

# The Chartered Certified Accountants' Appeal Regulations 2014

Amended 1 January 2019

These regulations must be read in conjunction with the other regulations in Section 2. A regulation may affect members, affiliates and registered students in different ways depending on the application of other regulations to those members, affiliates and registered students. Regulations are not always cross-referenced to each other.

## Contents

1. Citation, commencement and application.....	3
2. Interpretation.....	3
3. Appeal.....	5
4. Applying for permission to appeal .....	5
5. Form of application notice and grounds of appeal.....	6
6. Permission to appeal.....	8
7. The appeal .....	11
8. Preparation for the appeal hearing.....	11
9. Notice, representation and adjournments.....	12
10. The hearing.....	14
11. Orders of Appeal Committee.....	15
12. Costs.....	16
13. Effect on costs of withdrawal of appeal .....	16
14. Notice.....	17
15. Correction of errors .....	17
16. Effective date .....	18
17. Public and private hearings.....	18
18. Publicity .....	19
19. Service of notices and documents .....	20
20. Payment.....	21
21. Attendance.....	21
22. Hearings .....	21
23. Public interest cases .....	22
24. Transitional provisions .....	22
25. Waiver.....	23

The [Council](#) of the Association of Chartered Certified Accountants, in exercise of the powers conferred on it by bye-law 9 of the Association's bye-laws and all other powers enabling it, hereby makes the following regulations:

## 1. Citation, commencement and application

- (1) These regulations may be cited as The Chartered Certified Accountants' Appeal Regulations 2014. These regulations as amended shall come into force on 1 January 2019.
- (2) These regulations shall apply to all persons who are subject to bye-laws 8 to 11 or otherwise agree to be bound by them.
- (3) These regulations may be amended by resolution of the Council.

## 2. Interpretation

- (1) In these regulations, unless the context otherwise requires:

*Admissions and Licensing Committee, Disciplinary Committee, Appeal Committee, Health Committee and Interim Orders Committee* mean committees of individuals having the constitution, powers and responsibilities set out in The Chartered Certified Accountants' Regulatory Board and Committee Regulations 2014;

*affiliate* means a registered student who has passed or obtained exemptions from the Association's ACCA Qualification examinations but has not progressed to membership;

*appellant* means a party applying for or having been granted permission to appeal against a finding or order of the Disciplinary Committee or the Health Committee, or an order of the Admissions and Licensing Committee;

*assessor* means an independent person so appointed by the Appointments Board in accordance with The Chartered Certified Accountants' Regulatory Board and Committee Regulations 2014 and referred to in these regulations;

*the Association* means the Association of Chartered Certified Accountants incorporated by Royal Charter granted in 1974 as amended from time to time;

*Authorisation Regulations* means The Chartered Certified Accountants' Authorisation Regulations 2014;

*bye-laws* means the bye-laws from time to time of the Association;

*case presenter* has the meaning ascribed to it in [regulation 9\(3\)](#);

*Chairman* means any person carrying out the function of a Chairman of the Appeal Committee, and the functions of the Chairman may, in respect of any application made prior to the final hearing of the case, be exercised by any appropriately appointed person notwithstanding that he or she is not scheduled to sit at the final hearing;

*complainant* means any person or persons who bring to the attention of the Association any matters, acts or circumstances which appear to render a relevant person liable to disciplinary action;

*Complaints and Disciplinary Regulations* means The Chartered Certified Accountants' Complaints and Disciplinary Regulations 2014;

*Council* means the Council of the Association from time to time and includes any duly authorised committee of Council;

*disciplinary bye-laws* means bye-laws 8 to 11 as amended from time to time;

*finding* means, in the context of a decision of the Disciplinary Committee, the decision as to whether an allegation made against the relevant person has been found proved or not proved;

*FRC* means the Financial Reporting Council;

*Health Regulations* means The Chartered Certified Accountants' Health Regulations 2014;

*hearings officer* means any officer of the Association with responsibility for the administration of the Disciplinary Committee, Interim Orders Committee, Health Committee, Admissions and Licensing Committee or Appeal Committee;

*IAASA* means the Irish Auditing and Accounting Supervisory Authority;

*investigating officer* has the meaning set out in the Complaints and Disciplinary Regulations;

*legal adviser* means an independent person so appointed by the Appointments Board and qualified in accordance with The Chartered Certified Accountants' Regulatory Board and Committee Regulations 2014 and referred to in these regulations;

*liable to disciplinary action* means liable to disciplinary action under bye-law 8(a);

*member* means an individual admitted to membership of the Association pursuant to the bye-laws and includes, where applicable, those entitled to be designated as Fellows of the Association;

*Membership Regulations* means The Chartered Certified Accountants' Membership Regulations 2014;

*officer of the Association* means any official, servant or agent of the Association, whether employed by the Association or otherwise;

*order* means any order of the Admissions and Licensing Committee made under the Authorisation Regulations or the Membership Regulations, any order of the Disciplinary Committee made under the Complaints and Disciplinary Regulations, any order of the Health Committee made under the Health Regulations, and any order of the Appeal Committee made under these regulations, and includes any direction as to the payment of a sum in respect of costs to or by the Association and as to the publicity to be given to any order and shall include where the context requires more than one such order;

*relevant person* means a member and other person (whether an individual or a firm and including a registered student) who has undertaken to abide by and be bound by, inter alia, the Association's bye-laws and the regulations made under them;

*respondent* means the person who is the opposite party in the appeal brought by the appellant;

*Secretary* means the Secretary of the Association (by whatever name known) or any other person acting in such capacity by the direction of the Council.

- (2) Words importing the masculine gender include the feminine and words in the singular include the plural and vice versa. References to “he” or “his” shall include “it” or “its” where the context requires.
- (3) The Interpretation Act 1978 of the United Kingdom shall apply to these regulations in the same way as it applies to an enactment, and, where the regulations relate to a matter which is derived from or related to the law of the Republic of Ireland, the Interpretation Act 2005 of the Republic of Ireland shall apply to these regulations in the same way as it applies to an enactment.
- (4) Headings and sub-headings are for convenience only and shall not affect the interpretation of these regulations.
- (5) Any reference to a statutory provision shall include where the context permits the subordinate legislation made from time to time under that provision and any reference to a statutory provision or regulation shall include that provision or regulation as from time to time modified or re-enacted so far as such modification or re-enactment applies or is capable of applying to such reference.

### 3. Appeal

- (1) Any [relevant person](#) who is the subject of a [finding](#) or [order](#) made by the [Disciplinary Committee](#), an order made by the [Admissions and Licensing Committee](#), or a finding or order made by the [Health Committee](#) may apply for permission to appeal within 21 days after service of the written statement of the reasons for the decision of such Committee (or such longer period as the [Chairman](#) of the Appeal Committee may allow where there is good reason for the [appellant](#) having failed to meet the time limit).
- (2) In exceptional circumstances, where there is a clear public interest in the matter being reviewed, the [Association](#) may apply for permission to appeal against a finding or order made by the Disciplinary Committee, an order made by the Admissions and Licensing Committee, or a finding or order made by the Health Committee within 21 days after service of the written statement of the reasons for the decision of such Committee.
- (3) No appeal shall lie solely on the question of costs unless the order was perverse or unreasonable, or compliance with it would result in severe financial hardship to the relevant person.
- (4) No appeal shall lie against any conditions imposed upon the grant of an adjournment.

### 4. Applying for permission to appeal

- (1) An application for permission to appeal shall be made by filing with the [hearings officer](#) an application notice in the form specified in regulation 5(1).

(2) Where an application notice is filed, the hearings officer shall notify the [respondent](#) and supply a copy to him within 14 days. The respondent may submit grounds of opposition within 21 days thereafter.

## 5. Form of application notice and grounds of appeal

(1) The application notice:

- (a) shall be in writing addressed to the hearings officer;
- (b) shall state the appellant's name and address;
- (c) shall state whether the appellant has authorised a representative to act for him in the appeal and, if so, state the representative's name and address;
- (d) shall state whether the appellant intends to appear at the hearing of the appeal if permission is granted;
- (e) in the case of an appeal from a finding or order made by the Disciplinary Committee, shall state whether the appellant appeals against one or more of its findings and orders or one or more of its orders only. An appeal against an order may be made conditionally upon an appeal against a finding of the Disciplinary Committee failing;
- (f) in the case of an appeal from an order made by the Admissions and Licensing Committee, shall state which of the orders is appealed and shall state the orders which the appellant wishes the [Appeal Committee](#) to make;
- (g) in the case of an appeal from a finding or order made by the Health Committee, shall state whether the appellant appeals against one or more of its findings and orders or one or more of its orders only. An appeal against an order may be made conditionally upon an appeal against a finding of the Health Committee failing;
- (h) shall state which of the grounds of appeal set out in this regulation 5 the appellant is putting forward in support of his application (and the grounds so stated shall not thereafter be amended except with the leave of the Appeal Committee);
- (i) shall state the reasons in support of each ground of appeal; and
- (j) may include any documents which the appellant wishes the Appeal Committee to take into account.

(2) An appeal by a person who is the subject of a finding or order made by the Disciplinary Committee may be upheld only upon one or more of the following grounds:

- (a) the Committee made an error of fact or law, which would have altered one or more of the Committee's findings or orders;
- (b) the Committee misinterpreted any of the Association's [bye-laws](#) or regulations or any relevant guidance or technical standards, which would have altered one or more of the Committee's findings or orders;
- (c) the Committee failed to take into account certain relevant evidence, which would have altered one or more of the Committee's findings or orders;

- (d) there is new evidence not previously available, which would have altered one or more of the Committee's findings or orders;
- (e) one or more of the Committee's orders is disproportionate and/or unreasonable in light of its findings;
- (f) one or more of the Committee's findings and/or orders are unjust because of a serious procedural irregularity in the proceedings.

(3) An appeal by a person who is the subject of an order made by the Admissions and Licensing Committee may be upheld only upon one or more of the following grounds:

- (a) the Committee made an error of fact or law, which would have altered one or more of the Committee's orders;
- (b) the Committee misinterpreted any of the Association's bye-laws or regulations or any relevant guidance or technical standards, which would have altered one or more of the Committee's orders;
- (c) the Committee failed to take into account certain relevant evidence, which would have altered one or more of the Committee's orders;
- (d) there is new evidence not previously available, which would have altered one or more of the Committee's orders;
- (e) one or more of the Committee's orders is disproportionate and/or unreasonable;
- (f) one or more of the Committee's orders is unjust because of a serious procedural irregularity in the proceedings.

(4) An appeal by a person who is the subject of a finding or order made by the Health Committee may be upheld only upon one or more of the following grounds:

- (a) the Committee made an error of fact or law, which would have altered one or more of the Committee's orders;
- (b) the Committee misinterpreted any of the Association's bye-laws or regulations or any relevant guidance or technical standards, which would have altered one or more of the Committee's findings or orders;
- (c) the Committee failed to take into account certain relevant evidence, which would have altered one or more of the Committee's orders;
- (d) there is new evidence not previously available, which would have altered one or more of the Committee's orders;
- (e) one or more of the Committee's orders is disproportionate and/or unreasonable;
- (f) one or more of the Committee's orders is unjust because of a serious procedural irregularity in the proceedings.

(5) An appeal by the Association against a finding or order made by the Disciplinary Committee, an order made by the Admissions and Licensing Committee, or a finding or order made by the Health Committee may be upheld only upon the ground that the decision was one that no Committee acting reasonably would have made.

## 6. Permission to appeal

*(1) Decision where the appellant is a person who is the subject of a finding or order made by the Disciplinary Committee, an order made by the Admissions and Licensing Committee, or a finding or order made by the Health Committee*

- (a) Where the application notice has been filed by a person who is the subject of a finding or order made by the Disciplinary Committee, permission to appeal may be granted only if the appeal would have a real prospect of success on one or more of the grounds under regulation 5(2) that are set out in the appellant's application notice.
- (b) Where the application notice has been filed by a person who is the subject of an order made by the Admissions and Licensing Committee, permission to appeal may be granted only if the appeal would have a real prospect of success on one or more of the grounds under regulation 5(3) that are set out in the appellant's application notice.
- (c) Where the application notice has been filed by a person who is the subject of a finding or order made by the Health Committee, permission to appeal may be granted only if the appeal would have a real prospect of success on one or more of the grounds under regulation 5(4) that are set out in the appellant's application notice.

*(2) Decision where the appellant is the Association*

Where the application notice has been filed by the Association, permission to appeal may be granted only if:

- (a) there is a clear public interest in the finding and/or order being reviewed; and
- (b) the appeal would have a real prospect of success on the ground set out in regulation 5(5).

*(3) Consideration of the application notice*

- (a) An application notice, whether filed by the Association or by any other party, shall be considered by the Chairman on the papers in private without a hearing.
- (b) The Chairman may grant or refuse permission to appeal. If permission is granted, the Chairman must specify the grounds upon which permission has been granted.
- (c) Before making a decision under this regulation 6(3), or in conjunction with such a decision, the Chairman may make such directions as he deems to be necessary or desirable.
- (d) The Chairman may not grant permission to appeal solely on the question of costs unless [regulation 3\(3\)](#) and regulation 6(1) or (2) (as the case may be) are satisfied.
- (e) The Chairman may of his own motion amend the application notice to add one or more of the grounds of appeal set out in regulation 5(2), 5(3) or 5(4) as applicable.

- (f) The Chairman must give written reasons at the time his decision is made, which shall address each of the grounds of appeal set out in the application notice. The written reasons shall be provided to the parties by the hearings officer within 21 days thereafter.
- (g) If the Chairman refuses permission to appeal:
  - (i) where the application notice filed pursuant to regulation 4(1) related solely to the question of costs, the Chairman's decision is final;
  - (ii) in all other cases where the Chairman has refused permission to appeal, in whole or in part, the appellant may request that his application notice be reconsidered by a second Chairman in accordance with regulation 6(4). Such request:
    - (aa) must be filed with the hearings officer within 21 days after service of the Chairman's written reasons for refusing permission (or such longer period as the Chairman who would reconsider the application notice may allow where there is good reason for the appellant having failed to meet the time limit); and
    - (bb) must be supported by written grounds setting out which aspects of the Chairman's decision he disagrees with and why.
  - (iii) Where an application for reconsideration is filed, the hearings officer shall notify the respondent and supply a copy to him within 7 days. The respondent may submit grounds of opposition within 21 days thereafter.
  - (iv) The Chairman who refused permission shall not sit on any Appeal Committee convened in relation to the case.
- (h) If the Chairman grants permission to appeal:
  - (i) where permission is granted solely on the question of costs, the Chairman shall proceed to make a decision on the appeal and his decision shall be final;
  - (ii) in all other cases, the appeal shall be heard by the Appeal Committee in accordance with regulation 7 and the Chairman who granted permission to appeal may sit on that Appeal Committee.
- (i) If the Chairman grants permission to appeal an order which was made with immediate effect, he may also grant a stay of the order if it is justified in all the circumstances.

*(4) Reconsideration of the application notice*

- (a) In the event that a request complying with regulation 6(3)(g)(ii) above is filed, the application notice shall be reconsidered by the Chairman on the papers in private without a hearing.
- (b) For the avoidance of doubt, no application notice shall be reconsidered by the Chairman unless, in the opinion of the Chairman, the request complies with regulation 6(3)(g)(ii)(bb).

- (c) The Chairman shall be supplied with:
- (i) all the documents which had been placed before the Committee whose finding and/or order is the subject of the application notice;
  - (ii) the notice of the Committee's finding and/or order;
  - (iii) the statement of the Committee's reasons for its decision;
  - (iv) the application notice and any documents submitted with it;
  - (v) the Chairman's reasons for refusing permission at the initial consideration;
  - (vi) the applicant's grounds for asking the Chairman to reconsider the application notice;
  - (vii) any written submissions that may have been made by the respondent;
  - (viii) any other documents or information which the Chairman may request.
- (d) The Chairman may grant or refuse permission to appeal. If permission is granted, the Chairman must specify the grounds upon which permission has been granted.
- (e) Before making a decision under this regulation 6(4), or in conjunction with such a decision, the Chairman may make such directions as it deems to be necessary or desirable.
- (f) If the appellant so requests, the Chairman may grant permission to substitute one or more of the grounds of appeal set out in [regulation 5\(2\)](#), 5(3) or 5(4) as applicable for any ground of appeal submitted by the appellant.
- (g) The Chairman may of its own motion amend the application notice to add one or more of the grounds of appeal set out in regulation 5(2), 5(3) or 5(4) as applicable.
- (h) If the Chairman refuses permission to appeal, the Chairman's decision is final.
- (i) If the Chairman grants permission to appeal, the appeal shall be heard by the Appeal Committee in accordance with regulation 7 and the Chairman who granted permission to appeal may sit on that Appeal Committee.
- (j) If the Chairman grants permission to appeal an order which was made with immediate effect, he may also grant a stay of the order if it is justified in all the circumstances.

*(5) Concessions made during the permission to appeal process*

- (a) At any time during the permission to appeal process the respondent may indicate in writing that they concede that the findings and/or orders of the relevant Committee that are subject to appeal should be rescinded and that matters should be heard afresh.
- (b) Where such concession(s) are made, the matter will be referred to the Chairman who shall have the power to make orders in accordance with [regulations 11\(2\)\(d\)](#), 11(3)(c), 11(4), 11(5)(d), 11(6)(c), and/ or 12 (as applicable).

## 7. The appeal

The grounds of appeal upon which permission to appeal has been granted, and the reasons for granting permission, shall be considered by the Appeal Committee at a hearing except where the appeal is withdrawn by the appellant.

## 8. Preparation for the appeal hearing

### (1) Further enquiries

Where the appeal is from a finding and/or order of the Disciplinary Committee or the Health Committee, an [investigating officer](#) may make such further enquiries as he shall consider appropriate in order to assist in the preparation of the case to the Appeal Committee. It shall be the duty of the person who is the subject of the decision under appeal to co-operate fully with such enquiries and a failure by him to do so shall constitute a breach of these regulations and may render the relevant person [liable to disciplinary action](#).

### (2) Submissions, documents and evidence

- (a) The appellant and respondent may submit such written submissions and additional documentary evidence as they may wish to be drawn to the Appeal Committee's attention, provided that any such written submissions and documentary evidence must be submitted not less than 21 days before the hearing of the appeal.
- (b) Written submissions and documents submitted less than 21 days before the hearing will only be considered by the Appeal Committee in exceptional circumstances.
- (c) No later than 14 days prior to the hearing of his case the appellant must confirm whether he wishes to attend the appeal hearing.

### (3) Witnesses

- (a) Where permission to appeal has been granted upon the ground set out in [regulation 5\(2\)\(d\)](#), 5(3)(d) or 5(4)(c), no later than 14 days prior to the hearing of his case the appellant must submit:
  - (i) the names of any witnesses on behalf of the Association that he requires to attend for cross-examination, explaining to what extent he disputes their evidence in light of the new evidence; and
  - (ii) the names of any witnesses on his behalf that he wishes to call, explaining the nature of the new evidence they will be giving. For the avoidance of doubt, the Association will require such witnesses to attend the hearing for cross-examination unless it indicates otherwise.
- (b) If there is a dispute as to whether a witness is required to attend, the parties shall make written submissions to the Chairman who shall have the power to order the attendance of a witness or to make such other order as in his discretion he thinks fit. The decision of the Chairman shall be final.
- (c) If the appellant fails to comply with regulation 8(3)(a)(i) and/or (ii), he shall forego the right to have witnesses attend the hearing save at the discretion of the parties or by

order of the Chairman who shall give both parties an opportunity to make submissions on the point. The decision of the Chairman shall be final.

- (d) If the appellant indicates that he does not wish to attend, or fails to give an indication within the required deadline, the Association shall not be obliged to ensure the attendance of any witness at the hearing.

*(4) Withdrawal of applications*

- (a) Where the appellant wishes to withdraw their appeal, they must set out their withdrawal in writing to the respondent and Appeal Committee. This will have the effect of bringing the appeal proceedings to an end, subject to any application for costs pursuant to [regulation 13](#).
- (b) Withdrawals under this regulation 8(4) may be made at any time up until the appeal is determined by the Appeal Committee.

## 9. Notice, representation and adjournments

*(1) Notice*

- (a) Subject to regulation 9(1)(b) below, the Association shall provide the parties with no less than 28 days' prior written notice of the time and place of the hearing of the appeal.
- (b) The parties may be provided with less than 28 days' prior written notice of the hearing. The Appeal Committee shall consider at the outset the appropriateness of short notice including the degree of urgency and may, in its absolute discretion, if it is of the view that it is necessary in the public interest as weighed against any prejudice to the relevant person, order that the hearing proceed or be adjourned for such period and under such directions as it sees fit.

*(2) Proceeding in the absence of a party*

The appeal may be heard in the absence of a party provided that the Appeal Committee is satisfied that he has been served with no less than 28 days' prior written notice of the date set for the hearing or, in the case of an urgent hearing, that proceeding with the hearing is in the public interest.

*(3) Representation*

- (a) At the hearing of the appeal, the person who is the subject of the finding or order under appeal shall be entitled to be heard before the Appeal Committee and/or to be represented by such person as he may wish.
- (b) The Association shall be represented by such person as it may nominate (the "[case presenter](#)").

*(4) Advisers to the Appeal Committee*

- (a) All hearings of the Appeal Committee shall be attended by a legal adviser. The [legal adviser](#) shall:

- (i) act as adviser to the Committee on all procedural and legal matters;
  - (ii) retire with the Committee when it goes into private session;
  - (iii) ensure that any advice given to the Committee in private is repeated in public and an opportunity given to the parties to make submissions on that advice;
  - (iv) record the Committee's reasons for its decisions; and
  - (v) carry out any other activity commensurate with the role of legal adviser.
- (b) At a hearing concerning a party's state of health, the Appeal Committee may instruct a medical expert to act as its medical adviser.

### *(5) Adjournments*

- (a) A party may make a written request to the Appeal Committee that the hearing be adjourned to a future hearing. Such request will be considered at the outset of the hearing and the Appeal Committee may, in its absolute discretion, agree to the request.
- (b) Any such request made in advance of the hearing shall be considered as follows.
- (i) If the request is made after the provision of notice in accordance with regulation 9(1), it shall be considered by the Chairman, who may in his absolute discretion agree to the request. If such request is refused by the Chairman, it shall be considered at the outset of the hearing by the Appeal Committee in accordance with regulation 9(5)(a). For the avoidance of doubt, the Chairman shall be entitled to participate in the reconsideration of the request, and the Chairman's written reasons for refusing the request shall be provided to the Appeal Committee.
  - (ii) If the request is made by the person who is the subject of the finding or order under appeal before the provision of notice in accordance with regulation 9(1), the Association may agree to the request. If the Association opposes the request, it shall be considered by the Chairman in accordance with this regulation. If such request is refused by the Chairman, it shall be considered at the outset of the hearing by the Appeal Committee in accordance with regulation 9(5)(a). For the avoidance of doubt, the Chairman shall be entitled to participate in the reconsideration of the request, and the Chairman's written reasons for refusing the request shall be provided to the Appeal Committee.
- (c) In advance of the hearing, at the outset of the hearing, or at any time during the hearing, the Appeal Committee may itself direct that the case should be adjourned.
- (d) The Chairman or Appeal Committee may give such directions or impose such conditions as he or it may determine upon the grant of an adjournment.
- (e) The Appeal Committee may (but need not) agree to or direct an adjournment where criminal or civil proceedings concerning a relevant matter are pending to which the person who is the subject of the finding or order under appeal is a party.

- (f) Before making a decision, the Chairman or Appeal Committee as appropriate shall invite representations from the other party.
- (g) The Chairman or Appeal Committee shall give written reasons for a decision to refuse or grant a request for an adjournment.

*(6) Concessions made during the appeal process*

- (a) At any time during the appeal process the respondent may indicate in writing that they concede that the findings and/or orders of the relevant Committee that are subject to appeal should be rescinded and that matters should be heard afresh.
- (b) Where such concession(s) are made, the matter will be referred to the Chairman who shall have the power to make orders in accordance with regulations 11(2)(d), 11(3)(c), 11(4), 11(5)(d), 11(6)(c), and/ or 12 (as applicable).

## 10. The hearing

*(1) Constitution of Appeal Committee*

The Chairman who considered the application notice in accordance with [regulation 6\(3\)](#) may hear the appeal if he had granted permission to appeal. He shall not be permitted to hear the appeal if he had refused permission to appeal.

*(2) Burden and standard of proof*

On the hearing of any appeal it shall be for the appellant to satisfy the Appeal Committee that the grounds of the appeal are made out. To the extent that the appeal turns on matters of fact, the standard of proof to be applied by the Appeal Committee shall be the balance of probabilities.

*(3) Amendment of grounds of appeal*

If the appellant so requests, or of its own motion, at any time during the hearing the Appeal Committee may amend the grounds of appeal which it is considering to:

- (a) replace any ground of appeal upon which permission to appeal had been granted with one or more of the grounds of appeal set out in [regulation 5\(2\)](#), 5(3) or 5(4) as applicable;
- (b) add one or more of the grounds of appeal set out in regulation 5(2), 5(3) or 5(4) as applicable, including any ground upon which permission to appeal had not been granted.

*(4) Procedure*

The appellant shall present his case first, followed by the respondent. The appellant then has a right of reply.

*(5) Witnesses*

Pursuant to [regulation 8\(3\)](#), witnesses may only be called if permission to appeal has been granted upon the ground set out in regulation 5(2)(d), 5(3)(d) or 5(4)(d). Any such witnesses

shall be liable to cross-examination by the other party. The Appeal Committee may ask questions of either party and their witnesses (if any) at any time.

## 11. Orders of Appeal Committee

(1) On the conclusion of the hearing of the appeal, the Appeal Committee shall consider its decision on the appeal.

(2) In the case of an appeal against both one or more of the findings and one or more orders of the Disciplinary Committee, the Appeal Committee may do any one or more of the following:

- (a) affirm, vary or rescind any findings of the Disciplinary Committee;
- (b) affirm, vary or rescind any order of the Disciplinary Committee;
- (c) substitute any other order which the Disciplinary Committee could have made;
- (d) in relation to any findings and/or orders that have been rescinded, order that the matters be heard afresh by the Disciplinary Committee.

(3) In the case of an appeal against one or more of the orders, but not the findings, of the Disciplinary Committee, the Appeal Committee may do one or more of the following:

- (a) affirm, vary or rescind any order of the Disciplinary Committee;
- (b) substitute any other order which the Disciplinary Committee could have made;
- (c) in relation to any orders that have been rescinded, order that the matters be heard afresh by the Disciplinary Committee.

(4) In the case of an appeal against an order of the Admissions and Licensing Committee, the Appeal Committee may make such order as it sees fit in respect of the appeal.

(5) In the case of an appeal against both one or more of the findings and one or more orders of the Health Committee, the Appeal Committee may do any one or more of the following:

- (a) affirm, vary or rescind any findings of the Health Committee;
- (b) affirm, vary or rescind any order of the Health Committee;
- (c) substitute any other order which the Health Committee could have made;
- (d) in relation to any findings and/or orders that have been rescinded, order that the matters be heard afresh by the Health Committee.

(6) In the case of an appeal against an order of the Health Committee, the Appeal Committee may do one of the following:

- (a) affirm, vary or rescind the order of the Health Committee;
- (b) substitute any other order which the Health Committee could have made;
- (c) in relation to any orders that have been rescinded, order that the matters be heard afresh by the Health Committee

## 12. Costs

Reference to “the appeal” in this regulation includes consideration of the application notice by the Chairman in accordance with [regulation 6](#).

### *(1) Costs to be paid by the appellant to the Association*

Where the appellant is a person who is the subject of a finding or order made by the Disciplinary Committee, an order made by the Admissions and Licensing Committee, or a finding or order made by the Health Committee, the Appeal Committee may direct the appellant to pay to the Association by way of costs of the appeal such sum as the Appeal Committee shall consider appropriate. In considering what sum shall be paid by way of costs, if any, the Appeal Committee shall take into account (and without limiting its discretion in any way) any effect the appellant’s actions in relation to the conduct of the appeal have had upon the costs of dealing with the appeal, whether beneficial or otherwise.

### *(2) Costs to be paid by the Association to the appellant*

Where the appellant is a person who is the subject of a finding or order made by the Disciplinary Committee, the Admissions and Licensing Committee or the Health Committee as the case may be, and the Appeal Committee has wholly rescinded a finding or order of such Committees, the Appeal Committee may direct the Association to pay a sum to the appellant by way of contribution to his costs incurred in connection with the case and the appeal in such amount as the Appeal Committee shall in its discretion decide.

### *(3) Costs to be paid by the Association to the complainant*

Where the appeal is against a finding or order of the Disciplinary Committee or of the Health Committee, the Appeal Committee may in exceptional circumstances direct the Association to pay a sum to a [Complainant](#) by way of contribution to his costs incurred with the case in such amount as the Appeal Committee shall in its discretion think fit.

### *(4) Costs to be paid by the Association to the respondent*

Where the Association is the appellant and has not been successful on all the grounds of its appeal, the Appeal Committee may direct that the Association pay to the respondent by way of costs of the appeal such sum as the Appeal Committee shall consider appropriate.

## 13. Effect on costs of withdrawal of appeal

### *(1) Costs of the complainant*

Where the appeal is against a finding or order of the Disciplinary Committee or of the Health Committee and is withdrawn by the appellant, the Appeal Committee may in exceptional circumstances direct the Association to pay a sum to the complainant by way of contribution to his costs incurred in the case in such amount as the Appeal Committee shall in its discretion think fit.

### *(2) Costs of the respondent to be covered by the appellant*

- (a) If at any time prior to the conclusion of the hearing of the appeal the appellant makes a request to withdraw the appeal, and the respondent makes an application for

costs, the Appeal Committee shall make such order as it sees fit in respect of costs. In particular, the Appeal Committee may order the appellant to pay to the respondent by way of costs of the appeal such sum as the Appeal Committee shall consider appropriate. In considering what sum shall be paid by way of costs, if any, the Appeal Committee shall take into account (but without limiting its discretion in any way) any effect that the appellant's actions in relation to the conduct of the appeal and its withdrawal have had upon the costs of dealing with the appeal, whether beneficial or otherwise.

- (b) Applications for costs under this regulation 13(2) may be considered without a hearing, if the parties agree, or by such mode of hearing (including a telephone hearing) as the Appeal Committee may direct.

## 14. Notice

(1) The Appeal Committee shall announce its decision at the hearing.

(2) Written notice of the orders made shall be given to the relevant person within 14 days after the hearing. Such notice will be accompanied by a written statement of the reasons for the decision of the Appeal Committee, unless, in the circumstances, a longer period for the delivery of such reasons is necessary.

## 15. Correction of errors

(1) *Slip rule*

- (a) Where the orders and/or written statement of the reasons for the decision of the Appeal Committee contains an accidental error or omission, a party may apply by way of an application notice for it to be corrected. The application notice shall describe the error or omission and state the correction required.
- (b) The Chairman may deal with the application without notice if the error or omission is obvious, or may direct that notice of the application be served on the other party.
- (c) If notice of the application is served on the other party, the application may be considered by the Chairman without a hearing with the consent of the parties, such consent not to be unreasonably withheld.
- (d) If the application is opposed, it should if practicable be heard by the same Appeal Committee which made the orders and/or written statement of reasons for the decision which are the subject of the application. The Appeal Committee may not conduct a re-hearing of the case.
- (e) The Appeal Committee may of its own motion amend the wording of its own orders and/or written statement of reasons for the decision for the purpose of making the meaning and intention clear.

(2) *New evidence*

The Appeal Committee may at any stage and in its absolute discretion amend, vary or rescind any of its orders or decisions where new evidence comes to light which

fundamentally invalidates the same, but may only do so to the advantage of a relevant person.

## 16. Effective date

### *(1) Permission to appeal*

Where a Chairman has refused permission to appeal an order of the Admissions and Licensing Committee, Disciplinary Committee or Health Committee, that order shall take effect as follows:

- (a) where the order was made with immediate effect, on the date the relevant Committee made the order;
- (b) where the Chairman's decision is final pursuant to [regulation 6\(3\)\(g\)\(i\)](#) or 6(4)(h), on the date of the Chairman's decision;
- (c) in all other cases, 21 days after service of the Chairman's written reasons for refusing permission, unless pursuant to regulation 6(3)(g)(ii) the appellant has by that date filed a request that his application notice be reconsidered by a second Chairman.

### *(2) Withdrawn Applications*

Where, at any time during the appeal process the appellant withdraws their appeal against an order of the Admissions and Licensing Committee, Disciplinary Committee or Health Committee, that order shall take effect as follows:

- (a) where the order was made with immediate effect, on the date the relevant Committee made the order;
- (b) in all other cases, on the date the appeal was withdrawn.

### *(3) Appeal Committee determinations*

Any order made by the Appeal Committee shall take effect from the date it is made (that is, for the avoidance of doubt, the date its decision is announced and not the date it is formally notified to the appellant) unless the Appeal Committee, in its absolute discretion, directs that it shall take effect as from some other date (not being earlier than the date of the finding or order under appeal) as shall be specified in the order of the Appeal Committee.

## 17. Public and private hearings

*(1) Hearings of the Appeal Committee shall be conducted in public unless the Appeal Committee is satisfied:*

- (a) having given the parties, and any third party from whom the Appeal Committee considers it appropriate to hear, an opportunity to make representations; and
- (b) having obtained the advice of the legal adviser,

that the particular circumstances of the case outweigh the public interest in holding the hearing in public, which may include but is not limited to prejudice to any of the parties.

(2) Appeals from orders or findings of the Health Committee shall be heard in private, but the Appeal Committee's order shall be subject to publicity in accordance with regulation 18(4).

(3) The Appeal Committee may establish such procedures as it deems necessary or desirable in connection with attendance by the public at its hearings and the procedure to be adopted in respect of any hearing shall, subject to the foregoing paragraphs of this regulation, be such as the Appeal Committee in its absolute discretion so determines.

*(4) Exclusion of persons from a hearing*

The Appeal Committee may exclude from any hearing, or limit the participation of, any person whose conduct, in the opinion of the Committee, is likely to disrupt the orderly conduct of the proceedings. For the avoidance of doubt, this includes the relevant person and/or his representative.

## 18. Publicity

(1) The Association shall give advance publicity of the proceedings of the Appeal Committee, in such manner as the Association thinks fit.

(2) In the case of an appeal against findings or orders made by the Disciplinary Committee:

- (a) subject to regulation 18(2)(b) below, all orders and any findings (as applicable) made by the Appeal Committee shall be published, together with the reasons for the Appeal Committee's decision in whole or in summary form, naming the relevant person, as soon as practicable;
- (b) following a hearing which has (in whole or in part) been held in private, the Appeal Committee shall prepare a private set of reasons in accordance with [regulation 14\(2\)](#) to be served upon the parties only, together with a public set of reasons which comply with regulation 18(2)(a), as soon as practicable.

(3) In the case of an appeal against an order of the Admissions and Licensing Committee:

- (a) subject to regulation 18(3)(b) below, all orders and any findings (as applicable) made by the Appeal Committee shall be published, together with the reasons for the Appeal Committee's decision in whole or in summary form, naming the relevant person, as soon as practicable;
- (b) following a hearing which has (in whole or in part) been held in private, the Appeal Committee shall prepare a private set of reasons in accordance with [regulation 14\(2\)](#) to be served upon the parties only, together with a public set of reasons which comply with regulation 18(3)(a), as soon as practicable.
- (c) in the event that the relevant person relinquishes his certificate before a hearing under this regulation takes place, details of that fact and of any consequential orders made by the Appeal Committee shall be published, together with the reasons for the Appeal Committee's decision in whole or in summary form, naming the relevant person, as soon as practicable.

(4) In the case of an appeal against findings or orders of the Health Committee:

- (a) all orders and any findings made by the Appeal Committee shall be published, together with the reasons for the Appeal Committee's decision in whole or in summary form, naming the relevant person, as soon as practicable in such manner as the Association thinks fit;
- (b) any matters against the relevant person which had been referred to the Admissions and Licensing Committee, Disciplinary Committee or Appeal Committee prior to the health hearing shall be set out in the publicity.

(5) The Insolvency Service may publish the names of holders or former holders of the Association's insolvency licence who are subject to an order made by the Appeal Committee, and details of the order made, in such publications and in such a manner as it thinks fit. For the avoidance of doubt, the details contained in such publicity are not limited to those published by the Association pursuant to regulation 18(2) to (4).

## 19. Service of notices and documents

(1) Any notice or document required to be served upon the relevant person shall be delivered by sending it by a postal service or other delivery service in which delivery or receipt is recorded to, or by leaving it at:

- (a) the relevant person's registered address; or
- (b) any other address nominated in writing by the relevant person for service of any notice and correspondence document.

(2) Where the relevant person is represented by a solicitor or a professional body, a copy of the notice served in accordance with regulation 19(1) above may also be:

- (a) sent or delivered to the solicitor's practising address;
- (b) sent or delivered to the professional body's business address; or
- (c) sent by electronic mail to an electronic mail address of the solicitor or professional body, where the address has been notified to the Association as an address for communications.

(3) Any notice or document required to be served on the complainant may be provided to him personally, sent by post or courier to the address nominated in writing by the complainant for service of any notice or document for the purpose of these regulations, or sent by electronic mail.

(4) Any notice or document required to be served on the Association may be provided by sending it by post or courier to the investigating officer at the principal office of the Association or sending it by electronic mail.

(5) Any notice or document to be served on a relevant person or complainant under these regulations may be sent by:

- (a) post;
- (b) courier; or
- (c) electronic mail to an electronic mail address that the person has notified to the Association as an address for communications.

(6) Where a notice or document is served by electronic means, the party serving the document (be it the Association, the relevant person or the complainant) need not in addition send or deliver a hard copy.

(7) The service of any notice or document under these regulations may be proved by:

- (a) a confirmation of posting issued by or on behalf of the postal operator or delivery service;
- (b) a confirmation of delivery of the notice or document sent by electronic mail; or
- (c) a signed statement from the person sending by post or delivering the notice in accordance with this regulation.

(8) Where any notice or document is sent or otherwise served under these regulations, it shall be deemed as having been served:

- (a) 72 hours after it was sent by the postal operator or delivery service; or
- (b) where the notice has been left at an address or sent by electronic mail, on the day on which it was left or sent.

## 20. Payment

Any order that a sum be paid to the Association or the complainant must be complied with within 21 days from the date the order becomes effective (unless the Council otherwise agrees) and, where the appellant who is the subject of the order is a firm, shall be jointly and severally due from, and shall be paid by, the persons who are specified persons in relation to the firm on the date of the order.

## 21. Attendance

A party may attend a hearing of the Appeal Committee where he is a party concerned notwithstanding that he may previously have indicated that he did not intend to attend.

## 22. Hearings

Where a case is of particular interest to a particular government or government agency, or primarily affects persons resident in a particular country, either the Appeal Committee or the [Secretary](#) may direct that the hearing before the Appeal Committee take place in that country. In the absence of any such direction, hearings before the Appeal Committee shall take place in London.

## 23. Public interest cases

(1) The Association shall refer a case to [FRC](#) where:

- (a) it considers that the case raises or appears to raise serious issues affecting the public interest in the United Kingdom; and
- (b) it considers that a relevant person may have committed an act of misconduct in relation to the case; and
- (c) it is satisfied that no disciplinary proceedings going beyond an investigation have been instituted by the Association or any other FRC participant in relation to the conduct in question. This regulation 23(1)(c) is unlikely to be satisfied in the case of an appeal unless evidence of the conduct in question was not available prior to the hearing of the Disciplinary Committee.

(2) Where the Association receives notice that FRC has decided to deal with a case relating to a relevant person, either in response to a referral under regulation 23(1)(a) or of its own motion, the Association shall suspend any investigation relating to the case and, upon FRC's request, provide to FRC any such documentary information in its possession or control which it can lawfully provide.

(3) [IAASA](#) may undertake its own investigation into a case relating to a relevant person if IAASA forms the opinion that it is appropriate or in the public interest to do so. In such circumstances, the Association shall suspend any investigation relating to the case and, upon IAASA's request, provide to IAASA any such documentary information in its possession or control which it can lawfully provide.

(4) It is the duty of all relevant persons to co-operate with FRC and IAASA during the course of any investigations they may undertake, and abide by and satisfy any disciplinary sanction imposed by FRC. A failure to co-operate fully with FRC or IAASA shall constitute a breach of these regulations and may render the relevant person liable to disciplinary action.

(5) Regulation 11(4) of the [Membership Regulations](#) shall apply to disciplinary orders made by FRC save that the reference therein to any amount 'payable to the Association' shall for these purposes read 'payable to FRC'. For the avoidance of doubt, the failure to satisfy in full any amount imposed by way of fine or costs payable to FRC shall result in removal from the register of [members](#), [affiliates](#) or registered students of the Association.

(6) For the avoidance of doubt, the provisions of this regulation 23 apply notwithstanding that the Association did not exercise its powers under regulation 25 of the [Complaints and Disciplinary Regulations](#).

## 24. Transitional provisions

(1) The grounds of appeal available to the appellant shall be those in force at the date of the finding or order which is the subject of the application notice.

(2) The test to be applied when considering whether permission to appeal should be granted shall be the test in force at the date of the application notice.

## 25. Waiver

The Appeal Committee may dispense with any requirement of these regulations in respect of notices, service or time in any case where it appears to the Committee to be in the interests of justice, having regard to all the circumstances, provided it is satisfied that neither the relevant person nor the Association has been prejudiced in the conduct of his or its case.