



Guidelines for Chairman and Committee on Administering the Disciplinary Committee Proceedings Rules

Background notes explaining the development of the Guidelines

1. In the February 2006 edition of A\Plus, the then President reflected in the President's message about the future of the Institute's disciplinary process. This was as a result of a recent decision of a disciplinary committee, holding that the prosecution had failed to establish a case against an accounting firm or its engagement partner concerning the audit of a listed company. The President commented that the disciplinary committee's finding might prove to be a watershed and that it was then apparent that disciplinary proceedings would be comparable to a court hearing, a view that reflected the law at the time as a result of a Court of Appeal decision.
2. As a result, the Council resolved to conduct a comprehensive assessment of the implications for the disciplinary process, during which there was a fundamental development in the law when the Court of Final Appeal issued the judgment in *The Stock Exchange of Hong Kong Ltd. V New World Development Co. Ltd. & Others* {FACV No. 22 of 2005}.
3. The Court of Final Appeal held that a disciplinary committee is not a court. The importance of this decision for professional disciplinary bodies was that, subject the over-riding principles of "fairness" and of "natural justice", the inherent formality in judicial proceedings need not apply to disciplinary proceedings.
4. This change in the law meant that the Council was able to review the [Disciplinary Committee Proceedings Rules](#) with a view to providing for a less confrontational style of proceedings.
5. Having taken legal advice, the Council promulgated the new rules to come into effect on 1 November 2006. It is anticipated that these will result in more efficient and less time-consuming conduct of disciplinary proceedings with resulting lower costs and less scope for technical challenges.
6. The [Guidelines](#) now introduced are being published so that all members are aware of the standards by which disciplinary proceedings should be conducted and in an attempt to ensure consistency in the disciplinary process especially in connection with procedural applications.
7. Needless to say, those involved in disciplinary proceedings should seek legal and professional advice specific to their own circumstances.