

MALTA INSTITUTE OF TAXATION
TAX PROFESSIONALS: CODE OF CONDUCT AND ETHICS

INTRODUCTION

The Malta Institute of Taxation recognises that Tax professionals operate in a complex business and legislative environment. It believes that Tax professionals, and in particular those who are Members of the Institute, maintain an appropriate standard and a high level of conduct in the exercise of the profession. A Tax professional should, in particular, have the required level of expertise in tax, maintain ongoing professional education and operate in a professional and ethical manner.

This Code of Conduct and Ethics sets out the basic principles of good conduct and practice which the Malta Institute of Taxation believes should be met by Tax Professionals.

They apply to Members of the Institute who are in professional practice, as well as to their employees who are involved in assisting with tax matters for clients of their employer.

The purposes of these rules is to assist Members in ensuring the appropriate level of conduct and good practice in the exercise of their profession. They are also aimed at preserving the good name of the Institute and of its members, and to ensure professional conduct that is beyond reproach.

The Institute is the Maltese member organisation of CFE Tax Advisers Europe, which brings together members from 30 national organisations in 24 European countries, representing more than 200,000 tax advisers. The Institute's Code of Professional Conduct and Ethics has been drafted in accordance with best practice recommended by CFE, and have been approved by the members in General Meeting. The commentaries have been added by the Council and will be kept updated from time to time.

CONTENTS

INTRODUCTION	1
1. FUNDAMENTAL PRINCIPLES.....	1
1.1 Overview	1
1.2 Integrity	1
1.3 Independence and Objectivity	2
1.4 Competence	2
1.5 Confidentiality.....	3
2. OBLIGATIONS.....	5
2.1 Continuing Professional Education	5
2.2 Professional Indemnity Insurance	5
2.3 Transfer of client	5
2.4 Client Acceptance.....	6
2.5 Managing potential conflicts of Interest.....	6
2.6 Clients' money and documents	6
3. RECOMMENDATIONS FOR PRACTICE GOVERNANCE	8
3.1 Structure	8
3.2 Prompt Execution	8
3.3 Records.....	8
3.5 Fees.....	9
4. MISCELLANEOUS	11
4.1 Force Majeure.....	11
4.2 Members in Employment	11
4.3 Disciplinary Procedures	11
Schedule - DISCIPLINARY PROCEDURE.....	12

1. FUNDAMENTAL PRINCIPLES

1.1 Overview

- 1.1.1 Members should, at all times, maintain high professional and ethical standards in the conduct of their professional activities, including in inter-member relations.
- 1.1.2 The Institute expects all its Members to carry out their professional activities competently and with integrity and objectivity, and at all times adhering to the principles of appropriate professional conduct as set out in this Code. In particular:
- (a) In the conduct of their work and professional duties, members are to comply with the provisions of any applicable law, regulation, code or standard issued by any competent authority, and should avoid any action that could discredit the tax profession.
 - (b) Where a member's profession is statutorily regulated, the member shall at all times adhere to the provisions of the said legislation and any code of practice prescribed for the profession.
 - (c) Members should not engage in or be a party to illegal activities.
 - (d) A member must not do anything to knowingly assist a client to evade any tax or to commit any other illegal act in relation to the client's tax affairs.
 - (e) Members should maintain a good professional relationship with other tax professionals. This applies, in particular, when handling the affairs of a client jointly with another practitioner or following a transfer of a client.
 - (f) Members should keep their own tax affairs in good order, ensuring all submissions are handled promptly.

Commentary

Members, like all professionals, exercise their activity primarily to earn a living for themselves and their families. They are however required always to bear in mind the fundamental principles underlying good practice, which, as members of the Institute, they are presumed to have accepted as binding.

Members of the Institute are subject to the rules of the Institute and to the authority of the Council. The Council represents and crystallises the collective wishes of the members regarding the way in which the exercise of the tax profession in Malta is to be conducted, and it therefore expects and requires all members to grant their full co-operation and to submit themselves to the rules of the Institute, including this Code of Conduct and Ethics.

Members will wish to ascertain that apart from matters of strict legality, clients' activities will not be such as to bring themselves, their profession, the Institute or Malta into disrepute. Members are bound: (a) to follow the provisions of any relevant legislation (b) where necessary, to make appropriate reports to the authorities as would be compatible with the obligations of secrecy imposed upon them by law, and (c) to seek the guidance of the council of the Institute as necessary.

1.2 Integrity

- 1.2.1 A member must at all times be honest in the conduct of their professional work. In particular, a member must not knowingly or recklessly supply information or make any statement or representation which is false or misleading, nor knowingly fail to provide relevant information.
- 1.2.2 A member should not treat a client's interest as subordinate to his own nor take unfair advantage of a client who has placed reliance or trust in him.
- 1.2.3 A member must not obtain or seek professional work in an unprofessional manner.
- 1.2.4 Members are to act towards their clients in the utmost good faith.

Commentary

The rule regarding acting in good faith is mandatory upon members and may not be viewed as one being only for guidance. A member must act towards his client in the utmost good faith, and he must advise dissatisfied clients what remedies are available to obtain redress.

1.3 Independence and Objectivity

- 1.3.1 Members must remain objective in all work undertaken and must at all times maintain professional independence, in particular:
- (a) They shall not have financial or other dependence on a client;
 - (b) They shall not maintain a relationship with a client which could impair their objectivity and their ability to identify and, where relevant, disclose irregularities.

Commentary

In the exercise of their activities, members must be able to maintain a certain degree of independence from clients. This includes ensuring that the financial awards arising from any one of client, including a group, should not be such as to render a decision to sever relations with that client too great a financial sacrifice. It is therefore recommended that members should so try to arrange their affairs such that the revenue from single client (or client-group) during any financial year is reasonably in proportion to total revenue.

It is appreciated that while members are building up their practice adherence to this rule may not be possible. This goal must however be aimed at, and it is suggested that if after five years this position has not been achieved, a member should reconsider the situation and should consult the Council of the Institute regarding the future. The twenty percent recommendation does not apply to members who are in the process of closing down their practice.

Investing in a client or in a client's project may also affect a member's independence and objectivity, and members are strongly urged to refrain from maintaining a direct or indirect interest in clients' projects.

The concept of objectivity flows to a great degree from that of independence. Once a member acts in an independent capacity, he will also be able to pursue the affairs of his clients with due objectivity. Objectivity is a state of mind, that that gives an unbiased, fair and impartial consideration to all matters that are relevant to the assignment being conducted, and disregarding those matters that are not relevant.

1.4 Competence

- 1.4.1 A member must carry out their professional work with in a manner which meets the technical and professional standards expected. Prior to accepting an engagement, a member must ensure that he is professionally competent to carry out the work requested, and that any staff to whom such work may be delegated are likewise adequately competent.
- 1.4.2 A member should not proceed with professional work requested if they do not possess the necessary experience and technical skills to perform that work, without first obtaining advice, assistance or training as would enable him to carry out his functions and duties in a proper and professional manner.

Commentary

Tax work requires a blend of many skills and small, including particularly single person organisations, may find it difficult to carry out the full range of functions competently and in the best interests of clients.

Co-operation among members is therefore advisable, and no member should feel awkward in seeking expert advice or assistance from another member when he does not enjoy the benefit of such expertise. Such a course of action should not be looked upon as an admission of lack of competence on the part of the member who seeks advice; rather it should be considered as a positive attitude towards the profession, as well as proof of a broad-minded approach. Members would do well to ponder on the possible repercussions to their practice that may ensue from the giving of incorrect advice as a result of refusing to seek expert help where such help is called for.

Where a member obtains the advice of another on a consultancy basis on behalf of a client, it is recommended that the second member, or any firm which he or his consultancy organisation is associated, does not, without the consent of the first member, accept from that client within three years of completion of the consultancy assignment, any work which was, at the time the consultancy was first retained in relation to that client's affairs, being carried out by the first member.

The same considerations apply where a member introduces one of his clients to another for the purposes of consultancy.

1.5 Confidentiality

- 1.5.1 A member owes a duty of confidentiality to their client or employer, as applicable.
- 1.5.2 The duty to observe confidentiality applies without time limit to all information with which a member is entrusted by their client and/or employer, including information which is brought to their knowledge during the course of their professional practice.
- 1.5.3 Members should impose the same duty of confidentiality on employees and subcontractors.
- 1.5.4 Any information acquired by a member in the course of their professional work must not be utilised for their personal gain or that of a third party.
- 1.5.5 A member who exercises a profession or is the holder of an office as referred to in the Professional Secrecy Act (CAP 377 of the Laws of Malta), or who is an employee, employer or partner thereof, is bound by the provisions of the said Act.

Commentary

This rule covers two important aspects of a member's obligations:

- (a) a general rule of confidentiality regarding client's affairs, and
- (b) a rule to the effect that knowledge which comes to him in the course of dealing with client's affairs cannot be made use of to further his own interests or the interests of a third party.

Maltese law in general lays down strict rules regarding confidentiality about a client's affairs. It may be appropriate to note that the law binds not only principals, but also all third parties falling under jurisdiction of the law of Malta, as well as executives and employees. Confidentiality is extended by law to prevent any person bound by secrecy from producing or divulging to any court, tribunal, board, committee of enquiry or other authority any document, information or other matter coming to his notice, or being in his possession or control for any reason whatsoever, and which he is required to treat as secret and confidential under the law.

A member and his employees may however disclose the above information where the consent of the client has been obtained in writing or where there is a clear legal obligation to do so.

In case a member, or any of his employees, is required by a tribunal to disclose information which, in his opinion, appears to run counter to this rule, the tribunal should be requested to minute formally its directive. Thereafter, legal advice should be sought before proceeding further. Reference should also be made to the Institute. It is appreciated that in the course of his work a member may find himself faced with conflicts between loyalty to his principals on the one hand, and his duties as a member of a profession or as a citizen on the other. When faced with such conflict, a member should make disclosure only with proper authority or consent or where there is a professional obligation, a right, a legal requirement or a public duty to do so.

Where a member is in doubt as to whether they have a right or duty they should discuss the matter with their legal advisor.

As regards the second branch of the rule, a member could, if he were so minded, turn to his own advantage or to the advantage of a third party, information acquired in the course of the exercise of his profession. Members should not only refrain from misuse of such information but should also refrain from acting in such a manner as might make it appear that they have misused the information.

These two rules remain binding on members and their employees not only during the continuance of the member's engagement to act for any client, but also indefinitely thereafter.

2. OBLIGATIONS

2.1 Continuing Professional Education

- 2.1.1 It is important that Members keep up to date on all legislative and other developments in their area of practise and that they undertake learning on a continuing basis so as to ensure they retain adequate technical knowledge and expertise in the area/s which they hold themselves out competent to practice.
- 2.1.2 Members are responsible for ensuring that the same principle is applied to their employees.
- 2.1.3 Members are expected to follow any directives which may be issued by the Council or by any competent authority, including any body which regulates a member's profession, regarding continuing professional education.

Commentary

Details regarding requirements for continuing education are elaborated from time to time. Members are however encouraged to follow the Institute's publications and to attend its seminars and other meetings. Where a member's profession regulates requirements for continuing professional education, it is important that such requirements are met.

2.2 Professional Indemnity Insurance

- 2.2.1 A member's risk of liability for damages, in respect of professional negligence or arising from any other legally enforceable claim of a similar nature, should be covered by adequate professional indemnity insurance, in such manner as would protect their clients, their practice and themselves.

Commentary

Adequate professional indemnity insurance cover is considered to be part of a member's arrangements to achieve professional independence.

2.3 Transfer of client

- 2.3.1 Members should recognise that a client is entitled to change their advisors and to engage the services of more than one advisor or tax professional. Members should refrain from expressing an opinion on the work carried out for a client or a target by other professionals, unless requested to do so by a Client, and furthermore should not invite a client or a target to dismiss an advisor with a view to being engaged thereby.
- 2.3.2 Where a member is appointed to replace an outgoing tax practitioner or advisor, it is recommended that steps are taken to ascertain the reason for termination of the prior engagement in order to determine whether the former practitioner/advisor is in dispute with the prospective client in relation to fees.
- 2.3.3 When a member's appointment by a client terminates, should they receive a request from a new practitioner concerning their former client and/or their affairs, it is recommended that permission is obtained from said former client prior to disclosing any information thereon.

Commentary

Clients are perfectly free to change their advisers, and both the 'old' and the 'new' advisers should help them do so and to co-operate. It is recommended that steps are taken to ascertain that the transfer is not being made to avoid proper scrutiny and control of client's tax affairs. Co-operation is an obligation and can be demanded as of right both by the client and the incoming adviser.

Before passing information to the new adviser, the former adviser must have received permission from the client to do so.

A member invited to undertake work additional to that already being carried out by another, who will still continue with his existing duties, should as a matter of courtesy, notify the other member of the work being undertaken. This notification should not be given if the client advances a valid reason against it. The member undertaking the additional work has the right to expect of the continuing adviser full co-operation in carrying out his assignment.

2.4 Client Acceptance

- 2.4.1 Before accepting a new client, a member must:
- (a) comply with the customer due diligence procedures stipulated in the Prevention of Money Laundering and Funding of Terrorism Regulations. In particular, a member must determine whether the potential client will be an acceptable client in terms of the risks which will arise from acting for that client and whether a member has the capability and resources to manage those risks.
 - (b) Determine whether the member and, where relevant, their employees, have the necessary skills and competence to service the prospective client's requirements during the course of the engagement; and
 - (c) Determine whether there is any conflict of interest in accepting the client and if so whether and how it might be managed (2.5 below).

2.5 Managing potential conflicts of Interest

- 2.5.1 Members must be vigilant to identify potential conflicts of interest, should seek to avoid conflicts of interest and to manage situations in which there may be a perceived conflict of interest.
- 2.5.2 In the event that a conflict of interest is identified the matter should be addressed immediately.
- 2.5.3 As a matter of principle, a member should not accept any appointment which gives rise, or could give rise, to a conflict of interest. Furthermore, when a member has a material interest in the subject matter of a possible transaction, he must not advise or exercise discretion in relation to that subject matter unless he has disclosed that material interest to the client and has taken steps to ensure that the material interest does not adversely affect the interests of the client.
- 2.5.4 In the case of a conflict arising between the interests of two or more clients, the member should immediately disclose the matter to all those involved. In such an eventuality, the member must decline to act for one or more of the clients involved.

Commentary

This rule deals with at least two possible aspects of conflicts of interest, namely (a) when there is such a conflict between two clients, and (b) where the interests of the member may clash with the interests of one or more clients. In the latter context, the expression 'member' must be taken to include the member, any linked company, directors and other principal officers, even when the latter may be acting in their personal capacity.

Conflicts of interest between clients should not be extended to mean interest in the same field. For example, building contractors are all interested in basically the same field, but no conflict of interest should arise. On the other hand, if two contractors are competing for the same contract, a potential conflict of interest may arise, as sooner or later the member will be asked to help or give advice to competing clients.

2.6 Clients' money and documents

- 2.6.1 Clients' money entrusted to a member (or to the firm or practice of which they form part) during the course of professional activities, should be segregated from the own funds of the member (or the firm or practice of which they form part, as the case may be). "Clients' money" refers to money which a member

holds or receives for or from a client, and which is not immediately due and payable on demand to a member (or the firm or practice of which they form part) for their own account.

- 2.6.2 A member is reminded to consider the prevention of money laundering legislation when allowing money to be held for a client, and should give very careful consideration before agreeing to hold client money.
- 2.6.3 A member is obliged to keep safe any property, documents, books and records belonging to his clients and containing any confidential information and is to be responsible for same during the time in which these are in his possession or control. Where a member considers that he has a right to retain possession over such property, documents, books or records, in order to secure payment of fees, such right should only be exercised after obtaining legal advice.

Commentary

Clients' monies should be paid without delay into a separate bank account, which may be either a general account or an account in the name of a specific client but which shall in all cases include in its title the word 'client'. Any such account is referred to herein as 'a client account'.

Whenever a client account is opened appropriate notice of the nature of the account should be given in clear terms to the bank at which the account is to be opened. If this is done no question will arise of set-off by the bank against the member's other accounts or of sequestration of the amounts held in the client account.

Where a member receives a draft which includes both clients' monies and other monies he should cause the same to be credited in the client account. Once the monies have been received into the account, the member may withdraw from that account such part of the sum received as can properly be transferred to his own funds.

No monies other than clients' monies should be paid into a client account.

Drawings on a client account may be made only:

- a) To meet payments due from a client for professional work done for that client, provided that the client has been informed in writing, and has not disagreed, that money held or received for him will be so applied; and a bill has been served.
- b) To cover disbursements made on a client's behalf.
- c) To, or on the instructions of a client.

In the absence of express agreement to the contrary any interest received on a client's monies should be accounted for to the client. If monies belonging to more than one client are held in the same client bank account, any interest arising thereon should be apportioned as appropriate among the clients concerned.

Every member should at all times maintain records so as to show clearly the money received, held or paid on account of clients, and the details of any other money dealt with through a client account, clearly distinguishing the money of each client from the money of any other client and from his own money.

Clients' documents must be kept safely locked up and only available to the member and his principal employees. See also commentary to 3.3 below.

3. RECOMMENDATIONS FOR PRACTICE GOVERNANCE

3.1 Structure

- 3.1.1 Members must carry out their professional activity under their own personal responsibility. They are responsible for their own work and for that carried out by their employees.
- 3.1.2 It is recommended that member who is a sole practitioner implements suitable business continuity arrangements so as to ensure that their practice can be carried on in the event of their illness or temporary incapacity.
- 3.1.3 If a tax practice is carried out by Members through a company or partnership, it is strongly recommended that the company/partnership is directed and controlled by persons holding the relevant qualifications to practice in tax matters and having sufficient experience. If the said company/partnership also renders other professional services, it is strongly recommended that at least one of the directors/partners holds the relevant qualifications to practice in tax matters and has sufficient experience, which individual shall assume responsibility for all tax services offered by the company/partnership.

3.2 Prompt Execution

- 3.2.1 A member who provides services to a client must act promptly in accordance with his instructions and in the spirit of his engagement with client, unless he has been given discretion as to timing, in which case such discretion is to be exercised sensibly. Moreover, it is recommended that a member reports to a client periodically or at intervals as may have been agreed with client regarding services being rendered.

Commentary

Prompt execution involves also prompt information. Channels of communication should be kept open between members and their clients. Clients must be kept updated on the progress of work which has been entrusted to a member. Details regarding such matters may be contained in the engagement or services agreement, but members will be particularly careful regarding the safeguarding of confidentiality in conveying information and other messages to their clients through employees.

3.3 Records

- 3.3.1 A member must keep proper and full records in relation to all his professional activities.

Commentary

As regards a member's functions on behalf of his clients, the member must keep sensible records and documents as will enable him to answer any lawful queries made by the authorities, and to account to clients.

Where particular documents and records are not owned by the member they generally belong to the client. In order to determine to whom documents and records belong it may be necessary to consider:

- (a) the arrangements between member and his client;
- (b) the capacity in which member acts in relation to his client; and
- (c) the purpose for which the documents and records exist and have been prepared.

The rule is that if an agent brings into existence certain documents whilst servicing a principal, they are the principal's documents and the principal can claim that the agent should hand them over. Some areas of a member's activities involve acting as agent for the client. In such cases the contract is between a principal (the client) and his agent (the member) and the above rule applies.

Whilst documents belong to the client when they are prepared by a member acting as agent, this is not usually so where the member acts as principal.

In such cases the member's working papers belong to him unless the engagement letter or contract between the client and the member requires otherwise. The contract between a member and client may set out expressly the agreed position regarding the ownership of documents and records on which he will work or which are created in the course of that work. The contract may also determine ownership by implication. The ownership of documents and records will therefore vary according to the terms, expressed or implied, of the contract. Where those terms are such that one party owns the documents and records, the nature of the documents and records is irrelevant and it is not necessary to look further.

Letters received by a member from a client belong to him. So also, his copy of any letter written to a client is made solely for his own purposes and also belongs to him. A member's notes of questions and answers between him and the client likewise belong to him.

Ownership of copies of communications between a member and third parties depends on the relationship between him and the client. Where the member is an agent, the copies belong to the client. On the other hand, where the member is acting as principal, it is probable that it could be held that the copies belong to him. This would include documents which are not the end product of the work, for example:

- (a) documents confirming or otherwise the balance of an account between a third party and the client, such as those in respect of bank balances; and
- (b) other documents which the member has obtained solely for his own use in carrying out his duties as principal, these would normally include correspondence between the member and the client's lawyers.

3.4 Advertising

3.4.1 When advertising their services or achievements, Members should adhere to any specific laws that may regulate the profession.

3.4.2 Advertising and publicity should at all times be conducted in a professional manner, and in particular, should not:

- discredit the work or services of other members and professionals;
- breach confidentiality;
- result in false or misleading statements; nor
- reflect adversely on the Institute.

3.4.3 Where personal information about clients is collected and stored for marketing purposes, Members should ensure that any and all obligations arising under the relevant data protection legislation are complied with at all times.

Commentary

A member must not seek to obtain unfair competitive advantage through official contacts with government departments or other authorities. A member should not obtain or seek work in an unprofessional or unethical manner. A member may seek publicity for his services and achievements, but in doing so should have regard to the standards set out above and common sense. In addition to meeting the requirements of the above standards, members should ensure that promotional material is in good taste both as to content and presentation.

3.5 Fees

3.5.1 Fees to be charged for services are to be agreed between a practitioner and their client. Before undertaking any work, a member should ensure that the client understands the basis on which fees will be charged, including how expenses incurred on behalf of the client will be treated.

- 3.5.2 When quoting fees, a member should refrain from misleading statements which may cause an assumption that the fees will be lower than those eventually charged.
- 3.5.3 It is recommended that the quantum of the fee should reflect the nature of the work carried out.
- 3.5.4 The fee payment terms should be clearly explained to a client.

Commentary

Each member is of course free to set out their fee structure.

It is not the Institute's intention to, in any way, impose conditions that may limit a practitioner's discretion on such matters. However, the above are recommendations of what the Institute constitutes best practice.

It is recommended that pricing is determined on the bases of the type of work being requested, the level of expertise provided, and keeping in mind market standards and exigencies.

Fees should normally be determined by reference to:

- (a) the skill and knowledge required for the type of work involved;
- (b) the seniority of the persons necessarily engaged on the work;
- (c) the time necessarily occupied by each person engaged on the work;
- (d) the nature of the responsibility which the work entails.

Reference is made above to the seniority of the persons necessarily engaged on the work and the time necessarily put by each person. The word 'necessarily' is important. Moreover the work should be planned and controlled in such a way that time is not spent unnecessarily on detailed work which could be replaced by the use of more suitable methods.

Members are urged not to charge what could be seen to be excessive fees for what may be a relatively straightforward job, keeping in mind the risk of outpricing oneself.

In the case of a change in fee structure, adequate notice should be given to existing clients to enable them to make alternative arrangements if they should so desire.

Out-of-pocket expenses, attributable directly to the work done for a particular client would normally be charged to that client in addition to the professional fees. A small mark-up or service charged is also acceptable.

If, at any time, a competent authority sets a scale of fees and charges, this must obviously be scrupulously adhered to.

4. MISCELLANEOUS

4.1 Force Majeure

4.1.1 If any circumstances arise which, in the opinion of a member, makes it impossible or impracticable for them to comply with any obligation or recommendation in this Code, such member must immediately inform the Institute of the facts and reasons thereof. In these circumstances, the member may be required by the Institute to take steps as, in its discretion, it considers to be required or appropriate.

4.2 Members in Employment

4.2.1 These rules also apply, *mutatis mutandis*, to members who are in employment, full regard being had to the circumstances of each case and the nature of employment.

Commentary

Members who are in employment may fall under three categories: -

- (a) employed with other members;
- (b) employed in private commercial or industrial undertakings;
- (c) employed in the public service.

This Code of Conduct and Ethics may not always be applicable, or even relevant, in such cases. These members should, however, without in any way infringing upon the rules which are binding upon them in terms of their contract and conditions of service, apply the underlying principles of this Code as best as they can in the context in which they work.

4.3 Disciplinary Procedures

4.3.1 A member shall be subject to such disciplinary procedures and other rules which the Council of the Institute may decide to introduce from time to time. The current disciplinary procedures are set out in the Schedule hereto.

Schedule - **DISCIPLINARY PROCEDURE**

A. Institution of proceedings

- A.1 Any complaint against or allegation of misconduct on the part of a member coming to the attention of the MIT Council shall be referred to an ad hoc Disciplinary Committee constituted by MIT Council and comprising 3 MIT members.
- A.2 If the Disciplinary Committee (“DC”) finds prima facie reasons for proceeding with the case, it shall advise the member against whom a complaint or allegation has been made accordingly (the “Member under Review”), and the said member shall have the right to make submissions thereon to the DC.

B. Proceedings of the Disciplinary Committee

- B.1 The DC may require a Member under Review:-
 - a. to attend before it and to give oral evidence and answer questions, and
 - b. to produce all documents, information or other material relevant to the complaint or allegations before it.
- B.2 The complainant and the Member under Review will have the opportunity of making oral and written submissions, as well as to present any witnesses, before the DC.

C. Conclusion of Proceedings

- C.1 On concluding an investigation, the DC shall decide about a complaint and will make recommendations to the Management Committee based on its findings. In the case of proven misconduct, the DC will make recommendations to the MIT Management Committee for the imposition of disciplinary penalties and/or sanctions which it may deem fit in the circumstances, and in accordance with the MIT’s statute.
- C.2 The Management Committee shall consider the DC’s recommendations and shall inform the Member under Review accordingly in writing. The complainant shall also be notified of the decision.

D. Appeal

- D.1 Any party aggrieved by a decision of the DC may, within 10 working days of the notification of the decision, give written notice of appeal to the MIT Council.
- D.2 The appellant shall file a statement with the MIT Council within 20 working days from giving notice of appeal: -
 - (a) setting out the decision of the DC being appealed;
 - (b) the grounds of appeal;
 - (c) the remedy sought from the Council.
- D.3 The MIT Council shall conduct the hearing in such manner as it considers most suitable for the disposal of the appeal proceedings, and may, at its discretion, appoint an independent legal practitioner to participate in the appeals proceedings. The MIT Council may give leave to present fresh evidence at the hearing.
- D.4 Following the hearing of the appeal, the MIT Council shall reach a decision on the case and will be entitled to confirm, vary or reverse the decision appealed against. The Council shall forthwith notify the appellant in writing of its decision and of any order made by it, together with the reasons thereof.
- D.5 The decision of the MIT Council shall be final.

D.6 Nothing herein contained shall prevent an appeal to the Council from being withdrawn before it delivers a final decision.

E. Conflict of Interest

E.1 No person shall participate in any disciplinary proceedings against a member if such person has an interest in the matter or circumstances leading to the procedure.