

By-laws for the investigation and discipline of members

Under the powers conferred on it by Clause 15 of the Resolution Institute Constitution the Board makes the following by-laws to be read with Clause 4.8e):

1. For the investigation and determination by an Investigating Committee to which the Board has under clause 7.7 of the Constitution delegated its investigative powers, of any complaint against any Member or any concern in regard to a Member's conduct or membership of Resolution Institute.
2. For the conduct and determination of disciplinary proceedings and action by the Board arising out of any determination of an Investigation Committee.
3. For appeals against determinations and disciplinary action by the Board.

1. Investigation

- a) If a complaint has been made against a Member or any other concern has arisen in regard to a Member's conduct or membership of Resolution Institute, and the Board has determined under clause 4.7 e) of the Constitution that the complaint or concern is not suitable for informal resolution or resolution by ADR, the Board may refer the complaint or concern to an Investigation Committee to which it has delegated its powers of investigation under clause 7.7 of the Constitution.
- b) On receipt of a reference under a) the Investigating Committee will give notice to the Member whose conduct the Board has determined should be investigated by the Investigating Committee, specifying the nature of the matter to be investigated, and all the facts and contentions that the Investigating Committee considers material to its investigation.
- c) The Member will be given a reasonable opportunity to present in such manner as the Investigating Committee may determine, such facts and submissions as the Member may wish to place before it in relation to the matter being investigated.
- d) The rules of evidence will not apply to investigation by an Investigation Committee.
- e) The Investigating Committee will determine by majority whether the facts in regard to the matter under investigation constitute grounds for any action against the Member, and will record its determination and its reasons for that determination in writing.
- f) A copy of the Investigation Committee's determination and reasons will be provided to the Member and to each Director of the Board.

2. Action following Investigation Committee's Determination

- a) If the Investigating Committee has determined that there are grounds for action against the Member, the Board will send its determinations and its reasons to the Member. From time of receipt, the Member will have fourteen days within which to provide the Board in such manner as the Board may determine, with facts and submissions relevant to any action the Board might take consequent upon the Investigating Committee's determination.
- b) Upon receipt of any facts and submissions provided to it by the Member the Board will determine by majority whether or not to terminate the Member's membership of Resolution Institute or take other disciplinary action against the Member, and if so what that disciplinary action should be, and will record its determination and its reasons for that determination in writing.
- c) A copy of the Board's determination and reasons will be served on the Member together with a notice advising the Member that the Member may within fourteen days after receipt of the Board's determination lodge with the Board a notice of appeal against the Board's determination.
- d) If the Member does not within fourteen days after receipt of the Board's determination serve on the Secretary a notice of appeal against the Board's determination, the Board's determination will be final and the Board will give effect to that determination.
- e) The rules of evidence will not apply to the consideration and determination by the Board of the Investigating Committee's determination and whether the Board should terminate the Member's membership or take disciplinary action against the Member, and if so what the disciplinary action should be.

3. Appeals

- a) A Member whose membership of Resolution Institute the Board has determined to terminate or against whom the Board has determined to take disciplinary action, may within fourteen days of receiving a copy of the Board's determination lodge with the Secretary a written notice of appeal specifying the grounds of appeal against the Board's determination together with the submissions the Member makes in support of the appeal.
- b) Upon receipt of a written notice of appeal and any submissions the Secretary in consultation with the Chair will convene an Appeal Committee of three Members of Resolution Institute none of whom will be a member of the Board.
- c) The Appeal Committee will consider the Investigating Committee's determination and reasons, the Board's determination and reasons and the Member's grounds of appeal and submissions, together with any other material that it may call for.
- d) The Appeal Committee will not be obliged to conduct a hearing or receive oral submissions nor will the rules of evidence apply to its deliberations.
- e) The Appeal Committee will determine the appeal by allowing it in whole or in part, in which event it will set aside the Board's determination in regard to disciplinary action and substitute its own determination as the determination of the Board; or dismiss the appeal.

- f) The Appeal Committee will record its determination in writing with reasons, and will furnish the Secretary with a copy of the determination. The Secretary will provide the Member with a copy of the determination which will constitute formal notification of the outcome of the appeal and of the disciplinary action to be taken by the Board, if any.
- g) The Board will give effect to the Appeal Committee's determination.

4. General

- a) Costs of an investigation, disciplinary proceedings or appeal will not be ordered or required to be paid by the Member, Investigating Committee, Board or Appeal Committee.
- b) The Board indemnifies Members of any Investigating Committee and Appeal Committee against any claim or liability that may arise out of their performance of their functions or action taken by the Member.
- c) Any notice required to be given under these By-laws is deemed to be properly given if sent by registered post to the last address advised by the Member to whom it is addressed.
- d) Upon the determination of an appeal, or the expiration of the time within which notice of appeal must be given by the Member, the Board may publish in such manner as it decides, the terms of disciplinary action taken against the Member.
- e) Pending the final determination of any investigation or disciplinary proceedings, confidentiality will, subject to clause 4.8 k) of the Constitution, be maintained in regard to the investigation, the disciplinary proceedings and the appeal, if any.