

## **RULES FOR THE INNS' CONDUCT COMMITTEE**

### **Part I - Purpose and Objective**

1. These Rules, which shall be referred to as the Inns Conduct Committee Rules, provide the terms under which the Inns' Conduct Committee will operate in determining whether an Inn of Court should refuse to admit an applicant for admission, or expel or refuse to Call a student to the Bar.
2. These Rules should be read in conjunction with relevant sections of the Bar Training Rules, which are contained in the Bar Standards Board Handbook ("the Handbook"), in Part 4, Section B. See also Rule 52 below.
3. The function of the Inns' Conduct Committee is:
  - (a) To determine any question whether an applicant for admission to an Inn is a fit and proper person to become a practising barrister;
  - (b) To determine whether the conduct of a student of an Inn is so serious as to call into question his or her fitness to practice as a practising barrister and if so to administer appropriate sanctions; and
  - (c) To hear and finally determine appeals from determinations by a student's Inn of minor internal disciplinary matters against that student pursuant to rQ106 of the Handbook and Rule 47.
4. To be eligible for admission to an Inn or Call to the Bar, a person must be a fit and proper person to become a practising barrister.
5. The Inns' Conduct Committee and the four Inns of Court will ensure that all existing and potential members receive consideration appropriate to their needs. There is a commitment to the elimination of unlawful or unfair discrimination on the grounds of sex, race, sex reassignment, disability, ethnic and national origin, nationality, sexual orientation, marital status, responsibility for dependants, religion or belief or age. The ICC recognises that it is the intention of the four Inns of Court that membership of the Inns should reflect the diversity of society. The Inns' Conduct Committee and all the Inns have a responsibility to apply the principles of this statement in their dealings with others both internally and externally.

### **Part II - Definitions**

6. In these Rules, the following terms have the following meanings:

"Admission to an Inn", "Admission Declaration", "Bankruptcy Order", "Criminal Offence", "Call Declaration", "Call to the Bar", "pending Criminal Proceedings", "Directors Disqualification Order", "Inn", "Council of the Inns of Court" ("COIC") and "Student" are as defined in Part 6 of the Handbook.

"Applicant" shall include persons granted exemptions from training requirements under Part B7 of the Bar Training Rules and former members of an Inn seeking readmission.

“Barrister” means any person who has been called to the Bar for not less than 7 years and retains a practising certificate, whether or not the person remains in independent practice.

“Fit and proper person to become a practising barrister” is as defined in rQ9 of the Handbook.

“Judge” means any person who is or has been a salaried judicial officer and remains authorised to perform judicial functions as a salaried or fee-paid judge.

“Serious Matter” is as defined in Part 6 of the Handbook.

“Tasked Under/Sub Treasurer” is the Under/Sub Treasurer providing support to COIC; the Disciplinary Tribunals system or the Inns’ Students and Continuing Education Committee.

The “Tribunals Appointment Body” is an appointed body which (i) vets the applications of those people who wish to be members of the panel of persons sitting and deciding on issues of misconduct, inadequate professional service and fitness to practise brought by the Bar Standards Board against barristers and (ii) certifies that those they select to the panels are fit and properly qualified to conduct the business for which they have been selected.

### **Part III - Membership and Procedures of the Inns’ Conduct Committee**

#### **Membership of the Inns’ Conduct Committee**

7. The Inns’ Conduct Committee shall have the following members:
  - (a) a Chair, appointed under Rule 9 below;
  - (b) 20 barristers/judges (each Inn nominating 5 barristers/judges for appointment by COIC); and
  - (c) 10 lay representatives, appointed by the Tribunals Appointments Body.

No person shall be appointed to the Inns’ Conduct Committee if they are a member of the Bar Council or of any of its committees or a member of the Bar Standards Board or of any of its committees

8. Each member of the Inns’ Conduct Committee (other than the Chair and Vice-Chair) shall serve for a term of 4 years from 1 September in the year in which they take up office and shall thereafter be eligible for renomination for a further period of 4 years.
9. The President of COIC shall select and appoint a Chair from the members. The Chair shall serve for 4 years from the date on which s/he takes office as Chair and shall thereafter be eligible for re-nomination for a further term.
10. The Inns’ Conduct Committee shall appoint a Vice-Chair from amongst their number. The person appointed shall serve as Vice-Chair for 2 years from the date on which s/he takes office as Vice-Chair and shall thereafter be eligible for re-

nomination for a further term as Vice-Chair (for a further 2 years) or as member (for a further 4 years).

11. A vacancy in the membership (other than that of the Chair), however occurring, shall be filled by the body which nominated the member whose departure has caused the vacancy. A person appointed to fill such vacancy shall serve for the remainder of the term of office of the member who is being replaced and thereafter will be eligible for re-nomination for a period of 4 years.
12. The tasked Under/Sub Treasurer shall make arrangements for Secretariat support to be provided to the Inns' Conduct Committee and any panels it may appoint.

### **Operation of the Inns' Conduct Committee**

13. The Inns' Conduct Committee may meet as a full committee to consider matters of general policy or process, but will ordinarily conduct its business by sitting in panels. A meeting of the Inns' Conduct Committee will generally include:
  - (a) the Chair; and
  - (b) at least five members, including at least one lay representative and with a minimum of one member from each Inn.
14. The Inns' Conduct Committee will:
  - (a) follow any guidance issued by the Bar Standards Board under rQ127.1 of the Handbook; and
  - (b) respond to any request from the Bar Standards Board for information under rQ127.2 of the Handbook.
15. The Inns' Conduct Committee will report in writing annually to COIC on its performance.

### **Screening Panel Proceedings**

16. The handling by the Inns' Conduct Committee of any case involving an applicant/student referred to it by an Inn shall be determined by a Screening Panel which shall comprise the Chair or Vice Chair of the Inns Conduct Committee and one other committee member, supported by the Secretary of the ICC. The members of the Screening Panel will generally conduct their business by meeting in person but may, at the discretion of the Chair or Vice Chair (as the case may be), do so by telephone or email. The tasked Under/Sub Treasurer may also attend meetings of the Screening Panel and participate in the conduct of their business by telephone or email.
17. The Inns' Conduct Committee will develop pursuant to rQ129 of the Handbook threshold criteria setting out which cases are sufficiently minor in nature to be determined by the Screening Panel itself without referral to a Panel and which cases must be referred to a Panel for hearing.

18. In referring a case to a Panel for hearing, the Screening Panel shall determine whether it should require the appointment and attendance at a hearing of a shorthand writer or whether the provision of appropriate tape recording facilities will suffice.

#### **Appointment of a Panel to Hear a Case**

19. Any case involving an applicant/student referred by the Screening Panel for hearing shall be heard and determined by a Panel appointed by the Chair of the Inns' Conduct Committee and drawn from that Committee's membership.
20. The Panel shall comprise three members including a lay representative and the Chair of the Inns' Conduct Committee will appoint a Panel Chair from their number.
21. The Chair of the Inns' Conduct Committee shall receive and rule on any;
  - a. written requests for a hearing to be adjourned made under Rule 22 (b); and/or
  - b. written objections to the membership of a Panel made under Rule 22 (e).

The reasons for any ruling under this provision shall be recorded in writing and provided to the applicant/student and the referring Inn.

#### **Notification of arrangements for a Hearing**

22. As soon as practicable after a referral to a Panel for hearing, the Secretary to the Inns' Conduct Committee shall write by registered post or recorded delivery to the applicant/student at the last known address notified to the Inn to give notification that the matter is to be heard and determined by a Panel appointed by and drawn from the membership of the Inns' Conduct Committee. The letter of notification shall:
  - (a) Identify the date, time and venue of the Panel Hearing (which shall be convened as soon as practicable);
  - (b) Inform the applicant/student of his or her right to submit a written request (with reasons) for the hearing to be adjourned. Such request shall be given within seven days of receipt of the notification letter or the applicant/student will be deemed to have waived the right to ask for an adjournment;
  - (c) Contain details of the referral, setting out the grounds by reason of which the referring Inn considers that the applicant's/student's fitness to practise as a barrister is called into question;
  - (d) Inform the applicant/student whether the referring Inn will be represented;
  - (e) Inform the applicant/student of the membership of the Panel and of the applicant/student's right to give written notice (with reasons) objecting to one or more of the proposed members of the Panel. Such notice shall be given within

seven days of receipt of the notification letter or the applicant/student will be deemed to have waived the right to object;

(f) Inform the applicant/student that s/he will within the period specified in the notification letter be supplied with copies of the documents that are to be provided to the Panel;

(g) Inform the applicant/student that s/he may within such reasonable time as may be specified deliver a written answer, explanation or other representation to the Panel in advance of the Hearing;

(h) Inform the applicant/student of his or her entitlement to attend the Hearing and right to be heard by the Panel;

(i) In the case of students only, inform the student of his or her right to appoint a representative or request the appointment of a representative;

(j) Require the applicant/student to inform the Secretary whether s/he intends to attend the Hearing and to be represented at the Hearing;

(k) Inform the applicant/student of the Panel's right to proceed with the Hearing in his or her absence; and

(l) Include a copy of these Rules and the Bar Training Rules, as set out in the Handbook.

### **Conduct of the Hearing**

23. The Hearing before the Panel shall ordinarily be in public unless the Chair of the Panel of his or her own motion or on request from an Inn or an applicant/student directs that the hearing be in private. If the Chair so directs, the reasons for sitting in private shall be recorded in writing and provided to the referring Inn and the applicant/student.

24. Subject to Rule 31, proceedings at the Hearing shall be at the discretion of the Chair of the Panel, but the Panel shall act in accordance with the principles of natural justice and have regard to Schedule 2. The Panel Chair may before or at the Hearing give all directions as may reasonably be necessary for the fair and orderly disposal of the referral.

25. The Panel shall not be bound by any enactment or rule of law relating to the admissibility of evidence in proceedings before any court.

26. The Panel shall treat:

(a) a criminal conviction of the applicant/student, which has not been set aside on appeal or otherwise, as sufficient evidence of the commission of the offence in question; and

(b) a finding of misconduct by a regulatory/professional/educational body exercising a regulatory, disciplinary or educational jurisdiction as sufficient evidence of the commission of the offence in question

but may give such weight to that conviction or offence as it considers reasonable in all the circumstances.

27. Where a shorthand writer is not appointed under Rule 18 above, and no tape recording facility is provided, the Secretary to the Inns' Conduct Committee will ensure that a note is taken of the evidence given at the Hearing.
28. Where a student has requested representation under Rule 22 (i) above, the Inns' Conduct Committee shall require the referring Inn to provide the student with an appropriate Bar Pro Bono Unit (the "Unit") application form for representation, and shall offer to transmit any completed form to the Unit on the student's behalf.
29. Evidence may be received by the Panel by oral statement, written statement, or statutory declaration.
30. Members of the Panel shall have the right at each stage of the Hearing to ask questions of the referring Inn's representative, the applicant/student (or, where applicable, his or her representative).
31. Subject to the discretion of the Chair of the Panel, the order of proceedings shall be as follows:
  - (a) Statement of the reason for referral of the applicant or student and production of evidence in support of it by the referring Inn's representative; and
  - (b) Statement of the case of the applicant/student and production of evidence in support of it by the applicant/student or their representative (as applicable).

#### **Decision of the Panel**

32. Within 14 days of the conclusion of the proceedings and on behalf of the Inns' Conduct Committee, the Panel will produce a written report setting out its findings, the reasons for those findings and its decision. A failure to provide the report within 14 days shall not (of itself) affect the validity of the decision. As soon as it is available, the written report will be sent to the applicant/student, the Inn which made the referral, the other Inns and (where appropriate) the student's BPTC Provider. Those written reports shall be retained in paper form only by the Secretary of the ICC. The names of those students who are expelled may be published on the Inn's website. Any request for access to a written report held by the Secretary of the ICC shall be referred to the Chair who may, having had regard to the circumstances, refuse or grant such request and, if granting any access, may impose such terms or conditions as the Chair considers appropriate.
33. If members of the Panel are not in agreement as to the finding(s), the decision of the Panel shall be by a simple majority.

#### **Review of the decision of the Inns' Conduct Committee**

34. If in accordance with rQ19 and rQ110 of the Handbook, the Inns' Conduct Committee decides that the applicant/student is not a fit and proper person to become a practising barrister or finds a Serious Matter proved, the applicant/student shall when sent the written notice of the Inns' Conduct Committee decision be informed in writing that a review of the decision under B10 of the Bar Training Rules may be requested, provided that a request is made in

writing to the Bar Standards Board within one month of the date when notice of the Inns' Conduct Committee decision is given.

35. In accordance with rQ121 of the Handbook, the Inns' Conduct Committee will consider whether to comment on any further representations and evidence which the applicant/student submits to the Bar Standards Board under rQ120.3 of the Handbook for review of an Inns' Conduct Committee decision.

#### **Part IV - Admission to an Inn**

##### **Referral by an Inn to the Inns' Conduct Committee**

36. To ensure consistency and transparency in decision making and pursuant to rQ16 of the Handbook, an Inn of Court will refer to the Inns' Conduct Committee for determination the question of whether an applicant is a fit and proper person to become a practising barrister and as such eligible for admission to an Inn if:
- (a) The applicant has been convicted of a Criminal Offence (or is the subject of pending Criminal Proceedings); or
  - (b) The applicant has been convicted of a disciplinary offence by a professional or regulatory body (or is the subject of pending proceedings for such an offence); or
  - (c) The applicant has been the subject of a Bankruptcy Order or Directors Disqualification Order or has entered into an individual voluntary arrangement with creditors; or
  - (d) The applicant has previously been refused admission to or expelled from an Inn; or
  - (e) There is any other circumstance which in the opinion of the Inn calls into question the applicant's fitness to become a practising barrister.
37. In referring an applicant for admission to the Inns' Conduct Committee, an Inn may appoint a representative to present the Inn's case at any hearing.
38. The Inns' Conduct Committee will determine whether a referred applicant is a fit and proper person to become a practising barrister, and should be admitted to an Inn of Court by reference to rQ9 of the Handbook.

#### **Part V – Conduct of Student of an Inn**

##### **Referral by an Inn to the Inns' Conduct Committee of a Serious Matter**

39. To ensure consistency and transparency in decision making and pursuant to rQ108 of the Handbook, an Inn of Court will refer any matters relating to the conduct of a student of the Inn to the Inns' Conduct Committee for determination if the Inn decides that the student's conduct constitutes a Serious Matter. If it is decided by an Inn that the student's conduct does not constitute a Serious Matter, the Inn will deal with the matter under its internal disciplinary procedures in accordance with rQ106 of the Handbook.

40. In referring a student to the Inns' Conduct Committee, an Inn may appoint a representative to present the Inn's case at any hearing.
41. The Inns' Conduct Committee will determine whether it finds the Serious Matter proved by reference to rQ104 and Part 6 of the Handbook.
42. If the Inns' Conduct Committee finds a Serious Matter proved, it may in accordance with rQ109 of the Handbook:
  - a. advise the Student as to future conduct;
  - b. reprimand the Student;
  - c. order that the Student's Call to the Bar be postponed for a specified period;
  - d. direct that the Student be expelled from the Inn (in which case the Inn must expel the Student); or
  - e. Any combination of the above.

#### **Part VI – Review of an Inn decision by the Inns' Conduct Committee**

##### **Appeal Request by a student for a Review of a decision under an Inn's internal disciplinary procedures**

43. In accordance with rQ107 of the Handbook, the Inns' Conduct Committee will consider requests from students for a review of a decision of an Inn under its internal disciplinary procedures, whether as a consequence of rQ106 of the Handbook or Rule 47. Such requests must be made in writing to the Secretary to the ICC within one month of the date when the Inn gave notice of the decision.
44. A request from a student for a review must be accompanied by:
  - (a) a copy of the notice of the Inn decision and the reasons for it;
  - (b) copies of all documents submitted or received by the student which were before the Inn; and
  - (c) the student's reasons for dissatisfaction with the Inn's decision.
45. On receiving an appeal from a student, the Secretary to the ICC shall notify the Inn and invite it to comment on the student's reasons for dissatisfaction.
46. The Inns' Conduct Committee may allow the appeal affirming the decision of the Inn under its internal disciplinary procedures or substitute any decision which could have been made by the Inn.



## **Part VII – Delegation to an Inn**

### **Delegation of categories of minor cases to the Inns for determination**

47. In accordance with rQ129 of the Handbook, the Inns' Conduct Committee may, on the basis of experience, issue a Practice Direction identifying certain categories of minor admission/student misconduct cases covered by rQ16-17 and rQ108 of the Handbook which may be automatically retained by the Inns for determination.
48. Committee members should have regard to the ICC Statement of Principles and Guidelines ("the ICC Statement"). This Statement will be updated on a regular basis by the ICC Committee members at their bi-annual Committee meetings to provide consistency of sanctions and fairness of disposal.

## **Part VIII– Commencement and Amendment of the Inns' Conduct Committee Rules**

49. These Rules came into force on 1 September 2009.
50. The Inns' Conduct Committee Rules and any amendment to any part of these Rules must be approved by (i) COIC and (ii) in accordance with rQ126 of the Handbook, the Bar Standards Board.
51. The date when an amendment to these Rules shall take effect will be determined in accordance with rQ126.1 and 126.2
  - (1) These Rules were amended with effect from 1 June 2010.
  - (2) They were further amended with effect from 1 September 2010.
  - (3) They were further amended with effect from 14 February 2013.
  - (4) They were further amended with effect from 18 July 2013.
  - (5) They were further amended, with effect as set out in Rule 52 below.
52. Since the Handbook came into force with effect from 6 January 2014:
  - (1) These rules shall apply in relation to:
    - (a) any application for admission to an Inn made on or after 6 January 2014;
    - (b) any conduct of a student notified or reported to an Inn (or otherwise coming to the attention of an Inn) on or after 6 January 2014;
    - (c) any appeal by a student under B8 rQ106 of the Handbook, where the determination by the Inn was on or after 6 January 2014.
  - (2) In relation to any other application for admission to an Inn, or any other conduct of a student, or any other appeal, the relevant rules shall be the Inns Conduct Committee Rules (as approved by the BSB and as in force prior to 6 January 2014) and the Bar Training Regulations (as in force prior to 6 January 2014).