



Disciplinary Committee Regulations

Schedule of Changes – 1.10.19

The changes to the Disciplinary Committee Regulations of 15 October 2018 may be summarised generally as follows (note – this schedule does not reflect minor drafting changes that have been made to regulations that have otherwise been carried over from the 2018 Regulations).

DC Regulation (October 2019)	Amendment
	Note: references to DC Regulations below are to the former regulations from October 2018
1	The provision concerning authority and commencement has been updated. It has been clarified that the Regulations apply to any formal complaint(s) that are referred to the Disciplinary Committee (DC) for hearing on or after 1 October 2019.
2	Definitions section has been updated.
Pre-hearing procedure	
3 - 4	Regulation 3 sets out the documents to be served on the respondent / respondent firm by the PCD Committee Secretary following a referral of a formal complaint or formal complaints by the Investigation Committee (IC) for hearing. Regulation 4 sets out the documents which must be served by the respondent/respondent firm in response.
5	This regulation sets out an obligation on the PCD Committee Secretary to serve the documents received under Regulation 4 on the IC Representative
6	This regulation sets out the process to apply where a firm has requested a private hearing.
7-8	These provisions concern the response by the IC Representative to any directions filed by the respondent / respondent firm, or the filing of standard directions by the IC Representative.
9	This regulation sets out the process to be applied if the matter is to be listed for a sanctions hearing if a respondent has admitted the formal complaint(s) in its or their entirety
10-11	These new provisions concern the discretion of the case management chair (or Chair or Vice-Chair of the Disciplinary Committee if they are unavailable) to postpone a case management, sanctions or final hearing that has not yet commenced.
12	This regulation has been updated (cf. DC Regulation 16) and relates to requests for further information or documents before the final hearing which

	are necessary for just, expeditious and economic disposal of the case. <i>The request is now made by the case management chair (or Chair or Vice-Chair of the Disciplinary Committee if they are unavailable) rather than the PCD Committee Secretary.</i>
Case Management hearings	
13-28	Previously, there was provision (see DC Regulation 19) for the Chair to direct there be a pre-hearing review on the application of either party. Regulations 13 - 28 now introduce a new procedure to be followed in each case for the listing of a case management hearing and the appointment of a case management chair. The purpose of the case management hearing is to decide any preliminary issues of procedure or any applications for directions. Issues regarding whether the hearing should be heard in private, dealing with the listing of the final hearing, directions and the evidence to be relied upon will also be considered at the case management hearing.
Service of documents	
29 & 30	The service provisions have been updated (cf. DC Regulation 20)
Representation	
31	This regulation has been retained but now refers also to the case management chair (see DC Regulation 21).
32	This regulation has been retained (see DC Regulation 23).
Public hearings and publication requirements	
33	This provision which sets out the presumption that final hearings will be in public is drawn from DC Regulation 6 (although it now refers to the 'final hearing' and cross-references have been updated).
34-36	These provisions concerning private hearings are based on DC Regulation 7 and 8 but now refer to the role of the case management chair in determining applications.
37	This regulation which provides for advance notice of the hearing is drawn from DC Regulation 10 but has been amended as, if required, issues of publicity will be dealt with at the case management hearing.
38	This provision concerning applications for the final hearing to be in private has been retained (see DC Regulation 11).
Conduct of hearings	
39	This provision has been retained but has been extended to refer also to the case management hearing (see DC Regulation 22).
40	This provision has been retained (see DC Regulation 29).
41	This provision concerning the ability of the tribunal to exclude persons from a final hearing has been retained (see DC Regulation 30). It has been extended to capture also case management hearings.

42	This provision concerning the ability of the tribunal to adjourn proceedings has been retained (see DC Regulation 33). The power under the regulation extends also to the case management chair.
Final hearings	
43	This is a new provision confirming that the standard of proof will be the civil standard and the burden of proof will be on the IC.
44	This provision has been retained (see DC Regulation 24) but has been clarified to specify that the admission or denial will be entered into the record.
45 and 46	These provisions concerning submissions by the parties have been retained from the 2018 regulations (see DC regulations 25 and 26).
47 and 48	These provisions concerning witness evidence and final submissions by the parties reflect the substance of DC regulation 27 but have been amended / expanded upon.
49	This provision reflects the substance of DC regulation 28 from 2018 but has been expanded to further address applications to admit late evidence.
50	This provision reflects the substance of DC regulations 31, 31A and 32. References to the 'tribunal chair' have been replaced with 'case management chair'.
51	This provision concerning findings and orders in respect of complaints pleaded in the alternative has been retained from the 2018 regulations (see DC regulation 31B).
52	This provision concerning applications for further adjournments of a hearing has been retained from the 2018 regulations (see DC regulation 34). The drafting has been amended slightly to refer to a 'final hearing'.
53	The substance of this provision concerning the right of a tribunal to adjourn before making an order has been retained from the 2018 regulations (see DC regulation 35).
54 and 55	These provisions concerning the temporary suspension of a firm's DPB licence have been retained from the 2018 regulations (see DC regulations 36 and 37).
Decision and sanction	
56	The substance of this provision has been carried over from the 2018 regulations (see DC Regulation 38). It has been expanded to provide for other representations that the IC representative may make on the issue of

	sanction over and above the respondent/respondent firm's disciplinary record.
57	This is a new provision which requires that a costs schedule be prepared and presented to the tribunal by the IC representative should they wish to make an application for costs.
58	The first line of this provision has been carried over from the 2018 regulations (see DC Regulation 39). The remaining regulation is new text concerning the representations that may be made by the respondent / respondent firm or their representative to the tribunal concerning such matters as the appropriate sanction, their previous record, character references and any costs application by the Investigation Committee.
59	This provision has been carried over from the 2018 regulations (see DC Regulation 40)
60	With the addition of paragraph (f), this provision has been carried over from the 2018 regulations (see DC Regulation 41).
61	This provision has been carried over from the 2018 regulations (see DC Regulation 41A)
62	This provision has been carried over from the 2018 regulations (see DC Regulation 42)
63	This provision has been carried over from the 2018 regulations (see DC Regulation 44)
Sanctions hearing	
64	This is a new provision concerning the representations that may be made by the IC representative at a Sanctions Hearing concerning such matters as the respondent's disciplinary record, any aggravating or mitigating factors and the appropriate starting point for any sanction.
65	This is a new provision which requires that a costs schedule be prepared and presented to the tribunal by the IC representative should they wish to make an application for costs at the sanctions hearing.
66	This is a new provision which enables the respondent / respondent firm to make representations prior to any order being made by the tribunal at the Sanctions Hearing on such matters as the appropriate sanction, any aggravating and mitigating factors, their previous record and the IC's application for costs.
Recording of the hearing and decisions of the tribunal	
67	The first sentence of this regulation which provides for the taking of a shorthand or stenograph note, or an audio recording, of the proceedings has

	been taken from the 2018 regulations (see DC Regulation 45). The remaining regulation is new text concerning the availability of a record or transcript of the proceedings.
68	This provision has been carried over from the 2018 regulations (see DC Regulation 47).
69	This regulation has been retained from the 2018 regulations (see DC Regulation 48).
70	This regulation has been retained from the 2018 regulations (see DC Regulation 49). It has been amended to state that a copy of the written record of decision shall be sent to the parties, by the PCD Committee Secretary, not just to the respondent / respondent firm.
Publicity	
71	This regulation concerning the disclosure of written information and material in connection with disciplinary proceedings has been carried over from the 2018 regulations (see DC Regulation 50). However, the regulation has been further qualified so as not to apply to notices of hearings and publication of the tribunal's order and written record of decision under regulations 72 and 73.
72	The substance of the regulation concerning the minimum time period for publication of an order of the Disciplinary Tribunal has been retained from the 2018 regulations. However, reference in paragraph (b) of the 2018 regulations to the formal complaint(s) not being proved on appeal has been removed (see DC Regulation 51)
73	This is a new regulation concerning publication of the Disciplinary Tribunal's written record of decision in the case of an appeal.
Appendix A	New appendix concerning the respondent's statement to defend all or part of the complaint(s).