allegation of breach of the

MRS Code of Conduct proven and on what facts/evidence it has relied in coming to its conclusions.

100.

- a. The burden of proving the alleged breach of the Code of Conduct shall lie upon MRSB and, where the Disciplinary Tribunal must determine issues of fact, the standard of proof will be on the balance of probabilities.
- b. A finding of a court, Panel, Tribunal or regulatory body across the United Kingdom or elsewhere will be admissible as prima facie evidence of the facts found.
- c. Members of the Disciplinary Tribunal may, through the Chair, question witnesses, parties or representatives as they think fit.
- d. Where it appears to the Disciplinary Tribunal at any time that the allegations sent to the member in accordance with paragraph 81 should be amended and the amendment can be made without injustice, after hearing the parties and consulting with the Legal Adviser, the Disciplinary Tribunal may amend the allegations.
- e. Decisions of the Disciplinary Tribunal are made by simple majority. In the case of an equality of votes, the Chair shall have a second or casting vote.

Order of proceedings following a finding of unprofessional conduct

101. MRSB shall, following a finding of unprofessional conduct, inform the Disciplinary Tribunal of any further circumstances known to it, whether favourable or adverse to the member, that might be relevant to an Order which the Disciplinary Tribunal might make.

102. The member shall then be entitled to address the Disciplinary Tribunal in mitigation of penalty and for this purpose may call witnesses and produce documents.

103. MRSB shall only be entitled to respond:

- a. at the request of the Disciplinary Tribunal;
- b. in order to challenge any contested matters of fact; or
- c. on the subject of the Disciplinary Tribunal's powers.

Decision

104. The Disciplinary Tribunal may dismiss a case or uphold a case in full or in part.
105. If a case is upheld in full or in part, the Disciplinary Tribunal may order any one or more courses of disciplinary action in accordance with paragraphs 60 to 64 above but it may not impose an obligation on a member to pay legal or other costs of DA/the Disciplinary Tribunal or of MRSB, nor can it award legal or other costs to be paid to the member.
106. The Disciplinary Tribunal shall not make any order for redress to the complainant or any other person.

Notification of Decision

107. The decision of the Disciplinary Tribunal together with any disciplinary action ordered and its reasons shall be provided in writing to the member and to MRS Main Board as promptly as is practicable, and in any case within 14 days, following any hearing.
108. The Standards Department shall at the same time inform the complainant (where applicable) of the decision and any disciplinary action ordered together with a brief summary of the Disciplinary Tribunal's reasons.

Publication of Decision

109. The decision of the Disciplinary Tribunal will be published as soon as is practicable in such form and manner as the Disciplinary Tribunal requires, unless the Disciplinary Tribunal considers the particular circumstances outweigh the public interest in publication. There will be no publication (save for notifying the complainant as provided for at paragraph 108 above) where no action is taken unless the member so requests (and the Disciplinary Tribunal agrees to publish the matter).

STAGE V – APPEALS

Appeal of Disciplinary Tribunal Decisions

110. The member may appeal against a decision or order of the Disciplinary Tribunal to the Disciplinary Appeal Panel.

111. Appeal applications must (i) be in writing⁷ , (ii) set out the decision for appeal and the grounds for requesting the appeal (the grounds must be at least one of those set out in paragraph 112), (iii) where the ground under paragraph 112.a is argued, provide any supporting evidence, (iv) and be received by the [Chair of the DA] no later than [28] days after the date on which the decision/order of the Disciplinary Tribunal was notified to the member.
112. The only grounds for appeal against a decision/order of the Disciplinary Tribunal are the following:
- a. the member has acquired new evidence that:
 - i) could not previously have been obtained with reasonable diligence; and
 - ii) if it had been before the Disciplinary Tribunal, would have had an important influence upon the determination of the matter;
 - b. the decision was flawed because of a serious procedural or other irregularity in the proceedings before the Disciplinary Tribunal;
 - c. the Disciplinary Tribunal did not have the power to make the order/decision appealed against;
 - d. there is reason to suspect bias in the decision complained of;
 - e. the decision of the Disciplinary Tribunal was not one which could reasonably have been arrived at upon due consideration of the facts and matters before it; or
 - f. the sanction imposed by the Disciplinary Tribunal was excessive in light of the Disciplinary Tribunal's decision on the facts or the member's circumstances.
113. An appeal shall be by way of review and will not be a re-hearing of the case.
114. [The Standards Department will conduct an initial triage of any appeal application. Appeal applications that do not meet the criteria set out in paragraph 111 will be refused. Following any such refusal the member will be given one further

⁷ We will consider accepting an appeal application made otherwise than in writing on a case-by-case basis where this would be a reasonable adjustment to make in the circumstances.

opportunity to resubmit a compliant appeal application, which must be received within [14] days of the original appeal being refused].

115. The member may make a request for permission to appeal out of time in writing to the [Chair of the DA], which may be granted if there are, in the opinion of the [Chair of the DA], exceptional circumstances justifying such consideration. Such a request for permission to appeal out of time must be received no later than [28] days after the date on which the decision/order of the Disciplinary Tribunal was notified to the member.

116. A sanction imposed by the Disciplinary Tribunal shall not come into effect, or be published in line with paragraph 109, until the time limit for bringing an appeal has expired and, where an appeal is brought, until the appeal has been determined by the Disciplinary Appeal Panel.

Composition of the Disciplinary Appeal Panel

117. Upon receipt of an application to appeal, Chair of the DA shall appoint a Disciplinary Appeal Panel comprising one or more DA members (as the Chair of the DA determines to be suitable in all the circumstances), none of whom has been involved in the original Disciplinary Tribunal.

Appeals generally

118. The Disciplinary Appeal Panel can consider the case either by written submissions, or at a hearing, as determined by the Chair. If a hearing is held, the member and all other parties shall be entitled to attend any hearing and make representations to it. They may be supported by another individual in the same way as at the Disciplinary Tribunal. The hearing may take place either in-person or by virtual means (i.e. a video or telephone conference call whereby all participants can communicate with all other participants).

119. If an appeal hearing is to be held, the Standards Department shall, as soon as is practicable, serve upon the member at least [28] days' written notice of the date, time and place of the hearing.

120. The Standards Department shall also serve a copy of all the documentation that was before the Disciplinary Tribunal, together with any transcript of the Disciplinary Tribunal hearing, upon the member, at least [28] days prior to the Appeal hearing.

121. In determining any Appeal, the Disciplinary Appeal Panel will consider the decision of the Disciplinary Tribunal having regard to (i) the evidence presented to the Disciplinary Tribunal (ii) any representations made to the Disciplinary Tribunal if available in written form, including any transcript of any hearing (iii) the member's grounds of appeal and (iv) any representations that the parties may wish to make to the Disciplinary Appeal Panel regarding the findings and/or sanction imposed by the Disciplinary Tribunal.
122. The parties may not provide new evidence to the Disciplinary Appeal Panel without leave of the Chair. Any application to adduce new evidence must be served upon the other party at least 28 days prior to the Appeal hearing.
123. The burden will be on the member to satisfy the Disciplinary Appeal Panel that the finding made or sanction imposed by the Disciplinary Tribunal was wrong.

Appeal proceedings

124. The order of proceedings for the hearing before the Disciplinary Appeal Panel, unless the Disciplinary Appeal Panel otherwise directs, will be as follows:
- a. the Disciplinary Appeal Panel will hear and consider any preliminary legal arguments;
 - b. submissions by or on behalf of the member on their grounds of appeal;
 - c. submissions by or on behalf of the MRS;
 - d. the Disciplinary Appeal Panel may allow either party present to make closing submissions;
 - e. after retiring as necessary, the Disciplinary Appeal Panel shall advise the member on whether the Appeal is upheld or dismissed.
125. Where the Disciplinary Appeal Panel upholds all or part of the Appeal it may, in relation to those parts of the Appeal it upholds:

- a. revoke or vary the Disciplinary Tribunal's finding(s);
 - b. revoke or vary any sanction(s) imposed by the Disciplinary Tribunal to one of greater or lesser severity;
 - c. refer the matter back to a Disciplinary Tribunal for additional consideration including, if warranted, a new hearing.
126. Where the Disciplinary Appeal Panel rejects the Appeal in full or in part, the original decision of the Disciplinary Tribunal stands in relation to those parts of the appeal that fail.
127. Decisions of the Disciplinary Appeal Panel are made by simple majority. In the case of an equality of votes, the Chair shall have a second or casting vote. Any decision of the Disciplinary Appeal Panel will be final and absolute.
128. All decisions of the Disciplinary Appeal Panel will take effect from the date specified by the Disciplinary Appeal Panel.

Notification of Decision

129. The decision of the Disciplinary Appeal Panel shall be provided in writing to the member and to MRS Main Board as promptly as is practicable, and in any case within 14 days, following any hearing/determination.
130. [The Standards Department shall at the same time inform the complainant (where applicable) of the decision with a brief summary of the Disciplinary Appeal Panel's reasons].

Publication of Decision

131. Subject to the provisions of paragraph 116, the decision of the Disciplinary Appeal Panel will be published as soon as is practicable in such form and manner as the Disciplinary Appeal Panel requires, unless the Disciplinary Appeal Panel considers the particular circumstances outweigh the public interest in publication.

GENERAL

Time Limits

132. An overseas member may make a request in writing to the Standards Department, for an extension of the time limits in these Regulations which the

Standards Department may grant taking into account the particular circumstances of the overseas member.

133. MRSB/the Disciplinary Tribunal will proceed within its timescales even if the member, complainant or witness(es) fail to respond to correspondence. If one of the above has an illness, injury or a medical condition, MRSB/the Disciplinary Tribunal will consider what reasonable adjustments can be made to the procedures under these Regulations (including extension of time limits where appropriate) upon the provision of relevant evidence.

Service of notices/documents

134. Any notice or other documents required by these regulations to be sent to or be served on a member may be delivered either personally, by email or by post (save that any notice required to be served under paragraphs 59, 81, 85, 107 and 106 hereunder shall, if sent by post, be sent by recorded delivery or, if sent by email, require a delivery receipt notification/confirmation of delivery by the recipient).
135. Where any such notice or any document is served by post or recorded delivery, it shall be sent to the last address of the member concerned which is recorded by the member with MRS and (unless returned to MRS), it shall be deemed to have been served on the second day following that on which it was posted unless at the place of receipt that latter day is a Sunday or a public holiday in which case service shall be deemed to have occurred on the first day thereafter which is not one of such exceptional days.
136. Where any such notice or any document is served by email, it shall be sent to the last email address of the member concerned which is recorded by the member with MRS and (unless MRS receive a failed delivery notice), it shall be deemed to have been served, if sent before 16:00, on the day it was sent or, if sent after 16:00, on the following day unless at the place of receipt that day is a Sunday or a public holiday in which case service shall be deemed to have occurred on the first day thereafter which is not one of such exceptional days.