



MRS Disciplinary Regulations

Commencement and Introduction

1. These regulations were made by the Council of The Market Research Society ("MRS") pursuant to the powers conferred upon it by the Articles of Association. These disciplinary regulations came into force on 1 January 2011, superseding all previous disciplinary regulations and apply to all members of MRS.

Delegation

2. The powers of the Council under Articles 21.4 and 74.1 of the MRS Articles of Association are delegated to the Market Research Standards Board ("MRSB") and to the Disciplinary Authority ("DA") in accordance with MRS byelaws.

Complaints

3. Any person may make a complaint in writing to the Standards Department of MRS concerning the conduct of a member if there is an alleged breach of the MRS Code of Conduct or of these Disciplinary Regulations.
4. MRS shall consider and, where appropriate, investigate any complaint under paragraph 3 above, provided that it is made within three months of when the matter arose. MRS may in exceptional circumstances and at its discretion accept complaints outside that period.
5. For the avoidance of doubt, MRS will not usually consider a complaint made by a complainant who does not consent to his/her identity being made known to the member under complaint and/or does not consent to the disclosure to the member of all documents and information provided to MRS in the investigation.
6. MRS will not usually consider a complaint if there are legal proceedings contemplated or ongoing in respect of the matter.
7. MRS may require a complainant to satisfy MRS that it has taken all reasonable steps to try and resolve the matter with the member before MRS will consider the

complaint under these Disciplinary Regulations.

8. MRS may require a complainant to confirm in writing what, if any, interest they have in relation to a complaint
9. MRS can itself initiate a complaint where it becomes aware of any fact or matter concerning the conduct of a member which, in its opinion, warrants inquiry under these Regulations.
10. MRS shall keep the complainant informed as provided in these regulations, and otherwise, in relation to the progress of his/her complaint at it deems appropriate.
11. Where more than one MRS member is involved in a matter under complaint, whilst MRS reserves the right to proceed with an investigation and other relevant processes against all such members under these Regulations, it will usually apply its discretion to proceed only against the most senior MRS member(s) involved.
12. Documents or information provided by an MRS member during the course of the investigation or determination of any complaint shall be treated as confidential to the extent that MRS will not disclose or use such documents or information other than in the ordinary course of its investigation and determination and to the extent that it is necessary to show or disclose the contents of such documents or information to any third party in connection with such investigation or determination. MRS may also refer to such documents or information as are reasonably necessary in order to communicate the determination and the reasons for it to the complainant and/or in wider publication of the determination as provided for under this complaints procedure. In all such cases the MRS member will be taken to have waived any right to claim confidence to the extent that disclosure or use of the documents or information is reasonably necessary for the purposes set out in this paragraph.

Grounds for disciplinary action

13. Disciplinary action may be taken if a member is deemed guilty of unprofessional conduct. This is defined as a member:
 - a. being guilty of any act or conduct which, in the opinion of a body appointed by Council, might bring discredit on the profession, the professional body or its Members; or

- b. being found by a body appointed by Council to be guilty of any breach of the rules set out in Sections A and/or B of this Code of Conduct; or
- c. being found by a body appointed by Council to be guilty of any breach of the provisions set out in any MRS binding guideline laid down from time-to-time by the Council; or
- d. being found by a body appointed by Council to be guilty of any breach of any other regulations laid down from time-to-time by Council; or
- e. failing without good reason to assist the professional body in the investigation of a complaint; or
- f. in the absence of mitigating circumstances having become bankrupt or having made any arrangement or composition with his/her creditors; or
- g. being found to be in breach of the Data Protection Act 1998 or other comparable legislation applicable outside the UK. Or being found, by a body appointed by Council, to have infringed any of the 8 data protection principles set out in the Act or similar provisions set out in comparable legislation outside the UK.

14. The fact that a member has, before a Court of competent jurisdiction, pleaded guilty to or has been found guilty of an indictable offence (or in such a Court outside the United Kingdom has pleaded guilty to or been found guilty of a comparable offence) shall be conclusive proof of conduct bringing discredit on the profession, MRS or its members under Regulation 13(a) above.

STAGE I - INVESTIGATION

Standard Procedure

Initial investigation by Standards Department

15. When MRS receives or initiates a complaint under paragraphs 3 to 12 above, the Standards Department shall make such initial investigations, if any, as it considers appropriate, informing the member (where questions are raised directly with him/her) that such questions are asked in connection with possible disciplinary proceedings.

Appointment of MRSB Investigations Committee

16. Upon completion of its initial investigations (or if none are made, upon receipt or initiation of the complaint), the Standards Department shall make a report to the Chair of MRSB who shall appoint a Sub-Committee of members of MRSB, to be called the Investigations Committee, to consider the matter further and to report to MRSB with its recommendations.
17. The Investigations Committee in each case shall be comprised of any three members of MRSB (not having an interest in the matter).

Duties and powers of the Investigations Committee

18. It shall be the duty of the Investigations Committee to consider the report from the Standards Department and to carry out such investigations or further investigations, if any, as it considers appropriate, and by whatever means it considers appropriate.
19. Wherever questions are raised for the first time in any case directly with the member concerned, he/she shall be informed that such questions are asked in connection with possible disciplinary proceedings.
20. The identity of the complainant in any case shall be made known to the member concerned unless the Investigations Committee determines that there are compelling reasons why the complainant should not be so identified taking into account, inter alia, the need for the member to fully understand the case against him/her.
21. If, at any stage the Investigations Committee decides that there appears to be a case which should be pursued against the member concerned, the Standards Department shall write to the member setting out the conduct complained of, identifying the possible ground(s) for disciplinary action and shall allow a period of 21 days for the member to provide a written response.
22. Upon receipt of the member's written response (or if none is received within the prescribed period), the Investigations Committee will undertake such further investigations, if any, as it considers necessary.
23. The Investigations Committee may, where it considers appropriate (and with MRSB's approval), instruct an external investigator to carry out any investigations under paragraphs 18 and 22 on its behalf, such investigator to act in accordance with a protocol issued by MRSB and to report his/her findings to the Investigations Committee.

24. For the avoidance of doubt, the Investigations Committee (or an external investigator on its behalf) may, at any stage, require the member under complaint to attend for interview. Both the Investigations Committee (or external investigator) and the member concerned may be legally represented at any such interview.
25. Upon completion of its investigation, the Investigations Committee shall report to MRSB with a summary of its findings and recommendations, drawing MRSB's attention to any aspects of the matter which it considers particularly complex or important.
26. The Investigations Committee may obtain legal advice at any stage.

Informal Procedure

27. If, at any stage, it appears to the Investigations Committee that the complaint (or fact or matter) relates to a minor or isolated breach of MRS Code of Conduct, it may, if it considers it appropriate, adopt the "informal procedure".
28. In such cases, the member concerned shall be contacted and informed of the apparent breach of the Code of Conduct, being advised where appropriate of any steps he/she should take to remedy the breach and/or any other recommended action. The Standards Department shall also inform the complainant (where applicable) that the matter has been dealt with under the informal procedure.
29. The informal procedure is not part of MRS's formal Disciplinary Procedure. Copies of all communications between MRS and the member under the informal procedure shall, however, be kept and may be taken into account in future cases either in determining whether disciplinary action shall be taken against a member or as part of his/her past history in determining the appropriate disciplinary sanction. MRSB shall also be informed of matters dealt with under the informal procedure.
30. The Investigations Committee may, at any stage, determine that notwithstanding any action already taken in respect of a matter under paragraphs 27 to 29 above, the matter should proceed in accordance with the standard procedure set out at paragraphs 15 to 26 above.

Cases raising issues regarding the conduct of an MRS Company Partner

31. The Standards Department or the Investigations Committee may decide at any

time that the matter relates to, or includes an issue (or issues) which concern(s) or may concern the conduct of an MRS Company Partner which issue(s) should be dealt with under MRS Company Partner Complaints Procedures. In this event, the Standards Department or Investigations Committee shall

- a. proceed to investigate the issue(s) concerning the MRS Company Partner in accordance with the relevant provisions set out in MRS Company Partner Procedures; and
- b. as it deems necessary inform the Company Partner of any actions taken, or to be taken, with regard to any member in connection with the matter under these Disciplinary Regulations; and
- c. inform the member of the issue(s) which is/are to be investigated under the Company Partner Complaints procedure.

STAGE II - MRSB DECISION AND RECOMMENDATION

32. MRSB shall consider the finding(s) and recommendation(s) of the Investigations Committee and shall decide (i) whether or not there is a case to be pursued against the member for disciplinary action in accordance with paragraphs 13 and 14 above and, if so, (ii) what disciplinary action, if any, it recommends in accordance with paragraph 43 below.

33. If MRSB is minded to decide that there is a case to be pursued against a member in any respect where the Investigations Committee did not find a potential case to be pursued and provide the member with an opportunity to respond under paragraph 21 above, the member shall be notified with brief written reasons and allowed a period of 21 days to provide a written response prior to MRSB reaching a final decision.

Notification of MRSB decision - No case to be pursued

34. Upon a decision by MRSB that there is no case to be pursued against the member, the Standards Department shall inform the complainant (where applicable), giving him/her brief written reasons for its decision and notifying him/her in writing of his/her right to apply to the Reviewer of Complaints under paragraph 36. The right of the complainant to notice under this paragraph is unaffected by the provisions in paragraph 51 below.

35. The Standards Department shall also, at the same time, inform the member of the decision in writing with brief written reasons, advising him/her that the matter may be referred to the Reviewer of Complaints.

Reviewer of Complaints

36. The Reviewer of Complaints (who shall be a barrister or solicitor of not less than 10 years standing) shall consider any written application made by a complainant for the review of a decision by MRSB that there is no case to be pursued against the member. No such application shall be considered by the Reviewer of Complaints if it is received later than one month after the date of the decision complained of unless there are, in the opinion of the Reviewer of Complaints, exceptional circumstances justifying such consideration.

37. If, after considering an application in accordance with paragraph 36 above, the Reviewer of Complaints is of the opinion that one or more of the circumstances referred to in paragraph 38 below applies, the matter shall be remitted to the Investigations Committee with a request that it should be reconsidered in accordance with paragraphs 18 to 26 and 32 above.

38. The circumstances referred to in paragraph 37 above are that:

- a. fresh evidence of a material nature has become available to the complainant since the decision of MRSB complained of; or
- b. the procedure for the investigation of complaints as laid down in these regulations has not been followed; or
- c. there is reason to suspect bias in the decision complained of; or
- d. the decision of MRSB was not one which could reasonably have been arrived at upon due consideration of the facts and matters before it.

39. Where, in the circumstances referred to in paragraph 38(c) above, the suspected bias relates to possible lack of independence on the part of any member of the Investigations Committee involved in making the recommendation to MRSB, the matter must be remitted to a newly constituted Investigations Committee not consisting of any member who took part in recommending the decision complained of. In all other cases referred to in paragraph 38 above, the matter may but need not necessarily be remitted to a newly constituted Investigations Committee.

40. In considering any matter remitted to it by the Reviewer of Complaints, the Investigations Committee must have regard to (i) all information and representations that were previously available when it made its report to MRSB under paragraph 25 above, (ii) any new information and/or representations which have been made since the MRSB came to its decision that there was no case to be pursued and (iii) any written reasons given by the Reviewer of Complaints for remitting the matter.

41. If, following reconsideration of the matter under paragraph 37 above, MRSB remains of the view that there is no case to be pursued, it shall give to the complainant and the member brief written reasons for its decision. The right of the complainant to notice under this paragraph is unaffected by the provisions in paragraph 51 below.

Notification of MRSB Decision – Case to be pursued

42. Upon a decision by MRSB that there is a case to be pursued against the member, the Standards Department shall write to the member setting out the case fully, together with any relevant statements or documents, informing him/her of MRSB's decision and of the disciplinary action, if any, that it recommends, inviting him/her to consent.

Disciplinary action

43. Any one or more of the following courses of action may be recommended by MRSB (or ordered by the Disciplinary Tribunal in accordance with paragraphs 60 and 81 below) as is considered appropriate (and in the case of demotion or suspension from membership for such period as is considered appropriate) having regard to the nature and seriousness of the unprofessional conduct, the member's character and past record and to any other circumstances considered to be relevant:

- a. that a warning be given
- b. that a reprimand be given
- c. that the member give a written undertaking to refrain from continuing or repeating the unprofessional conduct in question
- d. that the member be demoted

- e. that the member be suspended
 - f. that the member be expelled from MRS
44. MRSB/the Disciplinary Tribunal may determine that no action be taken notwithstanding a finding that there is a case to be pursued (or in the case of the Disciplinary Tribunal, a finding that an allegation of unprofessional conduct is proven).
45. A member may not be ordered to pay legal or other costs of MRSB/the Disciplinary Tribunal, nor may MRSB/the Disciplinary Tribunal award legal or other costs to the member.
46. MRSB/the Disciplinary Tribunal may also, wherever it considers it appropriate and whether or not it decides to recommend/order any disciplinary action, communicate to the member its advice as to his or her future conduct and/or its recommendation as to any steps to be taken in respect of the complaint.
47. Where a member is expelled from MRS under paragraph 43f above, MRSB/the Disciplinary Tribunal may recommend a period of time which must elapse before the member shall be permitted to reapply for membership.

STAGE III - MEMBER'S RESPONSE

48. The member must respond in writing within 28 days (or, in the case of proposed demotion, suspension or expulsion from membership, within 35 days) from the date of the notice sent to him/her under paragraph 42 above either providing his consent to both the decision and the recommended disciplinary action or refusing such consent. These time limits may in exceptional circumstances be varied at the entire discretion of MRSB.
49. If the member provides his written consent to both the decision of MRSB and the recommended disciplinary action, or does not respond within the period permitted, the decision and recommendation of MRSB will stand as its Order and the Standards Department shall provide written confirmation of this to the member.
50. The Standards Department shall also, at the same time, inform the complainant (where applicable) of MRSB's decision and recommendation to stand as its Order under paragraph 49 above with a brief summary of MRSB's reasons.

Publication

51. An Order made under paragraph 49 above shall be published as soon as is practicable in such form and manner as MRSB requires, save that there shall be no publication (save for notifying the complainant under paragraph 50 above) where no action is taken unless the member so requests (and MRSB agrees to publish the matter).

STAGE IV - DISCIPLINARY TRIBUNAL

Referral to Disciplinary Authority

52. If within the period permitted the member refuses in writing to consent to the decision of MRSB and/or the recommended disciplinary action, MRSB shall refer the case to the Chair of DA and shall inform the complainant (where applicable) accordingly.

Composition of the Disciplinary Tribunal

53. Upon receiving a referral from MRSB under paragraph 52, the Chair of DA shall appoint a Disciplinary Tribunal comprising himself/herself as Chair, together with one independent member of DA and one Fellow member, not having an interest in the matter.

54. Instead of appointing himself or herself as a member of the Disciplinary Tribunal, the Chair of DA may appoint to the Tribunal another independent DA member to act as Chair.

The Legal Assessor

55. The Chair of DA shall appoint and the DA will remunerate a barrister or solicitor of not less than ten years' standing to act as a Legal Assessor to DA/the Disciplinary Tribunal to advise and assist the Disciplinary Tribunal as it shall require and to be present at any hearing of the matter (but to have no vote in determining the case).

The Presenter

56. MRSB shall present the case before the Disciplinary Tribunal and for this purpose may instruct and remunerate a legally qualified representative.

Procedure before the Disciplinary Tribunal

57. The hearing of the matter shall be conducted in accordance with the following paragraphs except where to do so would be unjust or inconvenient when the Chair of the Disciplinary Tribunal may, after consultation with the Legal Assessor, modify the procedure to the extent that the Chair deems necessary, provided that the result is fair to the member under complaint.

58. Following appointment of the Disciplinary Tribunal, the Chair shall request the Standards Department to serve written notice on the member including:

- a. A statement of the intention to hold a hearing before the Disciplinary Tribunal;
- b. Sufficient particulars of the alleged unprofessional conduct as to enable the member adequately to understand the allegations made;
- c. A summary of the facts and matters relied upon by MRSB in presenting the case; and
- d. Copies of any written statement and other document that MRSB intends to rely upon,

and requesting the member to indicate in his/her response whether he/she wishes to have the matter dealt with on paper only or at a hearing.

59. Within 28 days of the date of the notice referred to in paragraph 58 above the member shall serve upon the Standards Department notice in writing giving:

- a. Brief particulars of any defence intended to be made.
- b. A summary of the facts and matters that will be relied upon in that defence; and
- c. Copies of any written statement and other documentation that is intended to adduce in evidence,

and stating whether he/she wishes to have the matter dealt with on paper only or at a hearing.

Determination on paper

60. If, within the period permitted, the member notifies the Standards Department

that he/she wishes the matter to be dealt with on paper only, or if he/she does not respond within the period permitted, the Disciplinary Tribunal will proceed to determine the matter on paper as soon as is practicable.

61. The Disciplinary Tribunal may, following a finding of unprofessional conduct in appropriate circumstances, at its discretion, reserve its decision as to what, if any, disciplinary action to order pending receipt of any representations the member may wish to make in mitigation of penalty.
62. The decision of the Disciplinary Tribunal together with any disciplinary action ordered and its reasons shall be provided in writing to the MRSB and to the member as promptly as is practicable following the paper determination.
63. The Standards Department shall at the same time inform the complainant (where applicable) of the decision and any disciplinary action ordered together with a brief summary of the Disciplinary Tribunal's reasons.

Notification of Date for Hearing and further exchange of information

64. If, within the permitted period, the member notifies the Standards Department that he/she wishes his case to be dealt with at a hearing, the matter will proceed to a hearing before the Disciplinary Tribunal in accordance with the following paragraphs.
65. The Standards Department shall, as soon as is practicable, serve upon the member at least one month's written notice of the date, time and place of the hearing.
66. The Standards Department shall also indicate in the Notice referred to in paragraph 65 above:
 - d. any further facts, matters, written statements and/or documents not previously supplied that it needs to reply upon at the hearing;
 - e. the name and address of any witnesses he/she intends to call in person to attend the hearing with an outline of what each witness is expected to say;
 - f. whether it proposes to request that the hearing be held in public.
67. Within 21 days from the date of the Notice referred to in paragraphs 65 and 66 above, the member shall serve upon the Standards Department written notice

indicating as follows:

- g. his/her intention to attend the hearing together with the name of any solicitor, barrister or other member who will be representing him/her;
- h. any further facts, matters, written statements and/or other documents he/she intends to rely upon;
- i. the name and address of any witnesses he/she intends to call in person to attend the hearing with an outline of what each witness is expected to say;
- j. whether he/she proposes to request that the hearing be held in public or to apply for any direction under paragraph 74(b) below.

68. Neither party shall, without the consent of the other or the permission of the Disciplinary Tribunal, call any witness or adduce any written statement or document other than those accompanying or identified in the written notices referred to in paragraphs 58, 59, 66 and 67 above.

Adjournment

69. At the request of either party or at his or her own volition the Chair of the Disciplinary Tribunal may at any time adjourn the hearing if satisfied that it is in the interests of justice so to do. An application for the adjournment of a hearing that has not begun may be agreed between the parties.

70. In the event that any member of the Tribunal is unwilling or unable to hear an entire case and the matter cannot be dealt with by adjournment of the hearing, then the chair of DA must appoint a new Disciplinary Tribunal and the matter re-heard. Members of the Tribunal who sat previously and were not the member unable or unwilling to attend shall be eligible to be appointed to the new Tribunal.

The absence of the member

71. If at the hearing the member is not present or represented by a solicitor or barrister or by another member, the Disciplinary Tribunal may proceed to hear the matter in the member's absence if it is satisfied that notice has been served upon the member in accordance with paragraphs 65 and 66 above.

Joinder of cases

72. The Disciplinary Tribunal may hear two or more cases against a member at the same time.

Joinder of members

73. The Disciplinary Tribunal may also hear cases against two or more members at the same time if it considers it convenient to do so.

Public hearing

74.

- a. The hearing shall be conducted in private unless the Standards Department or the member requests otherwise when, subject as below, it shall take place in public;
- b. Where a request is made under paragraph 74a above for the hearing to be held in public, either party may apply to the Disciplinary Tribunal for a direction that the hearing, or any part of it, shall be conducted in private;
- c. An application under paragraph 74b above, for the hearing, or any part of it, to be held in private, shall be heard by the Disciplinary Tribunal in private, and shall be granted only after consultation with the Legal Assessor and to the extent that the Disciplinary Tribunal considers strictly necessary, in special circumstances where publicity would prejudice the interests of justice.

Order of proceedings

75. The order of proceedings for the hearing before the Tribunal, unless the Tribunal otherwise directs, will be as follows:

- a. submissions by or on behalf of MRSB;
- b. hearing of any witnesses called by MRSB followed by cross examination of such witnesses by the member;
- c. Submissions by or on behalf of the member;
- d. Hearing of any witnesses called by the member followed by cross-examination of such witnesses by or on behalf of MRSB;

- e. Closing submissions by or on behalf of MRSB;
- f. Closing submissions by or on behalf of the member;
- g. After retiring as necessary, the Disciplinary Tribunal shall advise the member whether or not it finds any allegation of unprofessional conduct proven.

76.

- a. The burden of proving the alleged unprofessional conduct shall lie upon MRSB.
- b. The Disciplinary Tribunal shall not be bound by strict rules of evidence.
- c. Members of the Disciplinary Tribunal may through the Chair, question witnesses, parties or representatives as they think fit.

Order of proceedings following a finding of unprofessional conduct

77. MRSB shall, following a finding of unprofessional conduct, inform the Disciplinary Tribunal of any further circumstances known to it, whether favourable or adverse to the member, that might be relevant to an Order which the Disciplinary Tribunal might make.

78. The member shall then be entitled to address the Disciplinary Tribunal in mitigation of penalty and for this purpose may call witnesses and produce documents.

79. MRSB shall only be entitled to respond:

- a. at the request of the Disciplinary Tribunal;
- b. in order to challenge any contested matters of fact; or
- c. on the subject of the Disciplinary Tribunal's powers.

Decision

80. The Disciplinary Tribunal may order any one or more courses of disciplinary action in accordance with paragraph 43 above but it may not impose an obligation on a member to pay legal or other costs of DA/the Disciplinary Tribunal or of MRSB,

nor can it award legal or other costs to be paid to the member.

Notification of Decision

81. The decision of the Disciplinary Tribunal together with any disciplinary action ordered and its reasons shall be provided in writing to the member and to Council as promptly as is practicable following any hearing.

82. The Standards Department shall at the same time inform the complainant (where applicable) of the decision and any disciplinary action ordered together with a brief summary of the Disciplinary Tribunal's reasons.

Publication of Decision

83. The decision of the Disciplinary Tribunal will be published as soon as is practicable in such form and manner as the Disciplinary Tribunal requires, save that there will be no publication (save for notifying the complainant as provided for at paragraph 82 above) where no action is taken unless the member so requests (and the DT agrees to publish the matter).

Time Limits

84. All time limits set out in these regulations shall be doubled when the member concerned is an overseas member.

Service of notices/documents

85. Any notice or other documents required by these regulations to be sent to or be served on a member may be delivered either personally or by post (save that any notice required to be served under paragraphs 42, 58, 62 and 81 hereunder shall, if sent by post, be sent by recorded delivery).

86. Where any such notice or any document is served by post or recorded delivery, it shall be sent to the last address of the member concerned which is recorded by him/her with MRS and (unless returned to MRS), it shall be deemed that wherever that address may be, to have been served on the second day following that on which it was posted unless at the place of receipt that latter day is a Sunday or a public holiday in which case service shall be deemed to have occurred on the first day thereafter which is not one of such exceptional days.