



COMPLIANCE INSTITUTE

SOUTHERN AFRICA

DISCIPLINARY POLICY

Type of Document	Policy
Purpose	The purpose of this policy is to lay down the provisions and principles that must be applied to ensure the fair adjudication of disciplinary matters in a manner that is reasonable, lawful and procedurally fair
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The core of the policy

The policy stipulates the principles and provisions applicable to the initiation of disciplinary action by the Institute and provides transparency on the way the proceedings will be conducted to ensure the fair adjudication of disciplinary matters.

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1. Definitions and interpretation

In this Disciplinary Policy, unless the context otherwise requires, the following terms have the following meanings :

<i>“Board”</i>	means the Board of Directors of the Compliance Institute of Southern Africa (“the Institute”)
<i>“Case-Initiator”</i>	means the person appointed in accordance with section 5.4 of the Institute’s Disciplinary Procedures, to conduct the case for, and to represent the Institute in disciplinary proceedings;
<i>“CEO”</i>	means the Institute’s Chief Executive Officer;
<i>“Code”</i>	means the Institute’s Code of Ethics and Professional Standards, as determined from time to time;
<i>“the Committee”</i>	means the Institute’s Disciplinary Committee as appointed by the Board, from time to time;
<i>“the Complainant”</i>	means any person, an organisation, an association of persons, Member of the Institute or the Institute itself, who reasonably believes that he/she/it possess information or a basis of complaint which may be reasonably indicative of misconduct on the part of a Member and which information or basis of complaint will, for the purposes of this Policy, be referred to as "a/the complaint";
<i>“days”</i>	means calendar days, excluding Saturdays, Sundays and promulgated Public Holidays within the Republic of South Africa;
<i>“the Institute”</i>	means the Compliance Institute of Southern Africa NPC;
<i>“Member”</i>	means any member of the Institute, irrespective of their member type, designation or certification, and includes for the purposes of this Policy, any person: <ul style="list-style-type: none">• applying for membership of the Institute whether for the first time or a returning member;• agreeing to represent the Institute in any official capacity;• enrolling for the occupational qualification or any of the training courses offered by the Institute; or• applying or being awarded with a designation conferred by the Institute; or any person appointed as an assessor or moderator for any training and examination relating to the Institute.
<i>“Member Rules and Regulations”</i>	means the Institute’s suite of rules and regulations pertaining to acquiring and maintaining membership of the Institute, as determined from time to time;
<i>“Misconduct”</i>	means any act or omission, whether intentional or unintentional, which is contrary to one or more of the provisions of the Code or

Member Rules and Regulations, as determined from time to time;

“Panel”
(or *“Hearing Panel”*
or *“Appeal Panel”*) means the relevant Panel, Hearing Panel or Appeal Panel constituted in terms of the relevant sections of this Policy and the Disciplinary Procedures for the purposes of adjudicating a complaint or considering an appeal;

“this/the Policy” means this Disciplinary Policy, as amended from time to time.

2. Purpose

This Policy intends to:

- 2.1 regulate the conduct of Members by addressing and resolving instances of Misconduct on the part of a Member in a fair and transparent manner in terms of the Disciplinary Procedures; and
- 2.2 to declare and uphold the highest standards of conduct amongst the Institute's Members in furtherance of the integrity and status of the Compliance Profession in Southern Africa.

3. Scope and application

- 3.1 This Policy is binding on all Members of the Institute, and to the extent relevant after the date of the adoption of the Policy, on past Members of the Institute, as provided for in section 14 below.
- 3.2 This Policy must be read with the Institute's Disciplinary Procedures and the terms of reference to the Institute's Disciplinary Committee, as determined from time to time.

4. The Institute's disciplinary committee

The Board will appoint a Disciplinary Committee (the Committee) and will determine the mandate, composition and powers of the Committee as it deems appropriate, from time to time.

5. The Institutes disciplinary panels

- 5.1 The Committee will, in accordance with its terms of reference, designate suitable persons to serve as members of the Institute's disciplinary panels (the Panel, or the Hearing Panel / Appeal Panel, as the case may be).
- 5.2 Suitable persons will include, but not be limited to:
 - 5.2.1 Senior officers and/or employees of the Institute;
 - 5.2.2 Members of the Institute, in good standing, with experience and expertise commensurate with the adjudication of disciplinary matters;
 - 5.2.3 Members of the Committee or Board;
 - 5.2.4 Advisors and/or consultants to Institute; and/or
 - 5.2.5 Any such other persons as the Committee may determine from time to time.

- 5.3 The Committee will, through the Institute, call for interested persons to submit their names to be included in a register of persons available to serve as Panel members from time to time. The Committee will determine the timing, format and criteria for such call(s) and the inclusion of persons on the register of potential Panel members.
- 5.4 The Committee may remove or exclude any person, office or function from the group in section 5.2 above, if it deems it appropriate to do so under the circumstances.
- 5.5 A complaint against a Member will be adjudicated by a Panel (or Hearing Panel, as the case may be) comprising no less than 3 (three) persons from one or more of the groups in section 5.2, and in a manner set out in the Disciplinary Procedures.
- 5.6 A Panel (or Hearing-, or Appeal Panel, as the case may be) will execute functions in a reasonable, procedurally fair, transparent and unbiased manner in accordance with the provision of this Policy, the Disciplinary Procedures and the principles of natural justice.
- 5.7 A member of the Panel (or Hearing-, or Appeal Panel, as the case may be) will, at the earliest possible opportunity, recuse him-/herself from the Panel (or Hearing-, or Appeal Panel) should there be any potential or actual personal interest in the matter, or bias, prejudice, or conflict of interest on their part pertaining to the complaint, the Complainant, or the Member.
- 5.8 A Panel (or Hearing-, or Appeal Panel) will decide each matter on the evidence before it and upon the balance of probabilities.
- 5.9 Any decision or finding by the Panel (or Hearing-, or Appeal Panel, as the case may be) is done by way of majority ruling and in the case of a deadlock, the Chairperson of the Panel (or Hearing-, or Appeal Panel, as the case may be) will open further deliberations to reach a majority conclusion.
 - 5.9.1 The Chairperson of the Panel (or Hearing-, or Appeal Panel) will not have a casting vote on any matter under deliberation by the Panel (or Hearing-, or Appeal Panel, as the case may be).
 - 5.9.2 The Chairperson of the Panel (or Hearing-, or Appeal Panel) will communicate the requests and decision(s) of the Panel (or Hearing-, or Appeal Panel, as the case may be) to the Committee, the Complainant and the Member in writing.
 - 5.9.3 The Panel (or Hearing-, or Appeal Panel, as the case may be) will be supported by an internal secretariat-function of the Institute whose primary role will be to administrate the exchange of documents between the Complainant, Member and the Panel (or Hearing-, or Appeal Panel) and keep a full record of proceedings in an appropriate format or medium for a minimum period of 5 (five) years after the date on which the matter was concluded.
- 5.10 The Institute's CEO will be the custodian of this Policy and ensure that:
 - 5.10.1 appropriate amendments are initiated and submitted, through the Committee, to the Board for approval, as and when necessary; and
 - 5.10.2 determine administrative processes and procedures from time to time, in consultation with the Committee, to give effective execution to this Policy.

6. Adjudication of disciplinary matters

The Institute's procedures for the receipt and adjudication of the complaints against Members of the Institute is set out in the Disciplinary Procedures.

7. Suspension of adjudication

The Panel (or Hearing Panel) may suspend the adjudication of a complaint, in its sole discretion, pending the outcome of ongoing civil-, or criminal- or employer-based proceedings against a Member where such proceedings concern, in part or in full, the subject matter of the complaint lodged with the Institute against the Member.

8. Legal representation

- 8.1 A Member may utilise his/her own legal representation to assist him/her in answering a complaint and/or for any proceedings in accordance with this Policy and/or the Disciplinary Procedures. The costs of a Member's legal representation, irrespective of the eventual outcome of the matter, will be for the sole and exclusive account of the Member concerned. The Member will have no claim whatsoever against the Institute or any of its officers, members, agents, panels, or the Complainant, for the payment of such costs.
- 8.2 A Complainant may similarly utilise his/her own legal representation to assist him/her in submitting a complaint, and the costs of the Complainant's legal representation, irrespective of the eventual outcome of the complaint, will be for the sole and exclusive account of the Complainant. The Complainant will have no claim whatsoever against the Institute or any of its officers, members, agents, panels for the payment of such costs.
- 8.3 To the extent necessary, the Committee may, in terms of paragraph 5.2 employ the services of a legal professional to perform the role of chairperson of any matter brought before the Committee. For the avoidance of doubt, where the Institute is the Initiator, it may utilise legal representatives to the extent required.

9. Precautionary suspension of membership

- 9.1 Where the Institute becomes aware (irrespective of the medium or form) of allegations or reports of possible misconduct on the part of a Member, and where the process in section 4 of the Disciplinary Procedures has not yet commenced, or has commenced but has not yet been concluded, the Institute, though the Committee, may:
 - 9.1.1 make a preliminary inquiry in its discretion as to the nature and extent of the allegations or reports to determine whether the publication of such allegations or reports reasonably poses a potential risk to the Institute's reputation or business interests;
 - 9.1.2 advise the Member in writing that a precautionary suspension of membership is intended and provide the Member with an opportunity to make written representations within 10 (ten) days to the Committee before the precautionary suspension is confirmed;
 - 9.1.3 were the representations in 9.1.2 above are rejected, confirm the precautionary suspension in writing, and thereafter proceed with the process as outlined in section 4 of the Disciplinary Procedures at the first reasonable opportunity.

- 9.2 The implementation of a precautionary suspension may not be published as envisaged in section 12 below, save for a generic confirmation of the precautionary suspension as may be necessary to protect the Institute's reputation and business interest.
- 9.3 A precautionary suspension should be uplifted in the event that, and at the earliest opportunity, if it is reasonable to do so.
- 9.4 The decision on the implementation, duration and/or upliftment, of a precautionary suspension is within the Committee's sole discretion.
- 9.5 The precautionary suspension is not a form sanction as envisaged by section 10 below.

10. Finding and sanction

- 10.1 Where the Panel (or the Hearing Panel, as the case may be), in terms of the Disciplinary Procedures, makes a finding of guilt against a Member on one or more charges, it will notify the Member, the Committee and the Complainant accordingly.
- 10.2 If a Member is dissatisfied with the finding and/or sanction imposed he/she will have the right to refer the matter for appeal, as provided for in section 11 below.
- 10.3 The sanction will be one, or a combination, of the following and will, in the case of multiple sanctions, run concurrently:
 - 10.3.1 a written admonishment or reprimand;
 - 10.3.2 a suspension of membership for a period not exceeding 24 months;
 - 10.3.3 an order to successfully complete a relevant competency- or ethics related course and/or examination (the cost of which will be for the Member's account) of the Institute's choosing, within a specified period of time;
 - 10.3.4 an order to successfully complete personal- or professional coaching or counselling (or similar remedial intervention) of the Institute's choosing, within a specified period of time (the cost of which will be for the Member's account);
 - 10.3.5 termination of membership for a period not exceeding 10 years, at the expiry of which the Member concerned may re-apply for membership, in accordance with the Member Rules and Regulations relevant at that time;
 - 10.3.6 a fine, to be paid to the Institute on demand, not exceeding a maximum amount as determined by the Committee from time to time;
 - 10.3.7 a life ban on membership.
- 10.4 The Panel or Hearing Panel, as the case may be, may suspend or defer all or any part of sanction(s) for any period on any condition that it deems appropriate in the circumstances.

11. Appeal

- 11.1 A Member (the Appellant) having been found guilty of a charge or charges may lodge an appeal against the finding and/or sanction of the Panel (or Hearing Panel, as the case may be) within 10 (ten) days of the date of the finding by setting out the grounds for appeal in writing and submitting their appeal to the Committee ("the Appeal").

- 11.2 The Committee, in accordance with its terms of reference, will appoint an Appeal Panel to consider the appeal. The Appeal Panel will comprise 3 (three) panel members from the list of persons described in section 5.2 above, provided that no person having considered the initial complaint in terms of section 4 of the Disciplinary Procedures, or who was part of the Hearing Panel in terms of section 5 of the Disciplinary Procedures above, may be a member of the Appeal Panel.
- 11.3 The Appeal Panel will consider the record of the complaint and the grounds for the appeal and allow or disallow an appeal within 10 (ten) days of receiving the notification of the Appeal and will inform the Appellant and the Committee in writing, accordingly.
- 11.4 Where the Appeal is allowed, the Appeal Panel will consider both the record of the initial complaint and the appeal received from the Member concerned, but may not consider new evidence, except where:
 - 11.4.1 new information becomes available and it would be impracticable, in the opinion of the Appeal Panel, to refer the matter back to the (initial) Panel or the Hearing Panel (as the case may be); and/or
 - 11.4.2 a dispute arises as to a point of procedure followed by the (initial) Panel or the Hearing Panel (as the case may be), and it is not possible to ascertain from the record, in the opinion of the Appeal Panel and on a balance of probabilities, the process that was followed.
- 11.5 The Appeal Panel will, in its sole discretion, have the authority to:
 - 11.5.1 substitute any finding of the Panel or the Hearing Panel (as the case may be), with a new finding; and/or
 - 11.5.2 impose a new sanction(s) from the competent sanction(s) in section 10 above; and/or
 - 11.5.3 confirm the finding(s) and/or sanction(s) of the Panel or the Hearing Panel (as the case may be); or
 - 11.5.4 refer the matter back for a rehearing by a new Hearing Panel on all or some of the original charges.
- 11.6 The Appeal Panel will execute their adjudication function in a reasonable, procedurally fair, transparent and unbiased manner in accordance with the provisions of this Policy and the principles of natural justice.
- 11.7 Nothing in this section 11, will preclude the Member concerned from approaching a Court for such relief as he/she may believe they may be entitled to in the event that they are aggrieved by the outcome of the Appeal.

12. Publication of findings

The findings of the Panel (Hearing- or Appeal Panel, as the case may be) may be published by the Committee in such form and manner as it deems appropriate subject thereto that a finding and sanction(s) may only be published once the period for lodging an appeal has expired and no appeal was received, or where the Members' appeal was unsuccessful.

13. External advice

The Panel (Hearing- or Appeal Panel, as the case may be) may, if it deems it necessary, acquire appropriate external advice or consultation regarding any matter pertaining to a complaint or any procedural aspect not covered by this Policy or the Disciplinary Procedures.

14. Continuity

The termination, or voluntary cancellation, of a Member's membership will not derogate from or affect the Institute's jurisdiction to adjudicate, in the manner set out in this Policy and the Disciplinary Procedures, a complaint(s) of Misconduct against a Member which:

- 14.1 arose prior to the date the Member's membership being terminated or voluntarily cancelled;
and
- 14.2 allegedly occurred while the Member was (still) a member of the Institute; and
- 14.3 which complaint(s) have not yet been resolved.