

THE ACADEMY OF EXPERTS

DISCIPLINARY STANDING ORDER

Introduction

This Standing Order (the “Order”) is made in accordance with the Constitution of the Academy of Experts. Derived from the Order are the Academy’s Disciplinary and Appeal Tribunal Procedure Rules (the “Rules”): both documents should be read together. In the event of any inconsistency or conflict between the provisions of this Order and the Rules, this Order shall prevail.

The Chief Executive, Investigation Committee and any person appointed to a Disciplinary or Appeal Tribunal, and any other Member of the Academy shall at all times comply with the Constitution of the Academy, the provisions of this Order, the Rules in force at the time, and the rules of natural justice. Otherwise, the Investigations Committee and any Disciplinary or Appeal Tribunal shall determine its own procedures.

This Order and the Rules shall be:

- (a) made available without charge on request to any Member,
- (b) published on the Academy’s website on the Internet,
- (c) kept under continuous review and updated as and when appropriate.

1 Definitions and Interpretation

1.1. In this Order:

“**The Academy**” means The Academy of Experts;

“**Appeal Tribunal**” means an appeal tribunal of The Academy appointed in accordance with this Order;

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“Chairman of the Investigations Committee” means the person appointed by the Council to chair the Investigations Committee in accordance with paragraph 5.2 of this Order;

“Chairman of the Disciplinary Tribunal” means the person appointed to chair the Disciplinary Tribunal in accordance with paragraph 6.3.1 of this Order;

“Chairman of the Appeal Tribunal” means the person appointed to chair the Appeal Tribunal in accordance with paragraph 7.3.1 of this Order;

“the Chief Executive” means the Chief Executive of The Academy;

“Complaint” means information presented by a member or by any other person or body about a member of The Academy indicating that a member may have been guilty of improper conduct;

“Complainant” means a person who has presented a complaint;

“Complaint Form” means a form or such other questionnaire as may from time to time be prescribed by the Chief Executive for the purpose of obtaining essential information about a complaint;

“Consent Order” means an Order made by the Investigations Committee in accordance with this Order,

“Convening Notification” is a notification served by the Chief Executive in accordance with paragraph 6.5 or paragraph 7.5 of this Order’;

“Council” means the Council of The Academy;

“Court” means any court of law, tribunal or arbitral body;

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“Disciplinary Committee” means the Disciplinary Committee of The Academy appointed in accordance with The Academy’s Constitution;

“Disciplinary Proceedings” means any proceedings carried on by or before a Disciplinary Tribunal or Appeal Tribunal in accordance with this Order;

“Disciplinary Tribunal” means a Disciplinary Tribunal of The Academy appointed in accordance with this Order;

“Dispute Resolver” means a member who is qualified as a Dispute Resolver and is on the Register of Qualified Dispute Resolvers;

“the Executive” means the Executive of The Academy, which for the purposes of this Order shall include all executive officers;

“Improper Conduct” has the meaning given by paragraph 2 of this Order;

“Investigations Committee” means the Investigations Committee of The Academy appointed in accordance with this Order;

“Lay Member” means a person who does not hold any grade of membership of The Academy;

“Legal Practitioner” means a person who practises or has practised as a Barrister or Solicitor in England and Wales, Northern Ireland or an equivalent Common Law jurisdiction; or as an Advocate in Scotland.

“Member” means a person holding any grade of membership of The Academy including fellow, member, associate member, student member or any other grade of membership which The Academy may institute from time to time;

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“Presenting Officer” means the person appointed by the Investigations Committee to present the Committee’s case before a Disciplinary Tribunal or Appeal Tribunal.

“Representative”, in relation to a Member facing disciplinary action under this Order, means any person (who may, or may not be a Legal Practitioner) appointed by the Member by written instruction to represent him;

“the Secretary” means the Secretary of The Academy;

Maintenance of Records

1.2. Relevant papers and records may be maintained in electronic format.

Interpretation

1.3. The Interpretation Act 1978 applies to this Order in the same way as it applies to an enactment.

1.4. Throughout this Order:

1.4.1 Words denoting the masculine gender include the feminine and vice versa;

1.4.2 Words importing the singular also include the plural and vice versa, where the context so requires;

1.4.3 References to persons include references to companies, authorities, boards, departments or other bodies; and

1.4.4 Any period expressed as a number of days shall be taken to mean “clear days”. Accordingly, the day on which the period begins and (if the end of the period is defined by reference to an event) the day on which that event occurs are not included.

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2. Improper Conduct and Liability for Disciplinary Action

- 2.1. For the purposes of this paragraph, the term 'Member' shall include reference to a former Member.
- 2.2. This paragraph is not prevented from applying because the Complaint is based on a matter alleged to have occurred:
- 2.2.1. outside the United Kingdom; or
- 2.2.2. at a time when the person was not a Member of the Academy.
- 2.3. The Investigations Committee is obliged by paragraph 5 of this Order to consider and, where it appears justified, investigate with any Complaint, charge or allegation of Improper Conduct against a Member in order to determine whether there is prima facie evidence of any Improper Conduct and, if so, whether the conduct (if proved) is sufficiently serious that it should be the subject of Disciplinary Proceedings.
- 2.4. When considering whether the conduct of a member, if proved, amount to Improper Conduct, there is no burden or standard of proof. Ultimately, it is a question for a Tribunal applying its own professional judgement.
- 2.5. Improper Conduct, includes, but is not limited to:
- 2.5.1. A contravention of, or failure to comply with, any provision of any enactment, any procedure rule or practice direction which applies in the civil or criminal courts, or any order of the civil or criminal courts with which it is the Member's duty to comply.
- 2.5.2. A conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence.

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- 2.5.3. A determination by any statutory, chartered or other professional regulatory body in the United Kingdom to the effect that the person's fitness to practise as a member of that profession is impaired or that the person is guilty of professional misconduct (however described), or a determination by a regulatory body elsewhere to the same effect.
- 2.5.4. A failure to perform any professional services or duties with such a degree of professional competence, due care and skill as may reasonably be expected, or a failure to perform the professional services or duties at all.
- 2.5.5. A breach of any published or adopted code of professional conduct of the Academy.
- 2.5.6. Any conduct which has brought, or has the potential to, bring discredit upon The Academy.
- 2.6. For the purposes of paragraph 2.5 references to a conviction include a conviction by a Court Martial.
- 2.7. By virtue of section 14(1) of the Powers of Criminal Courts (Sentencing) Act a conviction of an offence for which an order is made discharging the person absolutely or conditionally shall be deemed not to be a conviction for the purposes of this order, although such an order shall not preclude a determination by the Investigations Committee that the conduct leading to the order of absolute or conditional discharge is conduct that, if proved, is sufficiently serious that it should be the subject of Disciplinary Proceedings. ,

3. Proof of certain matters

- 3.1. For the purposes of this Order and the Rules:
- 3.1.1. Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been

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convicted of a criminal offence or, in Scotland, an extract conviction, shall, except where the person was discharged by the Court absolutely or conditionally, be conclusive evidence of the offence committed and of the findings of fact upon which it was based.

3.1.2. Production of a certificate signed by a police officer or Crown Prosecutor that a person has been cautioned for a criminal offence shall be conclusive evidence of the offence committed and of the facts upon which the caution was based.

3.1.3. Production of a certificate signed by an officer of a regulatory body that has made a determination about the conduct of a person shall be conclusive evidence of that determination and the facts found proved in relation to it. For the purposes of this paragraph, the official publication of such determination or finding of fact by the regulatory body on its website or in any other official publication shall be deemed to be a certificate signed by an officer of that regulatory body.

4. Complaint of Improper Conduct

4.1. Any person is entitled to make a complaint of Improper Conduct about a Member to the Chief Executive. Thereafter, the Chief Executive shall supply a Complaint Form to the Complainant for completion and upon receiving a completed Complaint Form, the Chief Executive shall refer the matter to the Investigations Committee for consideration and/or investigation.

4.2. It shall be the duty of every Member to report to the Chief Executive any matter that may give rise to a Complaint of Improper Conduct against any other Member.

4.3. In the event of the Chief Executive becoming aware of judicial criticism of a Member, the Chief Executive will immediately refer the matter to the Investigations Committee.

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- 4.4. The Chief Executive may refer any matter to the Investigations Committee without a report or Complaint being received.
- 4.5. In the case of matters falling within paragraphs 4.2 to 4.4, the Chief Executive shall refer the matter to the Investigations Committee as a Complaint in such form as he considers appropriate.

5. The Investigations Committee

Establishment and Function of the Investigations Committee

- 5.1. The Council shall establish an Investigations Committee to investigate and determine Complaints of Improper Conduct in accordance with this Order.

Constitution of the Investigations Committee

- 5.2. The Investigations Committee shall consist of five people appointed by the Council who shall not be members of the Council or of the Executive. It shall be chaired by a Legal Practitioner and shall include at least two Fellows and one Dispute-Resolver Member. The Dispute-Resolver Member shall be of at least two years standing as a Member.
- 5.3. At least three members of the Investigations Committee (one of whom shall be the Chairman) shall:
- 5.3.1. investigate any Complaint referred to it and in so doing may interview any Member or any other person, and/or call for such evidence, including documents or records, from any Member or any other person as it considers necessary; and
- 5.3.2. consider whether to oppose any appeal brought pursuant to paragraph 7.2.

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- 5.4. Where the Chairman of the Investigations Committee considers it desirable, the Chief Executive may co-opt any person to the Investigations Committee for the purposes of assisting in the determination of the Complaint.

Confidentiality

- 5.5. Every person appointed or co-opted to the Investigations Committee will be required to sign a confidentiality agreement. The Chief Executive will not provide case papers to any person until he is in receipt of the signed confidentiality agreement.

Conflict of Interest

- 5.6. No member of the Investigations Committee shall consider any Complaint in which he has, may have, or may be perceived as having a conflict of interest.
- 5.7. Where a member of the Investigations Committee considers that he has, may have or may be perceived as having a conflict of interest in relation to a Complaint, he must immediately notify the Chairman of the Investigations Committee. The Chairman, in his absolute discretion, may require that member to recuse himself from further investigation of the said Complaint.

Deferral of the Investigation

- 5.8. As a general principle, a complaint referred to Investigations Committee shall be considered as soon as is practicable.
- 5.9. In any case in which the conduct complained of is, or may be, the subject of proceedings in the civil or criminal courts, or any alternative dispute resolution process; or in any other case where the Investigations Committee considers that it would be inappropriate for the Complaint to be investigated at that time, the Investigations Committee may determine that the Complaint will not be considered

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further until such future date or event as the Committee shall specify and shall notify the Chief Executive accordingly.

- 5.10. Where the Investigations Committee notifies the Chief Executive of a determination made in accordance with paragraph 5.9, the Chief Executive shall ensure that the Complaint is re-referred to the Investigations Committee at the date or upon the event specified within the notification.

Limitation

- 5.11. In cases where the Investigations Committee is satisfied that the Complaint relates to conduct which is alleged to have occurred (or in the case of a number of connected allegations, the most recent of which is alleged to have occurred) more than 6 months prior to the Chief Executive being required by paragraph 4.1 or 4.5 of this Order to refer the Complaint to the Investigations Committee:

5.11.1. Save in the circumstances provided for hereunder, the Investigations Committee shall notify the Chief Executive that the Complaint will not be dealt with and shall specify the reason for its decision.

5.11.2. The Investigations Committee may consider any such Complaint if it is satisfied that:

5.11.2.1. the Complainant has provided evidence that it was not reasonably practicable for him to have made the Complaint at any earlier time; or

5.11.2.2. in all of the circumstances, including (but not limited to):

5.11.2.2.1. the apparent seriousness of the Complaint,

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5.11.2.2. the likelihood that the delay may prejudice the conduct of the investigation or the ability of the Member to answer the Complaint,

it is necessary for the protection of members of the public and/or the reputation of The Academy, or is otherwise in the public for the Complaint to be considered by the Committee; or

5.11.2.3. the Complaint substantially duplicates a Complaint which has previously been referred Investigation Committee and where the investigation of the same, or any Disciplinary Proceedings in relation to the same are not yet concluded; and in such circumstances paragraph 5.12 shall apply.

5.11.3. The limitation within this paragraph shall not apply to a Complaint which has not been considered by reason of a decision of Investigations Committee pursuant to paragraph 5.9.

Duplicated Complaints

5.12. Where the Investigations Committee is satisfied that a Complaint referred to it substantially duplicates a Complaint which has previously been referred, then that Complaint will not be dealt with separately from the original Complaint, except that:

5.12.1. where the previous Complaint has already led to a Consent Order or Disciplinary Proceedings which are concluded, the Investigations Committee may consider any aspect of the further Complaint that does not form part of the previous Complaint, provided that it sufficiently serious so that it should be the subject of separate consideration. For the purposes of paragraph 5.10, such aspect of the further Complaint shall be treated as a

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specific Complaint made on the date upon which the further Complaint was made;

- 5.12.2. where the previous Complaint remains the subject of an investigation (and whether or not the further Complaint has been presented within the period specified in paragraph 5.11), the Investigations Committee may investigate the further Complaint (or any aspect of it) if it considers it appropriate to do so; and
- 5.12.3. where the previous Complaint is the subject of proceedings before the Disciplinary Tribunal, the Investigations Committee may investigate the further Complaint (or any aspect of it) if it considers it appropriate to do so and, thereafter, it shall determine whether to seek to amend the charge already laid before the Disciplinary Committee.

Determinations of the Investigations Committee

- 5.13. Having completed such investigations as it considers appropriate in the circumstances, the Investigations Committee shall determine whether:
- 5.13.1. there is prima facie evidence that the Member is guilty of Improper Conduct; and, if so, whether
- 5.13.2. the conduct (if proved) is sufficiently serious that it should be the subject of Disciplinary Proceedings.
- 5.14. In cases where the Investigations Committee has determined, in accordance with paragraphs 5.13.1 and 5.13.2, that there is prima facie evidence of Improper Conduct that is sufficiently serious that it should be the subject of Disciplinary Proceedings, the Committee may either:
- 5.14.1. seek the Member's agreement to a Consent Order, or

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- 5.14.2. formulate a charge to be laid before a Disciplinary Tribunal in respect of some or all of the matters for which there is prima facie evidence of improper conduct.
- 5.15. If the Investigation Committee considers that no prima facie case of Improper Conduct has been made out or that such Improper Conduct as is made out upon a prima facie case is not sufficiently serious as to require the taking of any action, then it shall dismiss the Complaint. In these circumstances, the Investigations Committee may, if appropriate, draw the matters complained of to the attention of the Member concerned.

Consent Order

- 5.16. Where the Investigations Committee considers that the Complaint may properly be dealt with by a Consent Order, it shall serve written notice to the Member setting out the conduct which is alleged and the order that would be made should the Member agree, in writing, to the proposed order and requesting the Member within a period of time specified by the notice (to be not less than 14 days from service of the notice) to agree to such an order being made.
- 5.17. A Consent Order shall incorporate any one of, or any combination of the following:
- 5.17.1. that the Member be given a reprimand,
- 5.17.2. that the Member be given a severe reprimand,
- 5.17.3. that the Member give an undertaking as to his future conduct, which undertaking may include a requirement that the Member attends training (at his own expense) as specified; and either passes the appropriate examination or the tutors of that course provide a satisfactory report to the Chief Executive,

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- 5.17.4. that the Member refund or waive fees charged by the Member to a Complainant, or
- 5.17.5. that a Member be given a written warning or recommendations as to his future conduct.
- 5.18. The Investigations Committee need not proceed with the making of a Consent Order if at any time before the order is made, the Committee is satisfied, on the basis of further information becoming available to it since the date of the notice given under paragraph 5.16, that it would be unjust or unreasonable or disproportionate to do so. In such cases, the Committee shall proceed instead in accordance with either paragraph 5.14.2 or paragraph 5.15.
- 5.19. If within the period specified within a notice under paragraph 5.16 the Member agrees, in writing, to the making of the proposed order then the Investigations Committee shall make an order in the terms specified in the notice.
- 5.20. If the Member does not give notice in writing that he agrees to the making of the proposed Consent Order within the period specified in a notice under paragraph 5.16, then (subject to paragraph 5.18) the Investigation Committee shall proceed under paragraph 5.14.2.

Charge

- 5.21. Within 14 days of its decision to formulate a charge, the Investigations Committee will provide the Member concerned with notice of the charge, together with full details or copies of all the evidence on which it is intended to rely.
- 5.22. If within 28 days of a notice given under paragraph 5.21 the Member notifies the Investigations Committee that he accepts the charge, then the Investigations Committee will refer the matter to the Chief Executive, who shall appoint a Disciplinary Tribunal to consider the admitted charge.

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- 5.23. If within 28 days of a notice given under paragraph 5.21 the Member fails to notify the Investigations Committee that he accepts the charge (or if there is more than one charge all of the charges), or notifies it that a charge is denied, then the Investigations Committee will refer the matter to the Chief Executive, who shall appoint a Disciplinary Tribunal to determine the charge.
- 5.24. In respect of any charge referred to the Chief Executive in accordance with paragraphs 5.22 or 5.23, the Investigations Committee shall thereafter present such charge (or arrange for the presentation of such charge by a Legal Practitioner (“the Presenting Officer”)) to the appointed Disciplinary Tribunal.

Interim Order of Suspension

- 5.25. At any time after a Complaint is referred to it, the Investigations Committee may, subject to paragraph 5.26 below, make an immediate order that the Member or Members concerned shall have their membership of The Academy suspended until such time as:
- 5.25.1. the Investigations Committee has determined that there is insufficient evidence to support a Complaint of Improper Conduct; or
- 5.25.2. the Investigations Committee has determined that there is prima facie evidence of Improper Conduct, that is insufficiently serious to be the subject of Disciplinary Proceedings; or
- 5.25.3. the matter has been determined by a Disciplinary Tribunal and where the Tribunal determines that is necessary and proportionate to impose an order of sanction, the order of the Tribunal comes into effect
- 5.26. The Investigations Committee, may make an order suspending the membership of the Member who is the subject of the Complaint, only:

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- 5.26.1. it has not yet concluded its investigation but, having had regard to the evidence so far available to the Committee and the apparent credibility of that evidence, is satisfied that:
- 5.26.1.1. there is material before it which might reasonably lead it to conclude that there is a prima facie case of Improper Conduct and:
- 5.26.1.2. is satisfied that to do so is necessary for the protection of members of the public and/or of the reputation of The Academy, or is otherwise in the public interest, or is in the best interests of the Member.
- 5.26.2. has concluded its investigation of a Complaint, or of some aspect or aspects of it, and is satisfied that:
- 5.26.2.1. that such investigation discloses a prima facie case of Improper Conduct, and
- 5.26.2.2. suspension of the membership of the Member is necessary for the protection of members of the public and/or of the reputation of The Academy, or is otherwise in the public interest, or is in the best interests of the Member.
- 5.27. In cases where the Investigations Committee has determined that it is necessary to suspend the Member prior to the conclusion of its investigation, the Chairman of the Investigations Committee shall notify the member of the decision in writing within 7 days of such decision and the suspension shall take effect 3 days after the notification of suspension is deemed to have been received by the member.

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- 5.28. In such cases, notification of the interim order of suspension shall include a statement of the reasons for the decision to suspend the Member and shall be accompanied by copies of all of the evidence upon which the reason is based.
- 5.29. In cases where the Investigations Committee has finalised its investigation and concluded that the Complaint should be the subject of Disciplinary proceedings, the Chairman of the Investigations Committee shall notify the member of the interim order of suspension at the point of giving notice of the charge under paragraph 5.20 and the suspension shall take effect 3 days after such notification is deemed to have been received.

Appeal Against an Interim Order of Suspension

- 5.30. In every case the Member shall have the right to have the interim order of suspension reviewed by a Disciplinary Tribunal. A Member who wishes to exercise that right must, provide written notification to the Chief Executive within 21 days of the date of notification of the suspension,.
- 5.31. On receipt of such notification from the Member, the Chief Executive will constitute a Disciplinary Tribunal in accordance with paragraphs 6 of this Order. Such a Tribunal will review the decision of the Investigations Committee to suspend the Member within 21 days of the date the notification from the Member was received by the Chief Executive.
- 5.32. The Chief Executive shall notify the Member of a date (by which the Member shall provide any written representations and other written material for consideration by the Disciplinary Tribunal. That date shall be at least 7 days after the notice is served.
- 5.33. The Chairman of the Disciplinary Tribunal may direct the Chairman of the Investigations Committee to make written representations in respect of the review

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provided that such written representations shall not include reference to material other than that referred to by the Member in his representations.

- 5.34. The Chairman of the Disciplinary Tribunal shall consider thereafter whether it is necessary to seek further representations from the Member and, if so, shall invite the Member to make such representations by a specified date.
- 5.35. The review of the decision to suspend the Member shall be conducted by the Disciplinary Tribunal in private:
- 5.35.1. on the basis of the original decision of the Investigations Committee, the material provided to the Member with the original decision, and the material provided pursuant to paragraphs 5.32 and 5.33; and
- 5.35.2. at a meeting of the Disciplinary Tribunal or, if all members of the Disciplinary Tribunal have been provided with all necessary material in advance, by way of a telephone conference.
- 5.36. The determination of the Disciplinary Tribunal and a statement of reasons therefor, shall be provided to the Member within 7 days of the conclusion of such review.

Publication

- 5.37. The Chief Executive shall ensure that the suspension of the Member, and any request for a review of the decision to suspend the Member shall be recorded in the Disciplinary Register in accordance with paragraph 11 and published on The Academy's web-site. In the event that a Disciplinary Tribunal determines to revoke an interim order of suspension, the Chief Executive shall ensure that all reference to the suspension is removed from the web-site.
- 5.38. For so long as the Member remains suspended, the Chief Executive shall take all steps reasonably practicable to prevent the Member being shown as a current

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member of The Academy in any physical or electronic document or other material thereafter published, or produced, or maintained by The Academy.

6. The Disciplinary Panel

Establishment of a Disciplinary Panel and Convening of Disciplinary Tribunals

- 6.1. The Council shall establish a Disciplinary Panel, from which the members of any Disciplinary Tribunal or Appeal Tribunal shall be drawn. The Disciplinary Panel shall include all Fellows of The Academy, subject to paragraph 6.2, but may also include senior or retired members of the legal profession or judiciary and persons of suitable experience, probity and standing in the community at large who are not members of The Academy.
- 6.2. No member of the Disciplinary Panel shall be either a member of the Council or a member of the Executive or a member of the Investigations Committee.
- 6.3. When the Chief Executive is requested to convene a Disciplinary Tribunal in accordance with paragraph 5.21, 5.22 or 5.30 of this Order he shall:
- 6.3.1. promptly appoint from the Disciplinary Panel a tribunal of three members one of whom shall be a Fellow, one a Legal Practitioner (who shall be appointed Chairman) and one a Lay Member to consider the charge(s), and
- 6.3.2. notify the Investigations Committee of the convening of the Disciplinary Tribunal and the identity of its members.

Confidentiality

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- 6.4. Every person appointed to a Disciplinary Tribunal will be required to sign a confidentiality agreement. The Chief Executive will not provide case papers to any person until he is in receipt of the signed confidentiality agreement.

Convening Notice

- 6.5. Within 7 days of convening a Disciplinary Tribunal the Chief Executive shall serve notice of the persons appointed to the Tribunal (a "Convening Notice") on the Member who is the subject of the charge.
- 6.6. The Member who is the subject of the charge shall have the right to object to any one or more of the persons appointed to the Disciplinary Tribunal but must do so to the Chief Executive, in writing setting out his reasons for such objection, within 7 days of the date on which the Convening Notice is deemed to have been served upon him.

Conflict of Interest

- 6.7. No person appointed to a Disciplinary Tribunal shall consider any charge in which he has, may have, perceived as having a conflict of interest.
- 6.8. Where a person appointed to a Disciplinary Tribunal considers that he has, may have or perceived as having a conflict of interest in relation to a charge, he must immediately notify the Chief Executive.

Replacement Appointments

- 6.9. Prior to the substantive hearing being opened the Chief Executive may:
- 6.9.1. after consideration of any objection or objections and the reasons therefor notified to him under paragraph 6.6; and/or

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6.9.2. after consideration of potential conflict of interest notified to him under paragraph 6.8; and/or

6.9.3. in any other case in which it appears to the Chief Executive that a member of the Disciplinary Tribunal is or will be unable to carry out his duties in a proper and timely manner,

remove one or more of those appointed to the Disciplinary Tribunal and replace him or them.

6.10. Where the Chief Executive replaces a member or members of a Disciplinary Tribunal in accordance with paragraph 6.9, he shall ensure that paragraph 6.3.1 is complied with and he shall serve a further Convening Notice under paragraph 6.5.

Notice of Hearing

6.11. The Chief Executive shall fix a date for the substantive hearing (wherever possible in consultation with the parties) and shall:

6.11.1. serve notice on the Member or his Representative and the Investigations Committee no later than 28 days prior to the date of such hearing;

6.11.2. publish the details of the hearing on The Academy's web-site.

6.12. The Notice of Hearing ("the Notice") shall:

6.12.1. specify where the Disciplinary Hearing is to take place;

6.12.2. specify the time and date of the Hearing;

6.12.3. specify the charges and the particulars thereof;

6.12.4. specify the witnesses, if any, the Investigations Committee proposes to call to give evidence, together with any witness statements and/or

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documentary evidence which has not been served pursuant to paragraph 5.21; and

6.12.5. have annexed to it a copy of the Order and Rules.

Response to the Notice of Hearing

6.13. The Member or his Representative shall, within 14 days of the date of the Notice, confirm in writing to the Chief Executive whether the Member:

6.13.1. admits the factual particulars of the charge and, if so, whether he admits that those facts amount to Improper Conduct;

6.13.2. has, or knows of any reason why the hearing or part of it should not be held in public;

6.13.3. intends to appear at the Hearing in person; and

6.13.4. intends to be represented at the Hearing and

6.13.5. if so, provide the name and address of that Representative.

6.14. At least 14 days before the date of the Hearing, the Member shall provide the Chief Executive with:

6.14.1. any written submission that he may wish to present to the Disciplinary Tribunal;

6.14.2. the names of any witnesses he proposes to call together with copies of written statements signed by those witnesses, which statements shall contain the substance of the evidence which the witnesses will give; and

6.14.3. a copy of any written evidence upon which he proposes to rely at the Hearing.

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Representation

- 6.15. In proceedings before the Disciplinary Tribunal, the Member against whom the charge is being brought may represent himself, or instruct a Representative to present his case on his behalf.

Powers of the Chairman

- 6.16. Any time limit specified within this Order or elsewhere in relation to Disciplinary Proceedings (other than in relation to the conduct of an appeal) may be waived by the Chairman of a Disciplinary Tribunal appointed to hear a case (retrospectively, if necessary), if he is satisfied that it is just to do so.
- 6.17. In addition to the powers set out within this Order, the Chairman of a Disciplinary Tribunal appointed to hear a case shall have, such powers as are set out within the Rules.

Findings

- 6.18. Other than in cases where the charge has been admitted, the Tribunal shall make all necessary findings of fact upon the evidence presented to it.
- 6.19. In all cases, the Disciplinary Tribunal shall determine whether the factual particulars admitted and/or found proved, either individually or in combination to Improper Conduct.

Sanction

- 6.20. Where a Tribunal finds a Member guilty of Improper Conduct, it may, having heard any evidence and submissions in mitigation, and if it thinks fit, impose one or more of the following orders:

- 6.20.1. expulsion from The Academy, or

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- 6.20.2. suspension from membership of The Academy either indefinitely or for a specified period, or
- 6.20.3. a severe reprimand, or
- 6.20.4. a reprimand, or
- 6.20.5. an order that the Member give an undertaking as to his future conduct (which undertaking may include a requirement that the Member attends training as specified and either passes the appropriate examination or the tutors of that course provide a satisfactory report to The Academy), or
- 6.20.6. that the Member refund or waive fees charged by him to the complainant, or
- 6.20.7. that the Member be given a written warning or recommendation as to his future conduct.

No other penalty shall be imposed.

Costs

- 6.21. The Tribunal may not make any order in respect of costs.

Notification

- 6.22. The determination of the Disciplinary Tribunal pursuant to paragraphs 6.18 to 6.20 and a statement of reasons therefor, shall be provided to the Member within 7 days of the determination being made.

Power of Disciplinary Tribunal to Correct its own Mistakes

- 6.23. A Disciplinary Tribunal shall have the power, either on application by a party or of its own motion, to review, revoke or vary any of its determinations in respect of the

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Complaint (including any sanction imposed), in cases where it is satisfied that it has been led into administrative error or on the ground that the interests of justice otherwise require such a review

- 6.24. A Member subject to proceedings before the Disciplinary Tribunal may apply to the Tribunal to review, revoke or vary a determination made in the course of the proceedings, provided that he makes such application, in writing and stating the grounds for the review in full, within 14 days of notice of the relevant determination being deemed to have been served on him.
- 6.25. The application for review shall:
- 6.25.1. be in writing;
 - 6.25.2. identify the determination to which the application relates.
- 6.26. The Chief Executive shall fix a date for the review to be determined (wherever possible in consultation with the parties) and shall:
- 6.26.1. notify the Member or his Representative and the Investigations Committee no later than 28 days prior to the date of such hearing; and
 - 6.26.2. publish the fact of the review on The Academy's web-site.
- 6.27. On review, the Disciplinary Tribunal may, in its discretion, hear representations from the parties or determine the issue solely on the basis of written representations. Having considered such representations together with such other matters that appear relevant, the Tribunal may affirm, revoke or vary the relevant determination.

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- 6.28. The determination of the Disciplinary Tribunal pursuant to paragraph 6.27 and a statement of reasons therefor, shall be provided to the Member within 7 days of the determination being made.

Time when Tribunal's Determination takes Effect

- 6.29. Subject to the following, any determination of a Disciplinary Tribunal or an Appeal Tribunal shall take effect at the end of the period of 28 days from the date that the Member concerned is deemed to have received the written determination of the Tribunal.

- 6.30. If within that period the Member lodges:

6.30.1. an application for review, pursuant to paragraph 6.24, or

6.30.2. a notice of appeal, pursuant to paragraph 7.2,

then, subject to the following paragraph, the determination shall take effect, if at all, only after the application for review or appeal has been determined pursuant to this Order.

- 6.31. If, before the application for review or appeal has been so determined, the defendant by notice withdraws the application for review or notice of appeal then the Tribunal's determination shall take effect at the end of the period of 7 days beginning with the date on which the notice of withdrawal is served on the Chief Executive.

Consequential Effect of an Order of Suspension or Expulsion

- 6.32. A Member who is expelled or suspended as a result of an order made by a Disciplinary Tribunal pursuant to Paragraph 6.20 or by an Appeal Tribunal pursuant

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to paragraph 7.18 will also be disqualified forthwith from holding or retaining any office for or on behalf of The Academy.

7. Right of Appeal

7.1. Without prejudice to a Member's right to apply for a review of a determination of the Disciplinary Tribunal pursuant to paragraph 6.24, a Member subject to a determination of the Disciplinary Tribunal, may appeal that determination only on the grounds that:

- 7.1.1. it was perverse or wrong in law; and/or
- 7.1.2. there was injustice because of a serious procedural or other irregularity in the proceedings before the Disciplinary Tribunal; and/or
- 7.1.3. significant and relevant new evidence has come to light which was not previously available to the Member and could not have become available to him on the making of reasonable enquiry; and/or
- 7.1.4. the sanction imposed pursuant to paragraph 6.20 was manifestly unreasonable or disproportionate.

Notice of Appeal

7.2. A Member wishing to exercise that right of appeal must lodge a notice of appeal with the Chief Executive within 28 days of the notice of the relevant determination having been served on him (or, where there has been a review under paragraph 6.24, within 28 days of the notice required by paragraph 6.28 having been served on him). The notice of appeal shall:

- 7.2.1. be in writing;
- 7.2.2. identify the determination and/or order appealed against;

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7.2.3. state the grounds of appeal by reference to paragraph 7.1.

Neither the scope of the Appeal nor the grounds so stated shall be amended or changed except with the leave of the Appeal Tribunal appointed to determine the appeal.

7.3. As soon as possible after a Notice of Appeal is lodged, the Chief Executive shall, as soon as is possible:

7.3.1. appoint from the Disciplinary Panel an Appeal Tribunal, which shall consist of a Chairman and two Members of whom one shall be a Fellow, one a Legal Practitioner and one a Lay Member, none of whom sat on the Disciplinary Tribunal the determination of which is the subject of the appeal.

7.3.2. notify the Investigations Committee of the convening of the Appeal Tribunal and the identity of its members.

Confidentiality

7.4. Every person appointed to an Appeal Tribunal will be required to sign a confidentiality agreement. The Chief Executive will not provide case papers to any person until he is in receipt of the signed confidentiality agreement.

Convening Notice

7.5. Within 7 days of convening an Appeal Tribunal the Chief Executive shall serve notice of the persons appointed to the Tribunal (a "Convening Notice") on the Member who has lodged the appeal.

7.6. The Member who has lodged the appeal shall have the right to object to any one or more of the persons appointed to the Appeal Tribunal but must do so in writing to

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the Chief Executive, setting out his reasons for such objection, within 7 days of the date on which the Convening Notice has been served upon him.

Conflict of Interest

- 7.7. No person appointed to an Appeal Tribunal shall consider any appeal in which he has, may have, or perceived as having to have a conflict of interest.
- 7.8. Where a person appointed to an Appeal Tribunal considers that he has, may have or perceived as having a conflict of interest in relation to an appeal, he must immediately notify the Chief Executive.

Replacement Appointments

- 7.9. Prior to the substantive appeal hearing being opened the Chief Executive may:
- 7.9.1. after consideration of any objection or objections and the reasons therefor notified to him under paragraph 7.6; and/or
- 7.9.2. after consideration of potential conflict of interest notified to him under paragraph 7.8; and/or
- 7.9.3. in any other case in which it appears to the Chief Executive that a member of the Appeal Tribunal is or will be unable to carry out his duties in a proper and timely manner,
- remove one or more of those appointed to the Disciplinary Tribunal and replace him or them.
- 7.10. Where the Chief Executive replaces a member or members of a Disciplinary Tribunal in accordance with paragraph 7.9, he shall ensure that paragraph 7.3.1 is complied with and he shall serve a further Convening Notice under paragraph 7.5.

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Notice of Appeal Tribunal Proceedings

7.11. The Chief Executive shall fix a date for the Appeal to be heard (wherever possible in consultation with the parties) and shall:

7.11.1. notify the Member or his Representative and the Investigations Committee no later than 28 days prior to the date of such hearing; and

7.11.2. publish details of the Appeal on The Academy's web-site.

Powers of the Chairman

7.12. Any time limit specified within this Order or elsewhere in relation to appeal proceedings may be waived by the Chairman of an Appeal Tribunal appointed to hear a case (retrospectively, if necessary), if he is satisfied that it is just to do so.

7.13. In addition to the powers set out within this Order, the Chairman of an Appeal Tribunal appointed to hear a case shall have, such powers as are set out within the Rules.

Conduct of the Appeal

7.14. In proceedings before the Appeal Tribunal, the Member (or his Representative) may make further written submissions but the appeal shall be limited to a review of the determination and/or order of the Disciplinary Tribunal unless the Appeal Tribunal considers that in the exceptional circumstances of the case, it would be unfair or unreasonable not to hold a further hearing.

7.15. In so doing, the Appeal Tribunal shall have regard to:

7.15.1. the Member's notice of appeal;

7.15.2. any response lodged by the Investigation Committee;

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- 7.15.3. any further submissions made by the Member or the Investigation Committee;
- 7.16. The Appeal Panel may remit back to the Disciplinary Panel whose decision is the subject of the appeal, any question relevant to the determination of the appeal.
- 7.17. An Appeal Tribunal will not consider evidence that was not placed before the Disciplinary Tribunal unless it is significant and relevant new evidence which was not previously available to the Member and could not have become available to him on the making of reasonable enquiry. If new evidence is admitted, then the Appeal Tribunal may direct that the Disciplinary Tribunal reconvene to receive the new evidence and to reconsider its determination in the light of it.
- 7.18. Otherwise, the Appeal Tribunal may:
- 7.18.1. confirm or vary the decision of the Disciplinary Tribunal or substitute its own decision; and/or
- 7.18.2. confirm or vary the penalty imposed by the Disciplinary Tribunal, but shall not impose any penalty that the Disciplinary Tribunal could not properly have imposed.

8. Service

- 8.1. Any notice or document required to be served on a Member arising out of or in connection with a Complaint or consequent Disciplinary or Appeal Proceedings shall be served:
- 8.1.1. by registered post, or recorded delivery post to the address held for the Member by the Chief Executive or to any alternative address which:

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- 8.1.1.1. the Member has requested that such documents be sent; or
- 8.1.1.2. the Chief Executive has reasonable cause to believe is a valid address for correspondence, or
- 8.1.2. by electronic mail to an electronic mail address that the Member has notified to the Chief Executive, or that the Chief Executive has reasonable cause to believe is a valid address for electronic correspondence, or
- 8.1.3. by hand to the Member himself or to an employment address that the Member has notified to the Chief Executive, provided that a signature acknowledging delivery is obtained from an appropriate person.
- 8.2. If the practitioner has instructed a Representative, the notice or document may also be served:
 - 8.2.1. by registered post, or recorded delivery post to the address of the Representative; or
 - 8.2.2. by electronic mail to an electronic mail address notified to the Chief Executive by either the Representative or the Member.
- 8.3. Any notice or document required to be served by a Member arising out of or in connection with a Complaint or consequent Disciplinary or Appeal Proceedings may be served:
 - 8.3.1. by registered post, or recorded delivery post to the Chief Executive at the address given on the Academy's web-site;
 - 8.3.2. by electronic mail to admin@academy-experts.org; or
 - 8.3.3. by hand to the address given on the Academy's web-site, provided that a signature acknowledging delivery is obtained from an appropriate person.

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- 8.4. The service of any notice or document required to be served pursuant to this Order be proved by:
- 8.4.1. a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service;
 - 8.4.2. an electronic confirmation of receipt of the notice or document sent by electronic mail; or
 - 8.4.3. a signed statement from any person serving the notice or document confirming that the notice or document was:
 - 8.4.3.1. handed to the Member; or
 - 8.4.3.2. left at the Member's employment address, and that a signature acknowledging delivery is obtained from an appropriate person.
- 8.5. Any notice or other document required to be served pursuant to this Order shall be deemed to have been served:
- 8.5.1. if sent by registered post, or recorded delivery post, on the third working day after posting; or
 - 8.5.2. if sent by electronic mail, on the first working day after electronic confirmation of receipt; or
 - 8.5.3. if delivered by hand, on the first working day after such delivery
- and all references in this Order to notice having been served shall be construed accordingly.

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9. Confidentiality of Information

9.1. Subject to the following, information, which comes to the knowledge of the Chief Executive, the Investigations Committee, a Disciplinary Tribunal, an Appeal Tribunal or any other office holder, Member or servant of the Academy in the course of any preliminary enquiry, investigation or Disciplinary Proceedings shall be treated as confidential save that it may be used and disclosed:

9.1.1. in the course of and for the purposes of a preliminary enquiry, investigation or consequent Disciplinary Proceedings;

9.1.2. in the course of a public hearing;

9.1.3. in any report, notice, determination or order made in the course of and for the purposes of such preliminary enquiry, investigation or consequent Disciplinary Proceedings; and

9.1.4. as required by law.

9.2. Any disclosure of such information pursuant to paragraph 9.1 shall be on terms that it is confidential and no such information shall be disclosed (directly or indirectly) by the person to whom it is disclosed save:

9.2.1. to his legal advisers for the purposes of obtaining advice in relation to the preliminary enquiry, or investigation or Disciplinary Proceedings;

9.2.2. to any other person to whom disclosure is necessary for the purposes of obtaining evidence, information or assistance in connection with the investigation or disciplinary proceedings;

9.2.3. for the purposes of a public hearing; and

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9.2.4. as required by law.

9.3. With the approval of The Executive, such information may be disclosed by the Chief Executive to any regulatory body, any investigation or prosecuting authority, or to any person, body or authority carrying out any role similar to that of regulation, investigation or prosecution in any part of the world.

9.4. Paragraphs 9.1 to 9.3 shall not apply to any information which is obtained by the Chief Executive, the Investigations Committee, a Disciplinary Tribunal, an Appeal Tribunal or any other office holder, Member or servant of the Academy which is or comes to be in the public domain, or is disclosed at a public hearing, or in relation to which confidentiality had been waived.

10. Publicity

10.1. Subject to paragraphs 10.2 and 10.4, where a Disciplinary or Appeal Tribunal makes any determination or other order under this Order, the Chief Executive shall cause a record of the Tribunal's determination or order to be published, as soon as practicable, in such a manner as he thinks fit.

10.2. Where a Disciplinary Tribunal, or, on appeal, an Appeal Tribunal finds a charge not proved, either in whole nor in part, the Chief Executive shall cause a record of the determination to be so published if, but only if, the Member so requests.

10.3. Unless the relevant Tribunal otherwise directs, a record of its determination shall state the name of the Member and describe the Tribunal's determination and any order or orders (if any) made against the Member, but need not include the name of any other person or body concerned in the Complaint or appeal.

10.4. The Chief Executive shall not cause a record of a Tribunal's determination and/or order to be published under paragraph 10.1 until the period allowed by paragraph

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7.2 for giving notice of appeal against the determination and/or order has expired; and if an effective notice of appeal is given paragraph 7.2, then, unless the appeal is abandoned:

10.4.1. no record of the Disciplinary Tribunal's decision shall be published under paragraph 10.1, but

10.4.2. subject to paragraph 10.2 a record of the Appeal Tribunal's determination and order or orders (if any) on the appeal shall be so published.

10.5. Notwithstanding paragraphs 10.2 and 10.4, the relevant Tribunal may cause a record of its determination and order or orders (if any) to be published at any time if in its opinion, publication is desirable in view of any statement or comment made in the public domain or otherwise in the public interest.

11. The Disciplinary Register

11.1. The Chief Executive shall maintain a Disciplinary Register ("the Register") containing adequate details of:

11.1.1. every Complaint investigated by the Investigations Committee, together with a full record of all decisions reached by the Investigations Committee,

11.1.2. all determinations and orders (if any) of the Disciplinary Tribunal and the Appeal Tribunal, made in relation to that Complaint, including the fact and outcome of any review conducted pursuant to paragraph 6.20 of this Order.

11.2. Where the Investigations Committee considers that a Complaint discloses no prima facie case of Improper Conduct or for some other reason should not be proceeded with, the decision will be recorded in Part A of the Register.

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- 11.3. Where the Investigations Committee makes an Interim Order, the order shall be recorded in Part B of the Register.
- 11.4. Where the Investigations Committee makes a Consent Order or refers a charge to a Disciplinary Tribunal, the outcome, (including any review or appeal) will be kept in Part B of the Register, which shall set out:
- 11.4.1. the charge,
 - 11.4.2. whether the charge was accepted by the Member,
 - 11.4.3. the substance of any Consent Order,
 - 11.4.4. the Disciplinary Tribunal's determination in relation to the charge, if any,
 - 11.4.5. the sanction imposed, if any,
 - 11.4.6. the result of any review , and
 - 11.4.7. the result of any appeal to the Appeal Tribunal.
- 11.5. Part A of the Register will not be open to public inspection. Part B of the Register shall be open to public inspection, save that:
- 11.5.1. in the event of an application for review of an Interim Suspension Order pursuant to paragraph 5.29, the fact of the order shall not be open to public inspection until such review has been completed
 - 11.5.2. in the event of an application for review or appeal under paragraph 6.20 or paragraph 7.1 of this Order, the outcome of the Complaint shall not be open to public inspection until such review or appeal has been completed.

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- 11.6. If either a Disciplinary Tribunal or an Appeal Tribunal determines that a charge has not been made out, such determinations shall not be open to public inspection in the Register, unless the Member concerned requests otherwise.

12. Disciplinary and Appeal Tribunal Rules

- 12.1. The Academy's Disciplinary Rules Committee shall cause procedural rules to be issued, with the overriding objective of enabling a Disciplinary or Appeal Tribunal to deal with cases expeditiously and justly, and thus, so far as is practicable, to ensure that the parties are on an equal footing.
- 12.2. A Disciplinary or Appeal Tribunal must further the overriding objective by actively managing cases. Active case management includes:
- 12.2.1. encouraging the parties to co-operate with each other in the conduct of the proceedings;
 - 12.2.2. identifying the issues at an early stage;
 - 12.2.3. giving directions to ensure that the trial of a case proceeds quickly and efficiently;
 - 12.2.4. fixing timetables or otherwise controlling the progress of the case;
 - 12.2.5. considering whether the likely benefits of taking a particular step justify the cost of taking it; and
 - 12.2.6. making use of technology, where appropriate.
- 12.3. The parties are required to assist a Disciplinary or Appeal Tribunal to further the overriding objective.

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13. Miscellaneous**Retention of Case Papers**

- 13.1. The Chief Executive shall keep a set of the relevant papers concerning any matter investigated by the Investigations Committee for 6 years from the date of the determination of the Complaint. Subject to the provisions of this Order, such documents will remain confidential.

Restoration

- 13.2. The Executive Committee of The Academy shall have the power to restore to membership of The Academy a former Member who has been expelled or to terminate an indefinite suspension of membership. A restoration of membership or termination of indefinite suspension will be granted only rarely and then usually in cases where the original expulsion or indefinite suspension occurred in exceptional circumstances.
- 13.3. An applicant for restoration must be able to demonstrate to the Executive Committee of the Academy that the public, the judiciary and the membership of The Academy should have every confidence in the abilities, integrity and fitness of the applicant to conduct himself as an expert or Dispute Resolver and a Member of The Academy.

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