

* IPEMCEO = Institute of Physics and Engineering in Medicine Chief Executive Officer

** RCTMP = Register of Clinical Technologist Management Panel

Document name		Fitness to Practise Procedure (formerly Disciplinary Procedure)	
Approved by		First adopted by the Register of Clinical Technologist Assessors' Panel on 29 th September 2003 to come into force with immediate effect.	
Revision	Date	Description of change	Authorised by
1.0	April 2014	Fully revised and updated with legal advice Revised version accepted by RCT Management Panel June 2015	IPEMCEO* / RCTMP**
2.0	August 2014	'Voluntary' removed from title as agreed in the minutes of the RCTMP June 2014	RCTMP
3.0	August 2015	Correction to numbering of paragraphs and cross-referencing of paragraphs	IPEMCEO
4.0	January 2016	Revised and renamed to recognise different approaches for conduct and health cases	IPEM CEO
5.0	February 2016	Revised in line with PSA requirements to a) allow for complaints arising from media sources, b) allow health or conduct panel hearings to be open to the public, c) change composition of Appeals Panels and d) make explicit grounds for appeal and how these will be handled. All changes agreed at February RCTMP meeting. Spelling of 'practice' changed to 'practise' as appropriate.	RCTMP**
6.0	August 2016	Addition of Clause 3.2 (iv) and 5.17(iv) in line with PSA requirements. Reinstatement of PCC definition under Section 1 Interpretation. Addition of 'Realistic Prospect Test' definition under Section 1 Interpretation.	IPEM CEO
7.0	February 2018	Revised and updated with minor amendments by legal advisors	IPEM CEO / RCT PCC

1. Interpretation

In this Fitness to Practise Procedure the following words and phrases shall, save where the context otherwise requires, bear the following meanings:

Complaint:	Any circumstances identifying a member of the Register and set out in writing (including email) from a named person – an issue which falls to be dealt with under the Procedure outlined in 2.
Complainant:	The person making a complaint may be a member of the public, the Institute, the Register, an organisation or employer of the Subject Member.
Register:	The Register of Clinical Technologists.
Institute:	The Institute of Physics & Engineering in Medicine.
Secretary:	The CEO/HOOF of IPEM
Professional Conduct Committee (PCC)	A committee of the Institute comprising up to 15 senior members of the Register who are not members of the RCT Panel and up to three persons who are not employed in health care or higher education, to be determined from time to time by the RCT Panel which shall have the power to appoint and remove members of the PCC who shall normally be appointed for a term of three years once renewable.
Investigating Panel (IP)	A panel appointed by the chair of PCC and made up of members of PCC, to undertake the preliminary investigation of a complaint and determine whether or not it should be referred to a Health Panel or a Conduct Panel.
Health Panel (HP) or Conduct Panel (CP)	A panel appointed by the chair of PCC and made up of members of PCC, except for its Chairman who shall not be a member of the Institute, nor a member of the Register, nor employed in health care or higher education.
RCT Panel:	The RCT Management Panel.
Subject Member:	A Member of the Register who is the subject of a Complaint.
Chair:	Chair of the PCC, or the Vice Chair deputising for the Chair.
Case Presenter:	The representative of the RCT instructed to present the case to the Panel on their behalf at a HP or CP or appeal hearing – this may include a solicitor or barrister.
Code of Conduct:	The RCT Code of Professional Conduct
‘Realistic Prospect’ Test	The test will apply to both the factual allegations and the question of whether, if established, the facts would demonstrate that the Subject Member’s fitness to practise is impaired to a degree justifying action on registration.

Proceedings of the PCC

- 1.1 The PCC shall select one of their number to be Chair and shall have the right from time to time to remove the Chair and appoint a successor. They may in like manner appoint and remove a vice Chair who shall deputise in any proceedings in which the Chair is for any reason unable to take the chair.
- 1.2 Issues shall be determined by the PCC by the vote of the majority present and voting at a meeting where an issue is put to the vote. In the case of an equality of votes the Chair (or if absent the person chairing the meeting) shall have a second or casting vote. Seven members of the PCC must be present to constitute a quorum.
- 1.3 The PCC may delegate from time to time such of their functions as they may resolve to sub-committees or individual members of the PCC.
- 1.4 The office of secretary to the PCC shall be carried out by the Secretary (who may delegate the task in whole or in part to subordinates) who will not be a member of the PCC.
- 1.5 If any member of the PCC becomes aware of any personal involvement or interest in any Complaint or is the subject of any Complaint (or, in or of circumstances which could form the subject matter of a Complaint) he/she shall forthwith declare the same to the Chair of the PCC and the Secretary and shall take no further part in the deliberations of the PCC relating to that Complaint.
- 1.6 All correspondence to and from the PCC or between Panel members regarding specific cases involving a named Registrant must be handled in strictest confidence, using either encrypted email, or post addressed to the PCC/Panel member at their designated home address and marked 'Strictly private – to be opened by addressee only'.

2. Code of Professional Conduct

- 2.1 The RCT Panel shall agree the rules of the Code of Professional Conduct to be observed by Members of the Register.

3. Fitness to Practise Procedure

- 3.1 A Complaint may be investigated in accordance with these procedures where circumstances relate to the conduct of a member of the Register who allegedly:
 - (i) fails to comply with RCT Code of Professional Conduct, whether by negligence, carelessness or inattention or intent.
 - (ii) engages in or has engaged in any act or activity that brings the RCT into disrepute. This includes if the Registrant is declared bankrupt or is convicted of a crime of dishonesty or is convicted of any serious crime.
 - (iii) fails to behave with probity or honesty or engages in fraud when acting in an official RCT capacity or dealing with the RCT.
 - (iv) is unable to comply with clause 1 of the RCT Code of Professional Conduct due to ill health.

4. Initiation and Investigation of Complaint:

- 4.1 All members of the Register shall be under a responsibility to report any circumstances which could form the subject matter of a Complaint to the Secretary, or (if the Secretary is personally involved), to the chair of the PCC. Concerns about a registrant that come to the attention of the Register through social or other media should be brought to the attention of the Secretary of the PCC so that they can be reported to the Chair for consideration as a potential complaint.
- 4.2 When any circumstances which could reasonably form the subject matter of a Complaint come to the notice of the Secretary or any member of the PCC, whether by receipt of a complaint from any person or otherwise, any such circumstances shall be reported as quickly as possible by the Secretary or PCC member to the chairman of the PCC and shall then constitute a Complaint.
- 4.3 The Chairman, with the assistance of the Secretary, shall appoint an Investigating Panel of at least three members, to undertake a preliminary investigation to establish whether the circumstances giving rise to the Complaint are such that they should be referred to a Health or Conduct Panel. The Chair of the PCC will appoint one of the members of the Investigating Panel as Chair.
- 4.4 The Investigating Panel shall take such steps as it thinks fit in order to make a thorough investigation of the Complaint. The Investigating Panel may conduct its own enquiries and investigation as necessary and may where appropriate undertake independent and/or additional investigations regardless of any existing employer's investigation. The panel may admit any evidence providing that it is fair and relevant.
- 4.5 The Investigating Panel shall inform the Subject Member at as early a stage as is reasonably possible that s/he is the subject matter of such an investigation but may refrain from doing so where in the reasonable opinion of the Investigating Panel the investigation might be jeopardised. Details of the Subject Member's employer may be requested so that enquiries can be made of them. At the earliest opportunity, and in all cases prior to the Investigating Panel making its decision, the Subject Member should be provided with a copy of the written complaint and should be provided with an opportunity to respond in writing within 28 days.
- 4.6 The investigation shall be carried out and completed as rapidly as is reasonably practicable. A written record of the outcome, with reasons, must be prepared and agreed by the Panel.
- 4.7 If the Complaint is not to be referred to a panel hearing because there is no real prospect of sustaining the complaint, the Chair of PCC shall inform the Subject Member (if this has not already been done) of the investigation and of the decision not to refer the case.
- 4.8 If the Investigating Panel resolves that the matter should proceed to a health or conduct panel hearing, it shall formulate the precise Complaint or Complaints that are to be the subject matter of the panel hearing with the assistance of the Case Presenter. If ill health is considered to be a significant contributory factor to the alleged breach of the Code of Conduct, then the case should be referred to a Health Panel. Otherwise it should be referred to a Conduct Panel.
- 4.9 Subject to 6.7 below the Subject Member shall usually remain a member of the Register until the consideration of the complaint has been completed. If a Registrant resigns during proceedings, those proceedings will continue with or without the cooperation and participation of the member.

5. Procedure before and at the Health or conduct Panel Hearing

- 5.1 When a health or conduct panel hearing is required, the health or conduct panel will be appointed by the Chair of the PCC with the assistance of the Secretary. The health or conduct panel to be composed of at least four members, one of which must be a lay member. No member of the Investigating Panel can be appointed to sit as part of the health or conduct panel for the same complaint. The health or conduct panel hearings will be held in public unless the PCC is satisfied that, in the interests of justice or for the protection of the private life of the health professional, the complainant, or a witness, the public should be excluded from all or part of the hearing.
- 5.2 The Chair of the PCC shall appoint an independent person drawn from a list of persons on the RCT PCC who are not members of the Register or of the Institute to chair the health or conduct panel. If at any stage a member of the health or conduct panel withdraws or becomes unable to continue dealing with the Complaint then another member of the PCC may be substituted by the Chair of the PCC for that person provided that adequate steps can be taken to ensure a fair hearing.
- 5.3 For health panels, an independent medical practitioner may be appointed by the chair of the PCC to advise the Panel. All advice given by the independent medical practitioner should be given in the presence of the Case Presenter and the Subject Member if they have attended the hearing. The independent medical practitioner will not retire with the health panel at the decision making stage.
- 5.4 From the time at which the Investigating Panel refers a Complaint to a health or conduct panel, the health or conduct panel shall take over the conduct of the proceedings. Subject as stipulated in these rules the health or conduct panel shall regulate its own procedures and may make directions as to the conduct of cases, including arrangements for the attendance and expenses of Complainants, Subject Members and Witnesses. This Procedure may only be modified by the health or conduct panel so far as is necessary to ensure that the case is heard and conducted fairly. The health or conduct panel may request permission from the RCT Management Panel to seek advice at any stage in the proceedings from a legal or other professional advisor.
- 5.5 The Case Presenter may at any time up to the hearing communicate with the Subject Member regarding the Complaint and if s/he considers that the matter can be satisfactorily dealt with through admissions of the Complaint or of a substantial element of it, and expressions of regret and/or undertakings are given by the Subject Member, may seek to agree a consent proposal for approval by the health or conduct panel; provided that any Complaint so compromised shall be entered upon the Subject Member's record for a period of time specified by the health or conduct panel and may be raised only if relevant in subsequent proceedings concerning such Subject Member.
- 5.6 The health or conduct panel may consider and determine together
- (i) two or more complaints against the same Subject Member; or
 - (ii) complaints against two or more Subject Members,
- where it would be just to do so. The health or conduct panel may admit any evidence providing that it is fair and relevant.
- 5.7 The health or conduct panel shall have the power to amend the particulars of the allegation at any stage prior to the announcement of their decision on the facts. Any such amendment is subject to

the requirements of fairness, particularly to the Subject Member and the parties must be offered the chance to make submissions as to any proposed amendments.

- 5.8 All members of the health or conduct panel must participate in all decisions of the health or conduct panel, which shall be decided by the majority, which must include the lay member in every finding of proof. In the event of an equality of votes, the Chair shall have an additional casting vote. The quorum of a health or conduct panel shall be three Panellists including the Chair, with at least one lay member.
- 5.9 The health or conduct panel (having consulted with the Subject Member and taken into account to such extent as may be reasonable any representations s/he has made on the matter) shall fix a date time and place for a health or conduct panel hearing. A staff member of the Institute will act as the Panel Secretary and will be responsible for the administration of the hearing and will communicate relevant information to all parties and update the Chair of the PCC as to the hearing date. The Panel Secretary will be responsible for establishing that the Subject Member was properly notified if the Subject Member does not attend the hearing.
- 5.10 The Case Presenter shall supply the Subject Member with particulars of the Complaint against him or her and all the evidence to be used at the panel hearing (including copies of witness statements and documents) not less than 28 days before the health or conduct panel hearing. The Subject Member has the right to submit written representations to the health or conduct panel no less than 7 days in advance and/or may make oral representations at the hearing.
- 5.11 Where the Subject Member is neither present nor represented at the health or conduct panel Hearing, the health or conduct panel may proceed to consider the Complaint if they are satisfied that all reasonable efforts have been made to notify the Subject Member of the Complaint and the arrangements for the hearing, and that in all the circumstances it is fair to proceed.
- 5.12 At the hearing the health or conduct panel will consider the evidence and any submissions made by the Case Presenter (including if the Panel deems appropriate hearing witnesses) and shall give the Subject Member the opportunity to comment on the same and present oral evidence for himself/herself. The Subject Member may be assisted by a friend or colleague of his/her choice, or a legal representative, provided that:
- (i) S/he shall disclose to the health or conduct panel before the hearing the identity of the person who is to accompany or represent him/her if they wish their representative to receive copies of the documentation;
 - (ii) Any travel and subsistence costs incurred by a friend or colleague will not be the responsibility of the health or conduct panel, the PCC, the RCT Management Panel or the Institute;
 - (iii) Any professional fees, travel and subsistence costs of a legal or professional representative of the Subject Member will not be the responsibility of the health or conduct panel, the PCC, the RCT Panel or the Institute;
 - (iv) Any travel costs of the Subject Member will not be the responsibility of the health or conduct panel, the PCC, the RCT Panel or the Institute,
 - (v) The RCT Management Panel or the Institute will also not be liable to pay the Subject Member's legal costs. The PCC may engage a legal representative for the Subject Member in cases of sexual misconduct to facilitate the questioning of witnesses.

- 5.13 The Secretary shall arrange for a full audio recording of each panel hearing and shall keep the same until the expiry of at least 12 months from the conclusion of the hearing or of any appeal.
- 5.14 The burden of proving any disputed aspects of the facts underlying the Complaint rests on the Case Presenter. The standard of proof shall be the civil standard on the balance of probabilities.
- 5.15 The health or conduct panel shall retire in private (in the absence of the parties and any recording facilities) to consider each of the matters set out in 5.16, 5.17 and 5.18. The health or conduct panel will consider whether it is necessary, in the interest of fairness, to return to invite submissions from the parties between each or any of these stages.
- 5.16 The health or conduct panel shall first consider whether any disputed facts underlying the Complaint are found proved. It shall announce the facts admitted and/or found proved.
- 5.17 The Health or conduct panel shall next determine whether the Complaint(s) is/are sustained and whether the Subject Member has:
- (i) failed to comply with RCT Code of Professional Conduct, whether by negligence, carelessness or inattention or intent;
 - (ii) engaged in any act or activity that brings the RCT into disrepute;
 - (iii) failed to behave with probity or honesty or engaged in fraud when acting in an official RCT capacity or dealing with the RCT; and/or
 - (iv) is unable to comply with clause 1 of the RCT Code of Professional Conduct due to ill health.
- 5.18 The Health or conduct panel shall then determine what action to take in relation to the Complaint(s) which has/have been sustained in accordance with 5.14.
- 5.19 The Health or conduct panel may give its decision to the Complainant and the Subject Member at the conclusion of a panel hearing in writing (and may read out its decision) either at the conclusion of its deliberations or at the latest on the expiry of twenty one days from the conclusion of the panel hearing.
- 5.20 The Panel Secretary will notify the Chair of the PCC, the Complainant and the Subject Member of the Health or conduct panel's decision. The Subject Member will also be informed in writing of his or her right of appeal and of the procedure to be followed.
- 5.21 The Health or conduct panel shall give succinct reasons for all elements of their decision. The findings of the Health or conduct panel shall usually be published on the RCT website unless there is an exceptional reason not to publish. Any such publication will not be effected until after any appeal has been heard. The decision to publish is reserved to the Chair and Vice-Chair of the PCC who shall consult with the Health or conduct panel and the Registrar. Any publication of the findings of the Health or conduct panel by any member of the Institute not approved by the Chair and Vice-Chair may itself be the subject of a Complaint under this Procedure.
- 5.22 The following sanctions shall be available in respect of any Complaint- which the Health or conduct panel finds to have been sustained:
- (i) that no action be taken.

- (ii) that no action be taken save that the finding should be noted on the Subject Member’s record for a specified time not exceeding five years and may be raised only if relevant in subsequent fitness to practise proceedings concerning such Subject Member.
- (iii) that the Subject Member receive a written reprimand from the Chair of the PCC which shall go on his / her record for a specified time not exceeding five years and may be raised only if relevant in subsequent fitness to practise proceedings concerning such Subject Member.
- (iv) that the Subject Member be temporarily suspended from the Register (to be specified in the ruling).
- (v) that the Subject Member be suspended from the Register (to be specified in the ruling), until such time as any physical or mental illness, injury or disability that has resulted in a loss of competence to practise, is, in the judgement of the PCC, resolved and competence is restored.
- (vi) that the Subject Member be expelled from the Register.

6. Appeals

- 6.1 The Subject Member may appeal against any of the findings of the health or conduct panel.
- 6.2 An appeal shall be made by written notice to the Secretary within not more than 14 days of the notification by the Health or Conduct Panel to the Subject Member of its findings (which time limit may be extended by the discretion of the Chair of the PCC).
- 6.3 Appeals will be handled as follows:

Basis of appeal	Route
New evidence	A new health/conduct panel will be set up to consider the new evidence.
Findings	A new health/conduct panel will be set to re-consider the evidence where there is just cause
Process	An Appeals Panel will be set up
Sanctions too severe	An Appeals Panel will be set up

- 6.4 The Appeal Panel will comprise a member of the RCT Management Panel, who will act as Chair; a Registrant from the same Scope of Practice as the registrant appealing; and a lay person. If the appeal relates to the appellant’s health, the Panel will also include a registered medical practitioner.
- 6.5 The Appeal Panel acts independently and Panel members will not have played any previous part in the decision that is being appealed.
- 6.6 The Appeal Panel may at their discretion invite written or verbal arguments from the Case Presenter, and the Subject Member before determining an appeal. In exceptional circumstances the Appeal Panel may admit new evidence but regard will also be had to 7.
- 6.7 The Appeal Panel may uphold the Subject Member’s appeal in whole or in part or dismiss it in whole or in part or remit the case in whole or in part back to the Health Panel or Conduct Panel (or if the Appeal Panel thinks appropriate to a new Health Panel or Conduct Panel to be selected from the PCC by the Chair of the PCC for the purpose) for rehearing or reconsideration. In such

circumstances the Health Panel or Conduct Panel or new Health Panel or Conduct Panel having reheard or reconsidered the case may (as well as altering other findings of the original disciplinary hearing) make fresh decisions as to the sustaining of any Complaint and any sanction.

- 6.8 The new Health Panel or Conduct Panel may uphold the original Panel's decision as to sanction or may substitute some lesser sanction but may not increase the sanction from that decided by the original Health Panel or Conduct Panel.
- 6.9 The result of any appeal shall be notified by the Secretary to the Subject Member forthwith and shall be implemented by the Secretary with immediate effect. It shall also be noted on the Member's record save where it has been decided that no action is to be taken.
- 6.10 Should the Appeal Panel uphold the decision of a Health Panel or Conduct Panel that a Subject Member should be expelled from the Register this will not prejudice any right that the Subject Member may have to appeal to the Engineering Council or the Science Council against removal of his/her status as a registered engineer or registered scientist. If such an appeal is successful it will not prejudice the Subject Member's expulsion from the Register.
- 6.11 Should the Appeal Panel uphold the decision of a Health Panel or Conduct Panel that a Subject Member who is registered with a statutory or voluntary Registration Council should be expelled from the Register, or be subject to any other penalty for a disciplinary offence that may also be a disciplinary offence under any code of conduct and disciplinary procedure issued by the relevant Registration Council, the Secretary shall write in confidence to the Registrar of the relevant Registration Council to communicate the findings of the RCT Management Panel.
- 6.12 Notification of any investigation by a statutory or voluntary Registration Council into the professional conduct of a member of the Register who is registered with a statutory or voluntary Registration Council shall be deemed to be a provisional complaint. The Secretary will discuss with the Chairman whether any immediate action needs to be taken by the PCC, or whether to await the outcome of the Registration Council investigation. The outcome of a Registration Council investigation shall not, itself, determine whether or not a disciplinary complaint should be considered by the PCC and heard by a Health Panel or Conduct Panel but an investigation will be conducted in the same manner as for any other complaint.

7. Appeal on Grounds on New Evidence

- 7.1 If at any stage after the hearing of Health Panel or Conduct Panel the Subject Member appeals on the grounds of new evidence then the Chair and Vice-Chair of the PCC will review the new evidence. If they are satisfied that there are reasonable grounds for an appeal then a new Health Panel or Conduct Panel will be convened to re-hear the case.

8. Amendments to this Procedure

- 8.1 Amendments may be made to this Procedure from time to time by the RCT Management Panel but no such amendment shall be made without the RCT Management Panel having first informed the PCC of their intention to consider making such an amendment and considered any representations that the PCC wish to make on the matter within the time limit proposed by the RCT Panel.
- 8.2 Alternatively, the PCC may propose to the RCT Management Panel suggested amendments to this Procedure that it considers necessary, in the light of operating experience, to ensure fairness to all parties and to ensure compliance with current applicable legislation. In such circumstances, the

RCT Management Panel may approve such changes without further consultation with the PCC, unless it wishes to vary the changes proposed by the PCC.

- 8.3 Any amendments made by the RCT Management Panel will be notified to all members of the Register.