

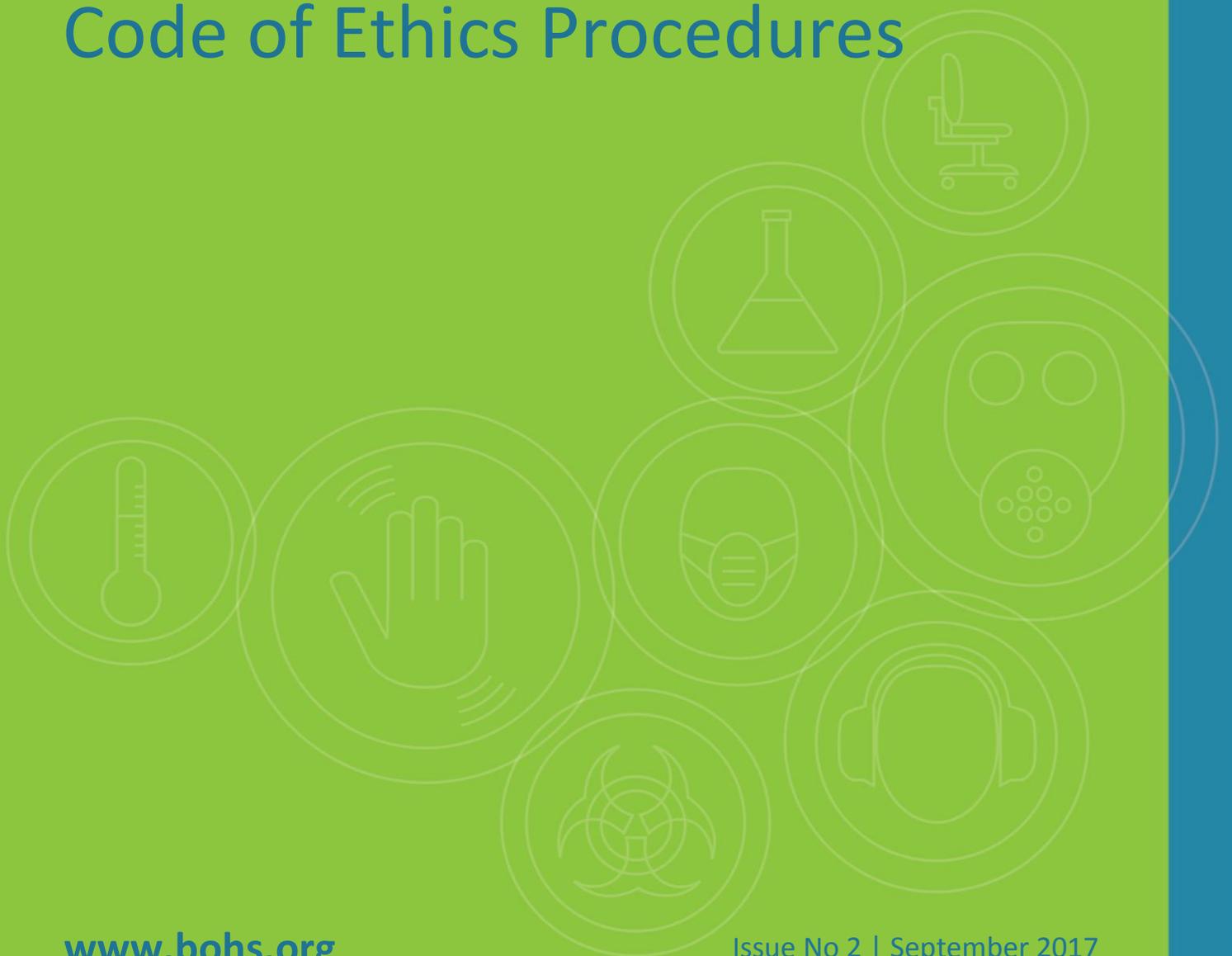


The Chartered Society for
Worker Health Protection

The British Occupational Hygiene Society

Faculties

Code of Ethics Procedures



1. Introduction

- 1.1 Part of the terms of reference given to the Boards of the Faculties by Council is to issue a Code of Ethics for the members of the Faculties as part of its overall objective to maintain and improve professional standards. The Faculty Boards also have delegated authority to adopt procedures to ensure that the Code is effective. This guide is designed to help members of the Faculties and other interested parties understand how the Code will be enforced when this is found to be necessary.
- 1.2 This guide is intended to be a practical document that establishes fair and reasonable processes. It is not of itself a legal commitment by the Faculties or the Society. It may well be changed as experience and external circumstances indicate that improvements are necessary. The Faculty Boards will always welcome suggestions for such improvements. The Faculty Boards also acknowledge that the procedures set out in this guide may not be appropriate in all circumstances. The Faculty Boards reserve the right at their absolute discretion to change the procedures as appropriate, and to exercise all other powers that they consider necessary to deal with an allegation of unprofessional conduct in accordance with the principles set out in Section 2 below.

2. General Issues

- 2.1 The arrangements to deal with issues arising from references to the Head Office and the Faculty Boards of matters covered by the Code of Ethics will be governed by the following principles:-
 - a) time - the Head Office and Faculty Boards will seek to expedite issues or specific cases with as much speed as possible but with due regard to fair processes and the other demands on the time of the officials involved.
 - b) objectivity - each person involved in any of the processes will deal with the information as presented and not be unduly affected by any prior knowledge or pre-judgements.
 - c) confidentiality - each person involved in any of the processes is committed to maintaining confidentiality of privileged information; the Faculty Boards will release information about steps being taken, information received, Faculty Board and Committee discussions, findings etc., only in a controlled way by those persons duly authorised by the Faculty Boards.
 - d) records - all confidential records of case processes will be collected as soon as practicable and held in secure and confidential storage in the Society's files and will not be retained by individuals as long term private records.
 - e) indemnification - the Council will indemnify Faculty members serving in official capacities in the furtherance of the implementation of the Code of Ethics providing they have acted in good faith and with reasonable care.

- f) report - the Registrar will report on the development of issues relating to the Code of Ethics and on any outcomes at the next Society's AGM.
- g) overseas cases - the payments for expenses for overseas cases will be decided by Council on a case-by-case basis bearing in mind the practicalities and the cost burden on the Society.
- h) exclusions - if any Council member or Faculty Board member is the subject of a Code of Ethics case or has a significant interest in the outcome of a process, then he or she will exclude themselves from any process or discussion related to the case.
- i) applicability - the Code is applicable to all members of the Faculties and one of the strengths of the professional body is that it is able to advertise this fact. However, the appropriateness of formal actions and the severity of any outcomes will be conditioned by considerations of the grade, experience and motivations of the person concerned.

3. Systems Enquiries

- 3.1 It is likely that the Faculties will receive general enquiries about the Code of Ethics, its nature and its application to various circumstances which may arise. These enquiries and the way in which they are handled are very important as they will sometimes enable the Faculties to deal promptly with matters which otherwise would have to be submitted to the more formal procedures. Systems enquiries may come from individuals or companies, from consultancies or other institutions, or from the general public.
- 3.2 Enquiries under this heading will have to comply with the following characteristics:
 - a) they must be from identifiable sources;
 - b) they must not relate to easily identifiable members;
 - c) they must be written and preferably addressed to Head Office or the Faculty (Board) (and will be re-addressed to the latter if initially sent to other Council or to Faculty Board members).
- 3.3 The Head Office will reply to an enquiry reasonably promptly. If the Head Office cannot deal with the issues alone, advice may be sought from Faculty Board members before answering the enquiry. In any case, the fact that an enquiry has been made and its answer will be reported to Council by the Registrar to the Faculty Board via the Registrar of the Faculty of Occupational Hygiene. The records of the enquiry will be put on to file.
- 3.4 Replies to systems enquiries will be made in good faith based on the limited information as presented. They are not made with the fuller considerations that would be part of any Investigating or Hearing Committee process. They do not prejudice specific cases that may arise later or limit Faculty Boards or Council decisions or actions; although every attempt will be made to maintain consistency, replies to systems enquiries cannot bind the current or future Faculty Boards or Councils. They do not establish binding precedents.

4. Allegations of Unprofessional Conduct

- 4.1 Issues in this category relate to particular cases involving named individuals. They may come from individuals, bodies or the general public. Apart from 3.2 (b) the requirements of Section 3 above apply, that is, they must be from identifiable sources and written. The Head Office will direct the correspondence to the relevant Registrar, and inform Council that an allegation has been made, but will not pass on any more details. The allegations must relate to the provisions of the Code of Ethics, although this need not be explicitly stated.
- 4.2 The Registrar will inform the individual named of the allegation, and the identity of the complainant, and will open a file for papers. The Registrar will keep the interested parties informed of developments.
- 4.3 If any of the Faculty Board have a significant interest in the outcome of a process, then he or she will exclude themselves from discussion or other involvement in the process, and, if necessary, the Faculty Board may co-opt other members of the Faculty to assist them in their deliberations and handling of the process. Where the Registrar/Faculty Board decides that the allegation does not relate to the Code of Ethics, the matter will be closed and the Registrar will write to the interested parties.
- 4.4 If the allegation does relate to the Code of Ethics then the following process is started.

5. Arbitration

- 5.1 Following notification from the Head Office that a specific allegation of unprofessional conduct has been made about a member, the Registrar will decide whether or not the matter could be settled by arbitration between the two parties bearing in mind the nature and the circumstances of the allegation. The Registrar, or his appointee, would act as the independent arbiter in the matter. Any appointee made by the Registrar should be a current Fellow of the Faculty. A necessary condition for arbitration to be used to resolve the matter would be that both parties would have to be willing to be bound by the decision of the independent arbiter.

6. Investigating Committee

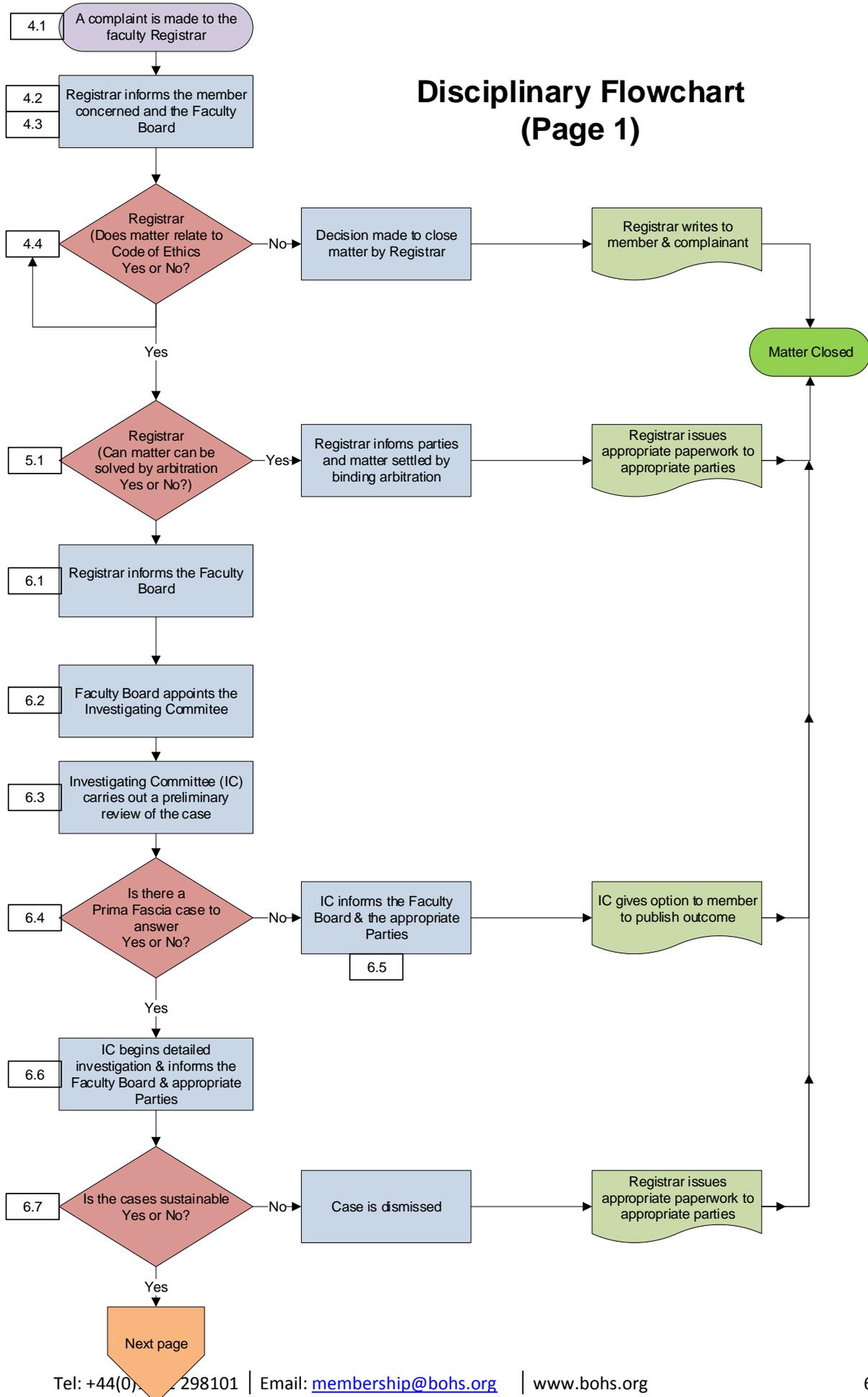
- 6.1 Following notification from the Registrar that a specific allegation of unprofessional conduct has been made about a member that could not be settled by means of binding arbitration, the Faculty Board will set up an Investigating Committee. The initial purpose of the Investigating Committee is to decide whether a prima facie case¹ exists and that the matter is of sufficient gravity for processing further.
- 6.2 The Faculty Board will set up the Investigating Committee from three current Fellows of the Faculty (where possible), excluding current members of the Faculty Board and Council, and nominate one of them to Chair its deliberations. If any of the Fellows approached have a

¹ Evidence that is sufficient to raise a presumption of fact or to establish the fact in question unless rebutted.

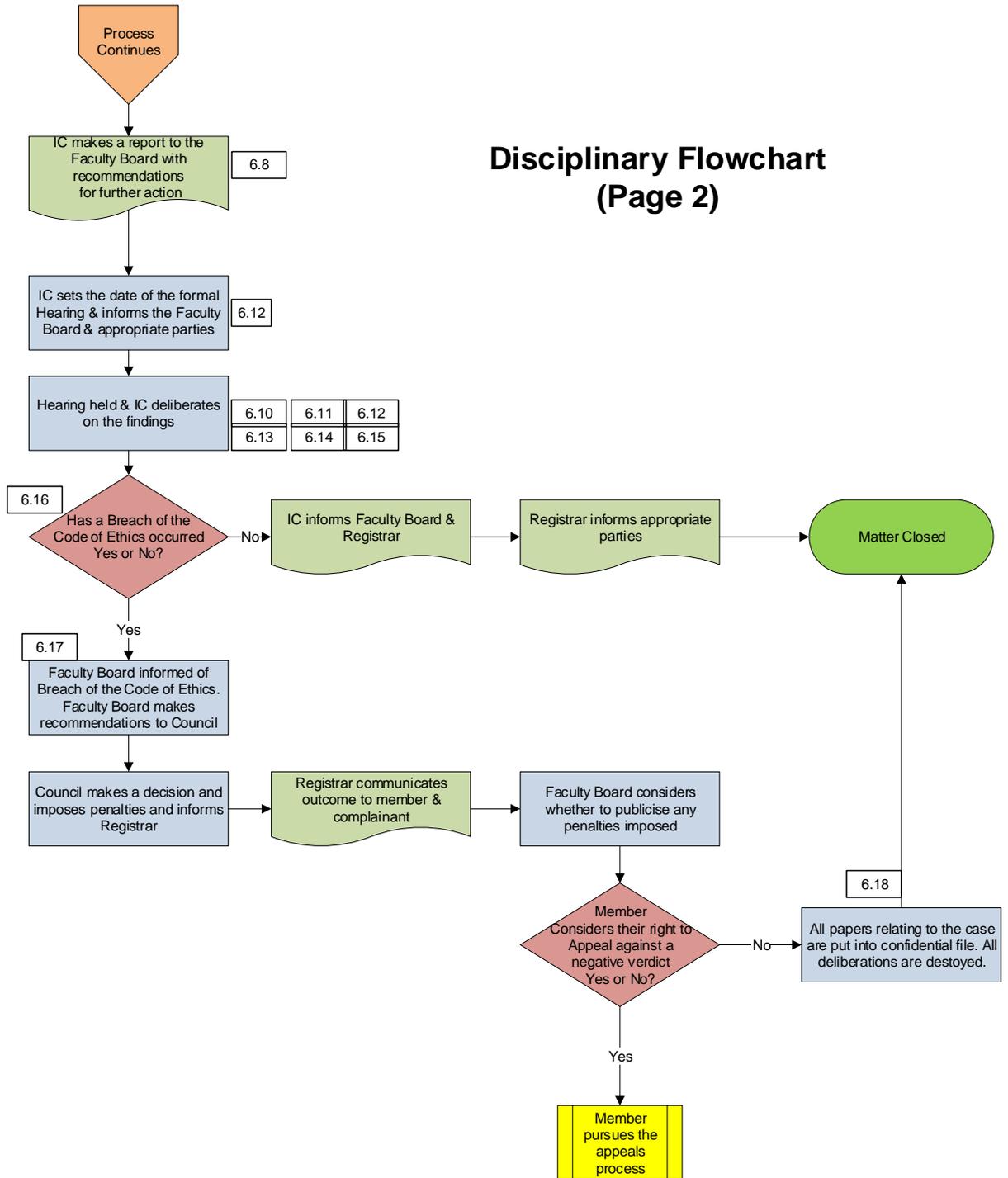
- significant interest in the outcome of a process, then he or she will exclude themselves from the selection.
- 6.3 The Investigating Committee will meet as soon as is practicable. It will not call witnesses, but may ask interested parties for more information to supplement that which was included in the written allegation. Discussions and proceedings of the Investigating Committee will be confidential and not recorded. If it wishes to, the Committee may seek advice in confidence from other sources. Papers will be put on to a confidential file, which in due course will be stored by the Society.
- 6.4 The Investigating Committee will decide whether there is a prima facie case. It will inform the Registrar of its decision, but will communicate the decision to no other party. The Registrar will inform the Faculty Board. No detailed reasons for the decision will be given.
- 6.5 If there is no prima facie case for further processing by the Investigating Committee, the Faculty Board will direct the Registrar to inform the member and the party making the allegation. The Registrar will give the member the option of the Faculty publishing the outcome of the Investigating Committee. The fact that there has been an Investigating Committee that found no prima facie case to be answered will be reported by the Registrar via the Registrar of the Faculty of Occupational Hygiene to Council at the time, and to the Society membership at the next AGM.
- 6.6 If the Investigating Committee has decided that there is a case to consider, the Registrar will be directed by the Faculty Board to inform the member and the party making the allegation, but will not publicise the outcome. It is better at this stage that all the parties involved avoid undue publicity. The procedures for an Investigating Committee will be explained by the Registrar.
- 6.7 Where a case is not sustained by an Investigating Committee then the case is dismissed and the Registrar informs the appropriate parties. **It cannot be reopened at a future date without substantial new evidence that was not available at the time of the original allegation.**
- 6.8 If the case is sustainable then the Investigating committee makes a full report to the Faculty Board with recommendations for further action.
- 6.9 The Investigating Committee shall seek to establish the facts of the case by investigative rather than adversarial processes. It will use “balance of probabilities” rather than “beyond reasonable doubt” as the criterion for judging evidence submitted to it. Evidence will not be taken on oath.
- 6.10 The Investigating Committee shall reach its decisions by majority voting, if unable to do so unanimously. In any case the procedures adopted will not be revealed outside the Committee, even to the Faculty Board.
- 6.11 The Investigating Committee will be given the file containing all the details of the case to date by the Registrar. The Registrar will write to the member and the party making the allegations of professional misconduct giving the relevant parts of the Code of Ethics being considered and explaining the procedures.

- 6.12 The Investigating Committee will fix the date for a hearing, giving at least 30 days clear notice to the member and others concerned. The Committee will go to reasonable lengths in choosing dates to enable the member to appear, taking into account the member's personal circumstances. The member is entitled to know as much as possible about the issue being raised, and may submit to the Investigating Committee any prior comments he or she may wish to make.
- 6.13 At the hearing the member has the opportunity to attend and speak to the Investigating Committee and answer its questions. The member may be accompanied by another member of the Faculty or may be represented by a solicitor or barrister. The member can call witnesses to give evidence, but may not examine or cross-examine witnesses nor may the representatives if chosen. The member may call witnesses or present evidence from a variety of sources including those outside the profession. The member shall give as much advanced information as is practicable about the witnesses and the evidence they may present.
- 6.14 The Investigating Committee will establish the facts and it is expected that each and every member of the Faculty called to give it information will cooperate to the best of their abilities. The Investigating Committee will examine each witness separately without other people being present. The Committee may seek further information not presented by the witnesses who attend.
- 6.15 The Investigating Committee will decide upon its procedures; in particular it will decide upon the sequence of witnesses and the time it needs to consider the facts it has gathered. It will consider its decisions in private and not record the contents of its discussions and deliberations.
- 6.16 On completion of its deliberations the Investigating Committee will report in writing on its findings and any recommendations for penalties, in confidence to the Faculty Board. If the issue of non-compliance with the Code of Ethics is not sustained, the Registrar will write to the member giving him or her, the option of no publicity, although the general fact that an Investigating Committee had been set up and done its work will be reported to BOHS Council at the time, and at the next AGM.
- 6.17 If the complaint is sustained, the Faculty Board will decide upon (a) the measures that it will recommend that Council takes, and (b) the method of releasing decisions etc. In particular, the highest priority will be given to informing the member concerned promptly that the complaint has been sustained, and has been passed to Council for action. The recommendation to Council about any publication of the details of the non-compliance with the Code of Ethics will be considered in relation to the importance of the issue, and the need for likely interested parties to know. The Board will also consider the need to publicise the penalties that Council may implement.
- 6.18 All of the papers relating to the case will be put into a confidential file in due course. These may relate to the evidence submitted and the outcomes of the Investigating Committee's deliberations, but not to the deliberations themselves. Any documents relating to the deliberations will be destroyed. **The matter is now closed.**

Disciplinary Flowchart (Page 1)



Disciplinary Flowchart (Page 2)



7. The Full Appeals Process

- 7.1 The subject of the allegation may appeal against the decision of the Investigating Committee to the Registrar, by submitting full grounds of appeal in writing to the Registrar within 10 working days of receiving the Investigating Committee's decision.

Examples of grounds of appeal may include, *but are not limited to*, any or all of the following:

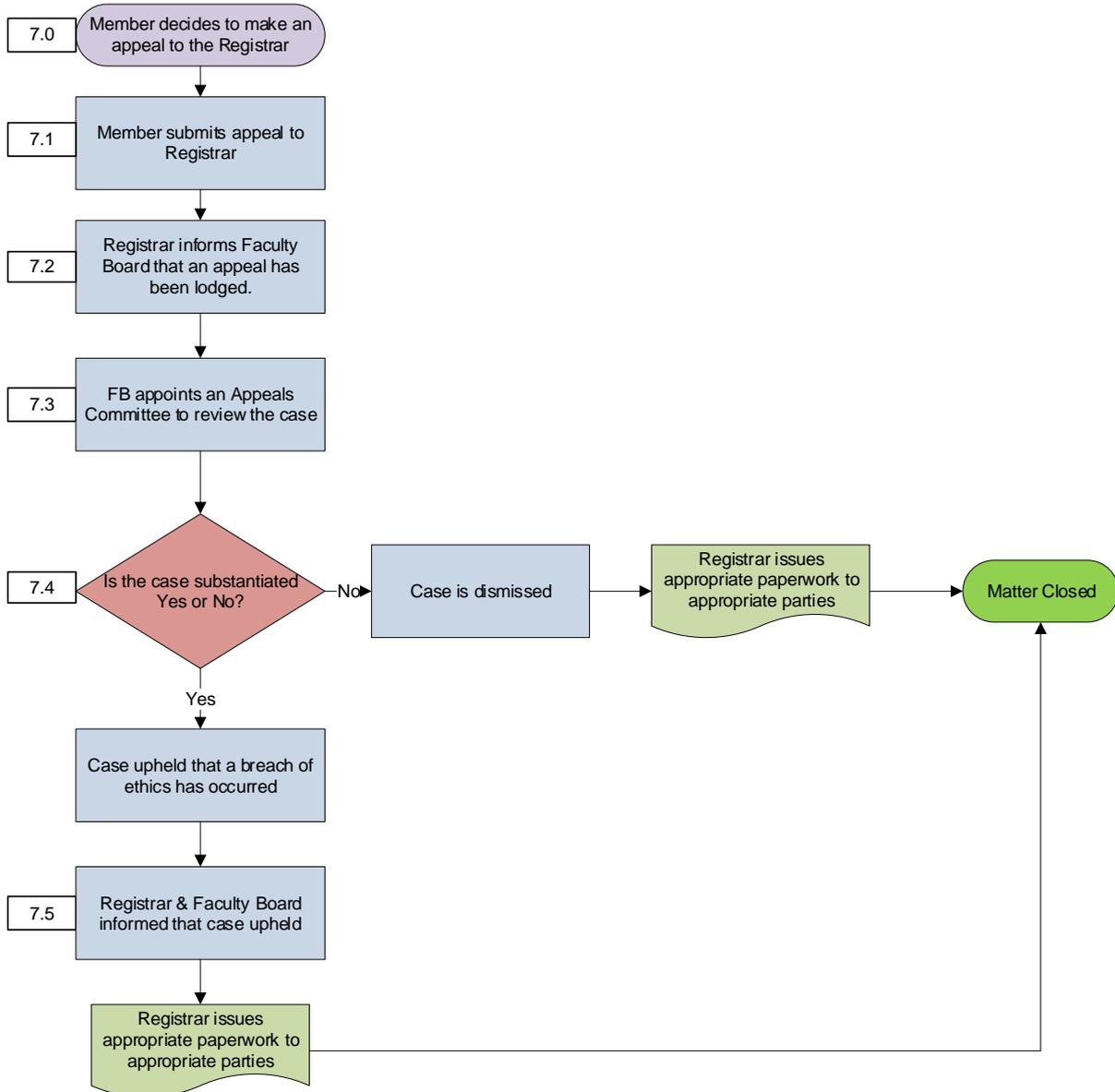
- (a) Serious errors in the procedures followed by the Investigating Committee.
- (b) The imposition of an unreasonably excessive sanction by the Investigating Committee.
- (c) The emergence of new material evidence, which could not reasonably have been submitted to the Investigating Committee.

- 7.2 On receipt of the appeal from the member, the Registrar informs the Faculty board that an appeal has been submitted.

- 7.3 The Faculty Board will set up an Appeals **Committee** to review the case from three current Fellows of the Faculty, excluding any member who served on the Investigating Committee and members of the Faculty Board.

- 7.4 The Appeals Committee reviews all of the papers of the case and may call for fresh statements and or evidence to review the facts. It is expected that each and every member of the Faculty called to give it information will cooperate to the best of their abilities. The Committee may seek further information not presented by the witnesses who attend.

- 7.5 **The Registrar and the Faculty Board are informed of the verdict of the case and the registrar will inform the appropriate parties and the matter will be closed.**



8. The Appeals Committee

- 8.1 An Appeals Committee will be set up by the Faculty Board on receiving an appeal against the decision of an Investigating Committee. The purpose of an Appeals Committee is to review the decision arrived at by the Investigating Committee.
- 8.2 The Appeals Committee will be appointed by the Faculty Board and consist of three Fellows of the Faculty, excluding current members of the Faculty Board and Council and members of the Investigating Committee. The Faculty Board will nominate one of the Committee as its Chair.
- 8.3 The Appeals Committee shall seek to establish the facts of the case by investigative rather than adversarial processes. It will use “balance of probabilities” rather than “beyond reasonable doubt” as the criterion for judging evidence submitted to it. Evidence will not be taken on oath.
- 8.4 The Appeals Committee shall reach its decisions by majority voting, if unable to do so unanimously. In any case the procedures adopted will not be revealed outside the Committee, even to the Faculty Board.
- 8.5 The Appeals Committee will be given the file containing all the details of the case to date by the Registrar.
- 8.6 The Appeals Committee will fix the date for a hearing, giving at least 30 days clear notice to the member and others concerned. The Appeals Committee will go to reasonable lengths in choosing dates to enable the member to appear, taking into account the member’s personal circumstances. The member is entitled to know as much as possible about the issue being raised, and may submit to the Appeals Committee any prior comments he or she may wish to make.
- 8.7 At the hearing the member has the opportunity to attend and speak to the Appeals Committee and answer its questions. The member may be accompanied by another member of the Faculty or may be represented by a solicitor or barrister. The member may call witnesses to give evidence, but may not examine or cross-examine witnesses nor may the representatives if chosen. The member may call witnesses or present evidence from a variety of sources including those outside the profession. The member shall give as much advanced information as is practicable about the witnesses and the evidence they may present.
- 8.8 It is the purpose of the Appeals Committee to establish the facts and it is expected that each and every member of the Faculty called to give it information will cooperate to the best of their abilities. The Appeals Committee will examine each witness separately without other people being present except in the special case of the member and their representative as described in 8.7. The Committee may seek further information not presented by the witnesses who attend.
- 8.9 The Appeals Committee will decide upon its procedures; in particular it will decide upon the sequence of witnesses and the time it needs to consider the facts it has gathered. It will consider its decisions in private and not record the contents of its discussions and deliberations.

- 8.10 Following its deliberations the Appeals Committee will report in writing on its findings and any recommendations for penalties, in confidence to the Faculty Board. If the issue of non-compliance with the Code of Ethics is not sustained, the Registrar will write to the member giving him or her the option of no publicity, although the general fact that an Appeals Committee had been set up and done its work will be reported to BOHS Council at the time, and at the next AGM.
- 8.11 If the complaint is sustained, the Faculty Board will decide upon (a) the measures that it will recommend that Council takes, and (b) the method of releasing decisions etc. In particular, the highest priority will be given to informing the member concerned promptly that the complaint has been sustained, and has been passed to Council for action. The recommendation to Council about any publication of the details of the non-compliance with the Code of Ethics will be considered in relation to the importance of the issue, and the need for likely interested parties to know. The Board will also consider the need to publicise the penalties that Council may implement.
- 8.12 All papers relating to the case will be put into a confidential file in due course. These may relate to the evidence submitted and the outcomes of the Appeals Committee's deliberations, but not to the deliberations themselves. Any documents relating to the deliberations will be destroyed.

9. Payment of Expenses

- 9.1 The Faculty may, with the agreement of Council make ex gratia payments to cover expenses of any of those involved in the above procedures. These must comply with any Society procedures in force and the limitations of the current Financial Principles and Operational Guidelines. The following guidelines indicate those expenses that may be met at the discretion of the Faculty Board:
- 9.2 Paid expenses
- *Travel and overnight expenses and subsistence of:-* any members of Investigating or Hearing Committees, members subjected to investigation, their representative solicitors or barristers, witnesses called by Hearing Committees;
 - *Fees of witnesses* called by Hearing Committees at rates agreed on a case by case basis by the Faculty Board.
- 9.3 Expenses not paid
- the travel and overnight expenses and subsistence of witnesses called by members subject to investigation;
 - the fees of witnesses called by those members;
 - the fees of any solicitor or barrister representing those members.