

PART II

DISCIPLINARY PROCEDURES

5. Disciplinary Proceedings before the Disciplinary Appeals Committee

- 5.1 In any case referred to the Disciplinary Appeals Committee under Clauses 4.14.1, 4.14.2 and 4.14.3 of Part II, in addition to those members of the Disciplinary Appeals Committee who have declared an interest under Clause 1.3 of Part II and excused himself from taking any part in the case (unless required to give information or evidence to any Committee), no member of the Disciplinary Committee shall be permitted to attend any hearing in the Disciplinary Appeals Committee whilst it is considering any matter relating to that case.
- 5.2.1 If the matter is referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.1 of Part II, the Participant charged shall, within 14 days of receipt of the reasoned decision in writing referred to in Clause 4.15 of Part II, lodge a statement of grounds of referral, and particulars of any fresh evidence it wishes to adduce, with the Secretary to the Disciplinary Appeals Committee.
- 5.2.2 If the decision of the Disciplinary Committee on penalty is referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.2 of Part II by the Enforcement Section, it shall, within 14 days of receipt of the decision in writing referred to in Clause 4.17.1 of Part II, lodge a statement of grounds of referral with the Secretary to the Disciplinary Appeals Committee.
- 5.2.3 If the decision of the Disciplinary Committee is being referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.3 of Part II by the Enforcement Section, it shall, within 14 days of receipt of the reasoned decision in writing referred to in Clause 4.17.2 of Part II, lodge a statement of grounds of referral with the Secretary to the Disciplinary Appeals Committee, together with points on which opinion and/or guidelines it wishes the Disciplinary Appeals Committee to give.
- 5.3 The Secretary to the Disciplinary Appeals Committee shall as soon as practicable after receipt of the documents referred to in Clauses 5.2.1, 5.2.2 or 5.2.3 of Part II forward the same to the Disciplinary Appeals Committee and either the Participant charged or the Enforcement Section as the case may be.

- 5.4 The Disciplinary Appeals Committee shall fix a date for the hearing and its Secretary shall notify the Participant charged and the Enforcement Section of the date for hearing.
- 5.5 A notice under Clause 5.4 of Part II shall set out the time, date and place of the hearing and shall be served no later than 14 days before the hearing.
- 5.6 The hearing shall be held in private.
- 5.7 If the Participant charged or the Enforcement Section fails to attend the hearing before the Disciplinary Appeals Committee, the Disciplinary Appeals Committee may proceed in its absence and dispose of the matter in whatever manner as it sees fit.
- 5.8 If fresh evidence is produced at the hearing by the Participant charged, and the Disciplinary Appeals Committee considers that such fresh evidence should be allowed, the Disciplinary Appeals Committee may hear the case itself. Should the Disciplinary Appeals Committee determine that it is not appropriate to do so, it shall remit the matter to the Disciplinary Committee for reconsideration of the verdict and the penalty.
- 5.9.1 If the Participant charged does not seek to introduce fresh evidence, the Disciplinary Appeals Committee shall consider the matter on the basis of the reasoned decision given by the Disciplinary Committee, the record of evidence given before the Disciplinary Committee, the statement of the grounds of referral and the oral submissions made by the Participant charged and the Enforcement Section at the hearing. Having done so, the Disciplinary Appeals Committee may either dismiss the charges or, if it upholds the verdict of the Disciplinary Committee, either impose the same, or substitute a lesser or a greater penalty for that imposed by the Disciplinary Committee.

- 5.9.2 In dealing with the referral of decisions on both verdict and penalty required by the Enforcement Section, the Disciplinary Appeals Committee shall consider the matter on the basis of the reasoned decision given by the Disciplinary Committee, the record of evidence given before the Disciplinary Committee, the statement of the grounds of referral and the oral submissions made by the Participant charged and the Enforcement Section before the Disciplinary Committee and the Disciplinary Appeals Committee. Having done so, the Disciplinary Appeals Committee may either uphold the penalty imposed by the Disciplinary Committee, or substitute a lesser or a greater penalty, or give its opinion and/or guidelines on points of principles for future reference to the Enforcement Section and the Disciplinary Committee, as the case may be.
- 5.10 The Secretary to the Disciplinary Appeals Committee shall notify the Participant charged and the Enforcement Section in writing of the decision of the Disciplinary Appeals Committee.
- 5.11 The decision of the Disciplinary Appeals Committee on a referral shall be final and conclusive and the Disciplinary Appeals Committee shall not be required to give reasons for its decision.