



APM Professional Conduct Procedural Rules

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These rules have been created to support the implementation of the APM Code of Professional Conduct and are written in the interests of fairness and transparency. All matters will be treated with sensitivity in relation to the member's well being, whilst reflecting the seriousness of the complaint and upholding the public interest and reputation of APM.

Interpretation

1. In these rules:

- 'APM' means Association for Project Management.
- 'APM member' means any member of APM, whatever status or membership designation.
- 'Appellant' means a person making an application for an appeal to the appeals committee.
- 'Assessor' means a person, who may be a member of APM, but may not be a member of its board, or its professional conduct or appeals committee, who is appointed by the deputy chairman of the APM board to advise the chief executive, review complaints and exercise summary powers.
- 'Complainant' means an individual, who may or may not be a member of APM, or a corporate body.
- 'Informant' means an individual, who may or may not be a member of APM, or a corporate body, who notifies a possible breach of the code.
- 'Lay member' means a person, who is not a member of APM or an employee of APM.
- 'Legal advisor' means a solicitor or barrister retained to advise the professional conduct or appeals committee on matters of law and procedure under these rules and at hearings.
- 'Parties' means APM and any APM member (or members) against whom a complaint or allegation of a breach of the code of professional conduct or professional misconduct is being dealt with under these rules.
- 'Summary powers' means those set out in rule 10 of these rules.

2. In these rules, words denoting the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa.

Terms of reference

3. The APM board has delegated responsibility for the application of these rules and the APM Code of Professional Conduct to the professional conduct committee and their development is subject to APM board approval.

Preliminary investigation

4. On receipt of a complaint or allegation of a breach of the APM Code of Professional Conduct, or professional misconduct, the chief executive shall undertake a preliminary assessment, which may include:

- (a) a request that the complainant or informant should complete the APM complaints form;

- (b) a request that the complainant or informant should provide additional information or evidence to APM to support the complaint or allegation;
- (c) informing the APM member that a complaint or allegation has been made and seeking his written observations on the matter;
- (d) consultation with an appropriately qualified individual not otherwise involved with these procedural rules;
- (e) a request to the professional conduct committee to appoint an assessor; and
- (f) instructing solicitors or other persons to carry out investigation or make further inquiries.

5. The chief executive, where he is satisfied that

- (a) there is insufficient evidence to support allegations of misconduct or regulatory breach (that is to say, where an allegation is not 'well-founded'),
- (b) the allegation does not amount to a breach of the code of professional conduct, or allegation of misconduct, or
- (c) the complaint or allegation is 'de minimis' or trivial and it is, in all the circumstances, not in the public interest to pursue the matter:

may determine that the matter should not be pursued nor referred to the professional conduct committee for hearing.

- 6. The chief executive, where he is satisfied that the matter is well founded, may ask the assessor to consider the matter with a view to exercising his summary powers and ask him to consider referring the matter to the professional conduct committee.
- 7. The chief executive may in a case of the conviction or a caution for a criminal offence of an APM member direct that the matter be referred to the professional conduct committee.
- 8. The chief executive may, if in receipt of a certificate of a criminal conviction which relates to what in the opinion of the chief executive amounts to a serious criminal conviction or is in receipt of credible information which establishes the APM member has been charged with a serious criminal offence, determine to suspend the member from membership on an interim basis for a period of not more than 6 months. Upon the happening of such an event the member shall be informed as soon as possible and have a right of appeal, which shall be heard by the professional conduct committee as soon as possible and in any event in not less than 28 days.

Review by the assessor and exercise of summary powers

- 9. Where the chief executive has determined that the matter should not be pursued the complainant or informant may ask for a review of that decision by the assessor.

The assessor may undertake further enquiries as he thinks fit, including taking legal advice or establishing the existence of relevant criminal convictions.

10. The assessor may:

- (a) confirm the decision of the chief executive,

- (b) refer the matter to the professional conduct committee for hearing, or
- (c) determine that the matter is not sufficiently serious to warrant referral to the professional conduct committee but exercise one or more of his summary powers, which include:
 - i. sending a letter of advice to the APM member;
 - ii. issuing a warning to the APM member as to future professional conduct; and
 - iii. where the facts of the matter are not in dispute, issuing a reprimand to the APM member, which will be recorded against his membership record.

11. The assessor shall cause the parties to be informed of his decision, in writing, with reasons, within 28 days of his decision being made.
12. The APM member may request that the matter is heard by the professional conduct committee, rather than be dealt with by the assessor.

The professional conduct committee

13. The committee for a hearing shall comprise 4 full members of APM and a lay member. A hearing shall proceed with a quorum of 2 full members and a lay member.
14. For every hearing the full members of APM shall be drawn from a pool of board-approved members, none of whom shall be members of the APM board. The lay member shall also be approved by the board. Prior to the commencement of a hearing all members of the committee shall declare their interests.
15. The APM board shall appoint the chairman for a hearing who shall be a full member of APM.

Appeal from chief executive as to interim suspension order

16. The professional conduct committee shall hear as soon as possible, and in any event in not less than 28 days, any appeal from a member who wishes to appeal an interim suspension order issued by the chief executive. The committee shall determine its own procedure for hearing the appeal.

Referral to the professional conduct committee

17. At least 28 days before the date of the hearing, the chief executive shall notify the APM member in writing at his address as recorded on the membership database:
 - (a) of the decision to refer the matter to the committee and the date and time any hearing will take place;
 - (b) of his right to attend the hearing, with a friend or representative;
 - (c) of the specific charges to be considered, and disclose the evidence upon which APM seeks to rely before the committee;
 - (d) of the powers of the committee;

- (e) that the committee may proceed with a hearing in the absence of the member if it is satisfied it is fair and reasonable in all the circumstances to do so; and
- (f) send the APM member a copy of these rules.

18. The chief executive shall also invite the APM member to disclose any evidence on which he seeks to rely in defence at least 14 days before the date of the hearing, and ask whether he intends to call witnesses in which case to provide details of their names. Any such evidence received shall be circulated to the professional conduct committee 7 days before the date of the hearing. The chief executive and the member shall seek to agree a hearing bundle to be placed before the committee.

Membership

19. In the event of a complaint being received, or the chief executive issuing an interim suspension order from membership, a member cannot resign until the complaint has been dealt with and, if he attempts to do so or fails to renew an expiring membership contract, he will be deemed to remain a member until the complaint has been resolved. As a deemed member / registrant, not only would he be subject to enquiry about the complaint but also he will be entitled to the continuing benefits of membership / registration. Thereafter a 'deemed member' might be found to be not liable, in which case he could then choose whether or not to resign, or if found liable would be penalised as APM might decide.

The hearing

20. The hearing shall be recorded and a transcript may be made available to the parties on request, and may be subject to the payment of a reasonable fee.
21. An APM hearing may be held in private, unless the committee directs that there are circumstances in which, in the interests of justice and a fair hearing, the matter (or part of the matter) should be held in public.
22. The committee may have the assistance of a legal advisor to advise on matters of law and procedure as he sees fit. The legal advisor may be present at the hearing, and may advise the committee in private. Where the legal advisor advises the committee in private, he will inform the parties of the advice he has given. The legal advisor must take no part in any decision making process.
23. (i) Where a member against whom an allegation is made does not attend and is not represented at the hearing then the committee shall:
- (a) request evidence that the member has received notice of the hearing in accordance with the procedural rules.
 - (b) enquire whether any reasons for the member's absence has been communicated to the chief executive of APM.
- (ii) If the committee is satisfied that the member has received notice of the hearing in accordance with the procedural rules then it must with care and caution exercise its discretion in deciding whether to proceed in the member's absence.
24. The committee may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case.

25. The burden of proof in relation to the factual allegations rests with APM and the standard of proof is that applicable to civil proceedings, namely the balance of probabilities.
26. Where the committee is satisfied that it is right in all the circumstances to do so, it may determine that the charges are not well founded, and determine that there is no case to answer.
27. The chairman of the professional conduct committee shall read out the charges against the APM member and ask whether the member has admitted or denied the charges, either in writing or in person, if attending.
28. Where the APM member has been convicted of a criminal offence, a certified copy of the conviction shall be accepted as proof of that conviction.
29. Where the APM member has been the subject of proceedings by another professional body then any facts determined by that professional body shall be accepted as proof of those facts, unless the professional conduct committee determines otherwise.
30. Where the member has admitted the charges, the committee shall declare that the facts of the allegation have been proved. Where the member admits only some of the charges the committee will note this and proceed with the hearing in respect of the remaining charges in accordance with the following procedures.
31. A representative for APM, which may include a legal representative, will set out a summary of the evidence supporting the charges. The APM representative may call witnesses as to facts.
32. The APM member or his representative shall present his defence and the committee shall consider any written defence representations received. The APM member may call witnesses as to facts.
33. Each party, if present, has the right to make final submissions to the committee on the evidence concerning the charges.
34. During the hearing the committee may ask questions or make enquiries of the parties, or witnesses.
35. The committee will then consider whether it finds the charges proved, retiring to deliberate in private as necessary.
36. The committee shall inform the parties of its decision on the charges, with written reasons within 14 days of the hearing.
37. Where the committee has determined that the facts have been proved, or where the APM member has admitted some or all of the facts, the chairman shall
 - (a) ask APM to disclose any previous conduct record against the APM member;
 - (b) ask whether the member has provided, or wishes to provide, any additional mitigation including the calling of any witness evidence as to mitigation; and

(c) invite both parties to make final submissions as to sanction.

38. The committee will then consider the exercise of its powers, which includes:

- (a) permitting membership to continue, subject to special stated conditions (e.g. completing further training or periods of mentoring etc);
- (b) issuing a formal warning as to future conduct;
- (c) issuing a reprimand;
- (d) suspension from membership for a specified period not exceeding 3 years;
- (e) removal from membership; and
- (f) publication of the sanction in the local press, or on the web.

39. The committee may exercise one or more of the powers in rule 38.

40. The committee may retire to deliberate in private on the exercise of its powers as necessary.

41. The committee shall give written reasons as to its decision and as to the exercise of its powers.

Adjournments

42. The committee or its chairman may adjourn the hearing at any stage. Notification of the date of resumption of the hearing must be made to the APM member in writing 21 days before the date of the resumed hearing.

Directions

43. In order to ensure the smooth running and fairness of professional conduct proceedings and the hearing, the committee may give such directions as it thinks fit, after taking advice from the legal advisor where it thinks it appropriate. The committee may delegate this power to its chairman.

Costs

44. All parties to an investigation and hearing shall bear their own costs.

Hearing outcome and appeal

45. APM shall inform the APM member and the complainant / informant of the professional conduct committee's decisions, in writing and with written reasons, within 14 days of the end of the hearing and notify the parties of their right to appeal to the appeals committee within 28 days of the date of the notification.

46. If no request for an appeal is made, APM shall action the decision of the committee, including publication as directed.

Appeals

47. Where the professional conduct committee finds the charge proved:

- (a) the APM member and / or the complainant / informant may appeal to the appeals committee against the finding or the outcome and sanction, or both, within 28 days after the professional conduct committee's outcome and decision was sent to them; and
- (b) the chief executive may, if it appears to him that a penalty imposed by the professional conduct committee in respect of the member has been unduly lenient, within the period of 28 days starting with the day after the hearing, refer the case to an appeals committee.

The appeals committee

- 48. The committee for a hearing shall comprise 4 full members of APM and a lay member, none of whom shall be members of the professional conduct committee. A hearing shall proceed with a quorum of 2 full members and a lay member.
- 49. For every hearing the full members of APM shall be drawn from a pool of board-approved members, none of whom shall be members of the APM board. The lay member shall also be approved by the board. Prior to the commencement of a hearing all members of the committee shall declare their interests.
- 50. The APM board shall appoint the chairman for a hearing who shall be a full member of APM.
- 51. The appeals committee shall review the decision of the professional conduct committee in the light of:
 - (a) the evidence presented to that committee;
 - (b) any representations made before that committee; and
 - (c) the appellant's grounds of appeal.
- 52. The appeals committee shall conduct any hearing in accordance with the procedure set out at rules 59 to 64 and shall consider its decision at the conclusion of the hearing and after having heard the appellant's case.
- 53. The appeals committee's decision shall be:
 - (a) announced;
 - (b) confirmed by letter sent to the APM member; and
 - (c) supported by written reasons.
- 54. An appeals committee may at its discretion adjourn any hearing.
- 55. Where a case has been referred to an appeals committee it may affirm or vary the professional conduct committee's finding and may, in addition,
 - (a) vary any sanction or outcome imposed by the professional conduct committee to one of greater or lesser severity.
 - (b) determine that the case be reheard by the professional conduct committee and give directions for such a hearing.

Notification of appeal

56. An appeal shall only be accepted by APM if it:

- (a) is in writing to the chief executive in the form prescribed by APM; and
- (b) specifies the grounds relied on in support of the appeal or review.

57. An appellant may withdraw his notice of appeal at any stage.

58. No appeal shall be allowed to proceed to an appeals committee hearing without the permission of the chairman of the appeals committee and permission may be given where he determines that:

- (a) adequate grounds of appeal have been made out; and
- (b) it is in the interests of justice that a hearing should be held.

The appeal hearing

59. The appeals committee may hear and consider any preliminary legal arguments and any advice from a legal advisor, if present. The appeals committee shall not hear oral evidence or receive documentation not seen by the professional conduct committee, unless in exceptional cases the appeals committee determines otherwise. The committee shall sit in private session unless the committee determines otherwise.

60. The chairman or the appellant, if present, shall outline the decision which is the subject of the appeal and direct the appeals committee to any relevant evidence including transcripts of any hearing.

61. If present, the appellant may address the appeals committee on his grounds for appeal.

62. The appeals committee may allow either party, if present, an opportunity to make a closing address.

63. The appeals committee may then retire to make its decision in relation to the appeal and before doing so may seek legal advice from its legal advisor if present. If the legal advisor retires with the appeals committee then he shall take no part in the decision making process. If further legal advice is given to the appeals committee then the appellant if present shall be informed.

64. The chairman shall announce the appeals committee's decision and reasons.

Notification of the appeals committee's decision

65. The appeals committee shall notify the parties of its decision and reasons in writing, within 28 days of the date on which its decision was made.

Voting

66. In reaching a decision both the professional conduct committee and the appeals committee may decide a matter by a simple majority.

Guidance

67. From time to time the APM board may issue explanatory leaflets or guidance, supplementary to these rules, on its investigation and professional conduct processes.

Records management

68. Records, data, evidence and manuscripts relating to cases that are resolved by the chief executive after preliminary investigation, or by the assessor, will be held for 3 years from the date of resolution and then destroyed.

69. Records, data, evidence and manuscripts relating to cases that are referred to the professional conduct and appeals committees will be held for 6 years from the date of the final hearing and then destroyed.

70. The professional conduct committee will report annually to the APM board a summary of all complaints and outcomes.

Complaints

To register a complaint, please visit www.apm.org.uk where you will be able to download the complaint form and the complaint response form.

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