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**THE SOUTH AFRICAN MEDICAL ASSOCIATION NPC**  
**CODE OF MEMBERS CONDUCT**

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**THE SOUTH AFRICAN MEDICAL ASSOCIATION NPC**  
**MEMBER DISCIPLINARY PROCEDURE**

## **DEFINITIONS**

<b>Board:</b>	means the Board of Directors of SAMA;
<b>Code:</b>	means the SAMA Code of Members Conduct, as determined from time to time;
<b>Conduct:</b>	means, without derogating from the generality of the term, an act(s) or omission(s) by a Member;
<b>Members:</b>	means a Member of SAMA, irrespective of their category of membership;
<b>Member in good standing:</b>	means a member that has met all the obligations for membership;
<b>Misconduct:</b>	means any act or omission, whether intentional or unintentional, which are contrary to one or more of the provisions of the Code or SAMA governance documents, as determined from time to time;
<b>Office bearer:</b>	a member who holds a position on a SAMA structure, i.e. Committee, Branch, Special Interest Group.
<b>Profession:</b>	means the medical profession
<b>SAMA:</b>	means the South African Medical Association NPC;
<b>SAMA business:</b>	includes SAMA meetings, SAMA events, SAMA premises, SAMA accounts on social media, representing SAMA at external events; it does not include comments made in a personal capacity, on personal social media accounts or elsewhere.
<b>SAMA governance documents:</b>	means the suite of policies, regulations and similar documentation established under or through SAMA's Memorandum of Incorporation or through a decision of the Board and shall include, but not be limited to, regulations relating to membership, member conduct and disciplinary procedures, and the like, as determined from time to time;
<b>SAMA structures:</b>	means any governance structure within SAMA, i.e. Board, Committees, Branches, Special Interest Groups.

## **INTRODUCTION**

The SAMA Code provides guidance on responsible and expected behaviour of SAMA members who, through their membership of SAMA, have undertaken to perform their role and execute their responsibilities in an ethical and professional manner, as provided for in the Code.

This Code expresses SAMA's commitment to consolidate the institutional image of SAMA as an example of integrity, accountability and professional ethical standards, relating to SAMA members *inter se*, as well as their relationship with SAMA and the public.

Members must conduct themselves so as to promote the success of the SAMA and maintain the individual and collective reputation of SAMA and its members. They must also, at all times, comply with relevant laws.

This Code is a dynamic document, and it is anticipated that as SAMA advances as an organisation, that this Code will also be revised and updated in response to such developments. This Code incorporates and supersedes existing SAMA codes of conduct.

## **SCOPE AND APPLICATION**

This Code ensures that there is parity between staff and members, with each being held to an equitable standard of conduct. Every SAMA member is bound by this Code when conducting SAMA business and

breaches of the Code will be managed in accordance with SAMA's Member Disciplinary Procedure as determined by the Board, from time to time.

## **BEHAVIOUR PRINCIPLES**

As medical practitioners SAMA members are committed to doing what is right and honourable. SAMA members set high standards for themselves and aspire to meet those standards in all aspects of their lives, at home and in service to their profession. This Code articulates the behaviour that is mandatory in the role of members who believe that the medical profession is shaped by the collective conduct of individual medical practitioners.

It is the responsibility of SAMA members to role model and promote positive behaviours and to challenge poor behaviours.

SAMA's behaviour principles are:

**Be professional**

**Be accountable**

**Be respectful**

**Be representative**

The content of the Code avoids strict specificity so as to prevent inadvertent limitation of the application of the Code. No set of guidance can cover all eventualities, but to aid understanding, SAMA has described some examples of these principles in practice. Examples of positive and poor behaviour are in Annexure 1.

The generally-accepted principles of ethical professional conduct, including the specific examples set out in this document, will inform any decisions made by Disciplinary Committees and the Board in respect of an alleged infringement of this Code by SAMA members. The principles and possible causes set out herein are not exhaustive and each matter must be adjudicated on its individual merits.

## **CONDUCT PRINCIPLES**

### **1. Responsibility of SAMA towards members**

- 1.1 SAMA recognises that it has a reciprocal duty of care towards members.
- 1.2 This Code will not be applied unreasonably or disproportionately
- 1.3 SAMA will support members and staff who challenge poor conduct and behaviours
- 1.4 SAMA offers support to all parties to a complaint as appropriate. This support will be provided through, for example, access to the SAMA Legal or Employee Relations Department. If support is needed, please contact the Company Secretary or the Office of the General Manager.

### **2. Responsibilities as a member**

- 2.1 **SAMA governance documents:** Members are required to familiarise themselves with SAMA's governance documents, all of which can be obtained from the Company Secretary or on the website. Members must act within the provisions of the SAMA governance documents and promote the success of SAMA for the benefit of its members, and exercise reasonable care, skill and diligence in all duties.
- 2.2 **Attendance:** Members who are appointed as office-bearers should be able to allocate sufficient time to SAMA to enable them to discharge their responsibilities effectively.
- 2.3 **Personal conduct:** Members are expected to maintain the highest standard of personal conduct, to

support the growth and development of the profession, and treat staff and other members with respect. In particular, members are required to promote and role model the behaviour principles outlined in this Code, observing both the letter and spirit of the Code. Members must not engage in any conduct that adversely reflects on the reputation and integrity of the profession, specifically any conduct that may give rise to a civil judgement, regulatory action; removal from a position of trust and/or a criminal conviction. When a Member is also a member of another organisation, institute, regulatory or controlling body, or association, the Member must ensure adherence to such entities' rules, regulations and codes, and inform SAMA, at the earliest possible time, of any administrative, punitive or disciplinary action taken against them by such an entity.

Bullying and harassment, including sexual harassment, will not be tolerated and cases will be taken extremely seriously. Bullying includes behaviour that is intimidating, malicious, offensive or insulting. It may be an abuse or misuse of power and it may be unwarranted and unwelcome. Harassment is against the law, in terms of the Protection against Harassment Act, 17 of 2011. Harassment is conduct that infringes or discriminates against a person's rights, as set out in the Bill of Rights in the Constitution of South Africa, i.e. age, race, religion, gender, disability, etc. It is unwanted by the recipient and it has the purpose or effect of violating their dignity or creating a hostile, intimidating, offensive, degrading or humiliating environment for them. Sexual harassment, is unwelcome sexual attention, explicit or implied behaviour, suggestion, message or remarks of a sexual nature, which has the same purpose and effect of harassment. As well as implied or expressed promise of reward for complying with a sexually orientated request or implied or expressed threat of reprisal or actual reprisal for refusing to comply with a sexually orientated request.

- 2.4 **Conflict of interest:** A conflict of interest is the risk that an individual's ability to apply judgement could be influenced by a secondary interest. Office bearers are required to complete and regularly update a form registering their interests. Office bearers must also declare any relevant conflict of interest before a debate or recommendation is made. Where a potential conflict of interest exists, this may limit their participation in debate.

Members who stand to be appointed as an office bearer, who are members of the South African Medical Association Trade Union (SAMATU) and/or any other professional association or society are required to complete a form recording this information, giving explicit consent for this information to be processed before being nominated for appointment onto any SAMA structure.

Further guidance on what might constitute a conflict of interest and the process for recording same is set out in the SAMA Code of Ethics and Conflict of Interest Policy, to which members are required to agree prior to taking up an office bearer or Board position.

- 2.5 **Confidentiality:** Information about, or held by SAMA, that is not expressly put into the public domain by SAMA, may only be given to others if they are entitled to receive it and must not be used except for the benefit of SAMA. Members are required to observe the SAMA Information Security Policy.

Office bearers should take all reasonable steps to seek and follow the advice of the relevant chairs of SAMA structures before accepting, in a SAMA capacity, meetings or requests for information from any third party. All information circulated to office bearers and employees should be treated as confidential unless otherwise stated by the person distributing the information.

- 2.6 **Communication:** Members are required to observe the SAMA Communications Policy. Members are prohibited from making false and/or unsubstantiated and/or misleading statements about SAMA, the Board, or any other of SAMA's structures, in the media or otherwise. Unprofessional communication in written, oral or electronic format issued by a member in respect of SAMA and/or its members, without appropriate business communication steps being taken to ensure that the communication is appropriate to the circumstances and its intended audience and sufficiently courteous.

- 2.7 **Information technology:** Members must observe the agreed guidelines for the use of electronic and

social media communications for doctors, as approved from time to time.

- 2.8 **SAMA social media:** SAMA is not responsible for any content not owned or published by SAMA. Members must observe this Code when conducting themselves on social media.
- 2.9 **SAMA staff:** Members must respect and support staff who assist them on their work, in any interaction with staff.
- 2.10 **SAMA resources:** SAMA is funded in part by member subscriptions. Members should ensure that they are making best use of funds by being mindful of expenses, travel costs and staff time, as well as making a contribution to the meetings that they attend.
- 2.11 **Training and development:** In order for office bearers to fully appreciate the extent of their responsibilities and to equip them to perform their role, office bearers will be required to undertake leadership training and development, as set out from time to time. These programmes are designed to support members in their roles at SAMA.
- 2.12 **Health and safety:** Members must comply with SAMA's health and safety policy and procedures.
- 2.13 **Payments:** Members must comply with current policy and procedures on expenses, honoraria or other remuneration.
- 2.14 **SAMA trademarks:** SAMA owns a number of trademarks, including branding and logos. Trademarks enhance and protect the value of SAMA's brand. Members must not misstate any authority to represent SAMA or conduct themselves in a manner so as to lead others to believe that they are representing SAMA in an official capacity or as an agent, unless they have been duly authorised to do so as an office-bearer or Board member. For advice on the use of SAMA's branding and logos, or when it is appropriate to use a SAMA title, please contact the Marketing and Communications Manager.

### 3. Shared responsibilities

- 3.1 To protect the reputation and integrity of SAMA, members have a responsibility to demonstrate cohesion and to contribute constructively to policy debate. In the interests of its members, and for the benefit of SAMA more generally, SAMA's influence with external stakeholders should be maximised by ensuring, whenever possible, that it presents a clear and unequivocal position externally. Members must not engage, or incite or encourage others to engage, in conduct that adversely reflects on the reputation of SAMA or which brings SAMA and/or its members into disrepute.
- 3.2 Shared responsibility is adopted to allow determination of policy issues by consensus or by majority voting. It is necessary to have such an agreement so that SAMA may make coherent policy decisions. The ability to act effectively on the basis of such a policy decision requires that Branches, Special Interest Groups, Committees and all SAMA members work in a coordinated fashion towards the agreed end, with members taking shared responsibility for policy decisions. Members must not directly or indirectly disrupt or discredit, or incite or encourage others to disrupt or discredit SAMA in its activities and initiatives to promote and advance the profession.
- 3.3 Within the structures of SAMA, members are encouraged to debate and challenge whilst focusing on the issues at hand, rather than the person presenting them.
- 3.4 When a democratic policy decision has been made it is important that representatives do not undermine it.
- 3.5 This does not mean that no dissent can be expressed. The key issue is that a SAMA position must not be used to further conflicting interests, members should not repeatedly or polemically attack SAMA policy decisions or mount sustained campaigns to undermine them, or fail to carry out their duties in accordance with their mandate.

- 3.6 For the avoidance of doubt, this does not prevent members from properly revisiting a policy decision taken by SAMA, where there is a substantive reason to do so – for example should additional relevant information arise. Policy decisions should be revisited by raising the issue through the relevant and appropriate Branch, Special Interest Group and Committee, to the Board.
- 3.7 If you are not sure what you can say publicly or feed back to the colleagues you represent please speak to the Chairperson of your Branch, Special Interest Group, Committee or the SAMA National Chairperson or the Company Secretary.
- 3.8 **Appendix 2** presents guidelines exploring how different ways of handling situations lie on one or the other side of the line of what is acceptable.

#### **4. Relationships with third parties**

- 4.1 Members may come into contact with a wide range of suppliers of goods and services including professional advisers and business consultants. Suppliers must be treated with courtesy and fairness at all times.
- 4.2 Members are required to familiarise themselves with the Acceptance / giving of gifts – Conflict of Interest Policy. Members are required to disclose any acceptance of gifts or hospitality given by third parties in circumstances that could be seen as relevant to SAMA business.
- 4.3 Any offers of third-party sponsorship and co-branding of activities and events must be referred to Marketing and Communications Manager for prior approval.

### **COMPLAINTS**

#### **1. How to raise a complaint about members**

- 1.1 Wherever possible, SAMA's preference is to promote positive behaviours, and prevent issues from happening in the first place. SAMA is, above all, an organisation that supports doctors.
- 1.2 SAMA's preferred approach is to address poor behaviour informally through support, training and mediation, as set out in the **SAMA Members Dispute Resolution Process**.
- 1.3 SAMA recognises the importance of challenging poor behaviours, hence members and staff as well as any third party should endeavour to report, and do so in good faith and in the manner prescribed by the Code, SAMA Members Dispute Resolution Process or SAMA Members Disciplinary Procedure, known or suspected misconduct of another member.
- 1.4 Where staff or members have a concern about the conduct of a member, and are unable or unwilling to deal with the matter informally, the **SAMA Members Disciplinary Procedure** sets out how to raise a complaint and details the investigation, decision-making and appeals process together with potential sanctions.
- 1.5 Member complaints must not be raised in an open forum.

#### **2. How to raise a complaint about a staff member**

- 2.1 Concerns about staff must be raised directly with the relevant staff manager or in writing to the General Manager.
- 2.2 Concerns must not be raised in an open forum.

This Code incorporates and supersedes existing SAMA codes of conduct.

**Adopted by the SAMA Board of Directors on 18 July 2020.**

## Appendix 1

### *Examples of positive and poor behaviours*

	<b>Positive behaviours</b>	<b>Poor behaviours</b>
<b>Be professional</b>	<ul style="list-style-type: none"> <li>• Remember you are a doctor with expected professional behaviours</li> <li>• Prepare for meetings – read papers</li> <li>• Flag controversial issues with the chair beforehand to allow for extra time or debate</li> <li>• Attend and actively participate in meetings</li> <li>• Mentor and support new members</li> </ul>	<ul style="list-style-type: none"> <li>• Behave in a way unbecoming of a doctor</li> <li>• Persistent non-attendance at meetings without good reason</li> <li>• Attend meetings without reading papers</li> <li>• Do not participate fully across the agenda</li> <li>• Fail to support less experienced members</li> </ul>
<b>Be accountable</b>	<ul style="list-style-type: none"> <li>• State your case with clarity and brevity</li> <li>• Explain decisions and actions to your constituents</li> <li>• Debate in private but support majority policy and other decisions in public</li> <li>• Maintain confidentiality</li> <li>• Challenge constructively – consider the time, place and impact on others</li> </ul>	<ul style="list-style-type: none"> <li>• Dominate conversations and restate the same arguments</li> <li>• Do not explain decisions and actions to constituents</li> <li>• Undermine majority policy and other decisions in public</li> <li>• Breach confidentiality</li> <li>• Raise vexatious complaints</li> </ul>
<b>Be respectful</b>	<ul style="list-style-type: none"> <li>• Everyone has the right to contribute and should be encouraged to do so</li> <li>• Every contribution is valued</li> <li>• Listen to one another – do not interrupt</li> <li>• Be open to others' ideas and opinions</li> <li>• Try to see things from the point of view of others</li> <li>• Be prepared to change your mind</li> <li>• Be welcoming</li> <li>• Criticise ideas, not people</li> <li>• Recognise positive behaviours</li> <li>• Challenge disrespectful behaviours</li> </ul>	<ul style="list-style-type: none"> <li>• Ignore the input or value of others' contributions</li> <li>• Alienate others</li> <li>• Interrupt one another</li> <li>• Not listen to one another</li> <li>• Refuse to consider alternative points of view</li> <li>• Undermine, humiliate or degrade others</li> <li>• Form cliques and exclude others</li> <li>• Blame and mistrust others</li> <li>• Criticise people, rather than ideas</li> <li>• Be aggressive and impatient</li> </ul>
<b>Be representative</b>	<ul style="list-style-type: none"> <li>• Where possible, seek the views of those you represent on the issues that affect them</li> <li>• Where possible, share relevant information and feedback any outcomes which are not confidential to your constituents</li> <li>• Represent constituents' views at meetings and when voting</li> <li>• Act in the best interests of members</li> </ul>	<ul style="list-style-type: none"> <li>• Assume the views of others without asking or testing assumptions</li> <li>• Represent personal views in opposition to the views of constituents</li> <li>• Do not communicate relevant information to constituents</li> <li>• Do not explain to constituents why decisions were taken</li> <li>• Fail to disclose or manage conflicts of interest</li> </ul>

## Appendix 2

### Guidelines on shared responsibility

#### **What if I have responsibilities to other organisations or roles?**

This is an appropriate thing to do as long as you have declared the interest, but it is not appropriate to use your SAMA position to further the conflicting interests of other organisations or roles.

You will have avoided taking on responsibilities that have ongoing major conflicts of interest. Where minor or temporary conflicts arise always understand in what capacity you are acting and make that clear. Individuals who are members of organisations that are in conflict usually try to resolve the conflict. This can be helpful but it should be overt and explicit.

#### **Can I exercise my rights as a citizen?**

Yes. You should not use SAMA platforms and resources to further your personal ideas without having obtained democratic support.

Make sure your personal views are not perceived as SAMA views. How much care you need to take on this may be affected by the issue and your personal role. The more prominent you are in SAMA and the more prominent the issue the more care you will need to take. Sometimes it will suffice to make sure SAMA is not mentioned, sometimes a formal disclaimer may be needed, and sometimes further steps discussed in advance with SAMA will be needed. Within their areas of responsibility, elected members in representative capacities (office-bearers) should not normally express a personal opinion outside SAMA processes.

#### **Can I express dissent?**

Yes. But do so respectfully, and if in public make it clear that your views are your personal views rather than the views of SAMA.

You should carry out your duties, including implementing decisions, when it is your duty to do so. Sometimes, for example if you are an office-bearer or Board member, this may very severely curtail your freedom to express dissent without resigning. Sometimes, for example if the issue is an isolated one and an issue of conscience or conflict of interest is involved it may be possible to step aside and let somebody else carry out the specific task.

#### **Can I try to change a policy decision I think is wrong?**

Yes, but remember that internally expressed views may be externally reported so think about the guidelines about expressing dissent even if you are just taking something to a further stage in the democratic processes. It is not right to obstruct policy decisions or waste time by repeatedly raising the same issue unnecessarily. Instead, be proportionate.

Fundamentally, do not let honest disagreement hinder working relationships. Respect those who disagree with you.





# **THE SOUTH AFRICAN MEDICAL ASSOCIATION NPC**

## **MEMBER DISCIPLINARY PROCEDURE**

## **DEFINITIONS**

<b>Board:</b>	means the Board of Directors of SAMA;
<b>Code:</b>	means the SAMA Code of Members Conduct, as determined from time to time;
<b>Company Secretary:</b>	means the Company Secretary of SAMA, as appointed by the Board, from time to time and who performs the administrative function of SAMA's overall disciplinary function;
<b>Days:</b>	means business days, excluding Saturday, Sunday and those days that fall on an official Public Holiday in South Africa;
<b>General Manager</b>	means the General Manager of SAMA, as appointed by the Board, as appointed from time to time;
<b>Interested Party:</b>	means any member of the public, an organisation, an association of persons, Member of SAMA, employee of SAMA or SAMA itself, who reasonably believes that he/she/it possess information or a basis of complaint which may be reasonably indicative of misconduct on the part of a Member and which information or basis of complaint shall for the purposes of this document be referred to as " <b>a/the complaint</b> ", and which person may be referred to as " <b>the Complainant</b> ";
<b>Members:</b>	means a Member of SAMA, irrespective of their category of membership;
<b>Member in good standing:</b>	means a member that has met all the obligations for membership;
<b>Misconduct:</b>	means any act or omission, whether intentional or unintentional, which are contrary to one or more of the provisions of the Code or SAMA governance documents, as determined from time to time;
<b>Office bearer:</b>	a member who holds a position on a SAMA structure, i.e. Committee, Branch, Special Interest Group;
<b>Panel:</b>	means a panel comprising three or more individuals from any of the group of persons identified in section 1.1 of these Procedures;
<b>Procedure:</b>	means this Members Disciplinary Procedure, as determined from time to time;
<b>Profession:</b>	means the medical profession;
<b>SAMA:</b>	means the South African Medical Association NPC;
<b>SAMA business:</b>	includes SAMA meetings, SAMA events, SAMA premises, SAMA accounts on social media, representing SAMA at external events; it does not include comments made in a personal capacity, on personal social media accounts or elsewhere;
<b>SAMA governance documents:</b>	means the suite of policies, regulations and similar documentation established under or through SAMA's Memorandum of Incorporation or through a decision of the Board and shall include, but not be limited to, regulations relating to membership, member conduct and disciplinary procedures, and the like, as determined from time to time;
<b>SAMA structures:</b>	means any governance structure within SAMA, i.e. Board, Committees, Branches, Special Interest Groups.

## **INTRODUCTION**

The disciplinary processes of SAMA are intended to regulate the conduct of members and address and resolve instances of misconduct on the part of a member in a fair, objective, rational and transparent manner in order to protect the public, maintain public confidence in SAMA and its members, and to declare and uphold the highest standards of conduct amongst SAMA members in furtherance of the integrity and status of the profession.

SAMA members subscribe to the SAMA Code, regarding their conduct as professionals, and regarding their membership to SAMA, in general.

## **SCOPE AND APPLICATION**

These Procedures are binding on all SAMA members.

## **MEMBER DISCIPLINARY PROCEDURE**

### **1. SAMA disciplinary function**

- 1.1 The Board shall annually designate groups of persons, to serve as members of SAMA's disciplinary panel (the Panel). The group shall comprise:
  - 1.1.1 Members of SAMA, in good standing, with experience and expertise commensurate with the adjudication of disciplinary matters;
  - 1.1.2 Advisors and/or consultants to SAMA; and/or
  - 1.1.3 Any such other persons as the Board may determine from time to time.
- 1.2 SAMA staff members are expressly excluded from being designated as panel members, for the purposes of these Procedures.
- 1.3 The designation does not need to be by name and may be done in the form of the identification of a function or category of persons exhibiting specific skill, qualification or experience meeting the criteria regarding suitability, as determined by the Board from time to time.
- 1.4 The Board may remove or exclude any person from the group in section 1.1 above, if it deems it appropriate to do so under the circumstances, i.e. conflict of interest.
- 1.5 A complaint against a Member of SAMA shall be adjudicated by no less than 3 (three) members from one or more of the groups in section 1.1 above, comprising the Panel who shall cause disciplinary proceedings to be considered and, in appropriate cases instituted, against any Member who allegedly contravenes or has contravened any provision of the SAMA Code.
- 1.6 The Panel shall execute their administrative and adjudication functions in a reasonable, procedurally fair, transparent and unbiased manner in accordance with the provision of these Procedures and the principles of natural justice.
- 1.7 A member of the Panel shall, at the earliest possible opportunity, recuse himself/herself from the Panel should there be any potential or actual personal interest in the matter, bias, prejudice, or conflict of interest on their part in regard to the complaint or the Member.
- 1.8 The Panel shall identify 1 (one) from among their ranks to act as Chairperson of the Panel, for the duration of a specific complaint, and shall decide each matter on the evidence before it upon the balance of probabilities. The decision will be by majority ruling and in the case of a deadlock the Chairperson will have a casting vote. The Chairperson shall communicate the requests and decision(s) of the Panel, through the Secretariat, to the Complainant and the Member.
- 1.9 The Panel shall be supported by the Company Secretary whose primary role shall be to identify a Panel, administrate the exchange of documents between the Complainant, Member and the Panel and keep a full record of a complaint in an appropriate format or medium for a minimum period of 5

(five) years after the date on which the matter ended.

1.10 The General Manager shall be the custodian of these Procedures and ensure that:

- 1.10.1 appropriate amendments are initiated and submitted to Board for approval, as and when necessary; and
- 1.10.2 determine administrative processes and procedures, from time to time, to give effective execution to these Procedures.

## 2. Receipt and adjudication of a complaint

2.1 An Interested Party (the Complainant) shall refer a complaint to SAMA in writing and in the form of a statement, detailing the particulars relating to the complaint and further, as far as possible, include any documentation in support of the complaint.

2.2 A complaint shall be lodged with the Company Secretary, by hand delivery or e-mail:

2.2.1 Hand delivery:

SAMA Company Secretary

Block F, Castlewalk Corporate Park, Nossob Street, Erasmuskloof extension 3, Pretoria.

2.2.2 E-mail:

discipline@samedical.org

2.3 Where SAMA itself is the complainant, the General Manager, or their nominee, shall assume the role of the Complainant in a particular matter. In such case, the General Manger, or their nominee, may not be a member of the Panel adjudicating the particular complaint.

2.4 The Company Secretary shall identify a Panel and provide the Panel with the complaint within 10 (ten) days from receipt thereof.

2.5 Having considered the complaint, the Panel may request further particulars from the Complainant, to be given in writing and in the form of a supplementary statement, concerning any aspect of the complaint the Panel may deem material in the consideration thereof.

2.6 Upon receipt of a complaint (and further particulars where these have been requested and furnished), the Panel may:

2.6.1 where it is of the opinion that the complaint does not disclose a *prima facie* case of misconduct, dismiss the complaint and cause the Company Secretary to inform the Complainant accordingly; or

2.6.2 where it is of the opinion that a *prima facie* case of misconduct on the part of the Member concerned is or may be made out, cause the Company Secretary to furnish the Member with a Notice of Complaint (which shall contain the particulars of the complaint, including the Complainant's statement and further particulars, where relevant) calling upon the Member to furnish the Panel with an explanation in answer to the complaint, in writing and in the form of an answering statement, incorporating any documentation in support of their answer, within 10 (ten) days of receipt of such Notice.

2.7 Following the receipt of the Member's answering statement, the Company Secretary shall furnish a Notice of Response to the Complainant (which shall contain the Member's answering statement), requesting a reply thereto in writing and in the form of a replying statement, within 10 (ten) days of receipt of such Notice. The Complainant may elect not to file a replying statement. Should a replying statement not be received within the 10 (ten) day period it will automatically be assumed that the Complainant has elected not to file a reply, and the proceedings will continue on such basis.

2.8 Where a replying statement is received, the Member concerned shall be furnished with a copy thereof for their records.

- 2.9 After having considered the complaint, the Member's answering statement and any replying statement, the Panel shall, on the basis of the papers before it, either:
- 2.9.1 dismiss the complaint, and provide both the Complainant and Member a Notice of Dismissal notifying the parties of such outcome; or
  - 2.9.2 where the Panel is of the opinion that an adequate answer to the complaint has not been given, formulate in writing a charge or charges of misconduct (Notice of Misconduct Charge(s)) and require the Member to furnish it with the Member's answer to such charge or charges, in writing in the form of a statement, within a stipulated time.
- 2.10 Failure to respond to or co-operate with the requests made by the Panel or the Board in the fulfilment of their duties as set out in these Procedures, including requests by the Company Secretary, so instructed by the Panel or Board, will constitute a further charge against Member.
- 2.11 Having considered the Member's reply to the Notice of Misconduct Charge(s), or where no answer is received, then on the basis of the papers before it, the Panel may either still dismiss the complaint in terms of clause 2.9.1 above or find the member guilty of one or more of the charges.
- 2.12 The Panel must, in regard to each charge, determine whether sufficient facts have been proved on a balance of probabilities to support the charge(s).
- 2.13 The Panel may suspend the adjudication of a complaint, in its sole discretion, pending the outcome of ongoing civil or criminal proceedings against a Member where such proceedings concern, in part or in full, the subject matter of the complaint lodged with SAMA against the Member.
- 2.14 A Member may utilise legal representation to assist him/her in answering a complaint. Notwithstanding a Member's right to utilise legal representation in formulating their defence, the member shall personally sign and file all of his/her statements. The costs of a Member's legal representation, irrespective of the eventual outcome of the complaint, shall be for the sole and exclusive account of the Member concerned and the Member shall have no claim whatsoever against SAMA or any of its members, agents, Panel, or the Complainant, for the payment of such costs.

### **3. Precautionary suspension of membership**

- 3.1 Where the SAMA becomes aware of published (irrespective of the medium or form) allegations or reports of possible misconduct on the part of a Member, and where the process in section 2 above has not yet commenced, or has commenced but has not yet been concluded, the Board may:
- 3.1.1 make a preliminary inquiry at their discretion as to the nature and extent of the allegations or reports to determine whether the publication of such allegations or reports reasonably poses a potential risk to SAMA's reputation or business interests;
  - 3.1.2 advise the Member in writing that a precautionary suspension of membership is intended and provide the Member with an opportunity to make written representations within 10 (ten) days to SAMA before the precautionary suspension is confirmed;
  - 3.1.3 were the representations in 3.1.2 above are rejected, confirm the precautionary suspension in writing, and thereafter proceed with the process as outlined in section 2 above at the first reasonable opportunity.
- 3.2 The implementation of a precautionary suspension may not be published as envisaged in section 6 below, save for a generic confirmation of the precautionary suspension as may be necessary to protect SAMA's reputation and business interest.
- 3.3 A precautionary suspension should be uplifted in the event that, and at the earliest opportunity, if it be reasonable to do so.
- 3.4 The decision on the implementation, duration and/or upliftment, of a precautionary suspension shall vest with the Board.

3.5 The precautionary suspension is not a form sanction as envisaged by section 4.4 below.

#### **4. Finding and sanction**

- 4.1 Where the Panel makes a finding of guilt against a Member on one or more charges, it shall notify the Member accordingly in the form of a Notice of Finding and Sanction, through the Company Secretary, and afford the Member an opportunity to place before it, in writing and within 10 (ten) days of such Notice, mitigating submissions as are relevant to the nature of the finding and the sanction to be imposed.
- 4.2 Upon receipt of any submissions concerning the nature of the sanction to be imposed on the Member, the Panel shall consider the Member's submission(s) before it, and any aggravating circumstances it deems relevant in the circumstances, and impose upon the Member a sanction(s) provided for in these Procedures.
- 4.3 If a Member is dissatisfied with the finding and/or sanction imposed he/she shall have the right to refer the matter for appeal, as provided for in section 5 below.
- 4.4 The sanction shall be one or a combination of the following and shall, in the case of multiple sanctions, run concurrently:
  - 4.4.1 a written admonishment or reprimand, with or without the requirement to issue a written apology to the Complainant and/or SAMA and/or any other relevant party;
  - 4.4.2 a suspension of membership for a period not exceeding 48 (forty eight) months;
  - 4.4.3 an order to successfully complete a competency or ethics related course and/or examination (the cost of which shall be for the Member's account) of SAMA's choosing, within a specified period of time;
  - 4.4.4 an order to successfully complete personal or professional coaching or counselling (or similar remedial intervention) of SAMA's choosing, within a specified period of time (the cost of which shall be for the Member's account);
  - 4.4.5 termination of membership for a period not exceeding 10 (ten) years, at the expiry of which the Member concerned may re-apply for membership; or
  - 4.4.6 a life ban on membership.
- 4.5 The Panel may suspend or defer all or any part of sanction(s) for any period on any condition that it deems appropriate in the circumstances.

#### **5. Appeal**

- 5.1 A Member (the Appellant) having been found guilty of a charge or charges may lodge an appeal against the finding and/or sanction of the Panel within 10 (ten) days of the date of the finding by setting out the grounds for appeal in writing and submitting their appeal to the Company Secretary, as provided for in 2.2 above (Notice of Appeal).
- 5.2 The Company Secretary shall identify and furnish a new panel (the Appeal Panel), comprising of no less than three persons as set out in 1.1 above, with the appeal documentation at the first reasonable opportunity, taking cognisance of the timelines in 5.3 below.
- 5.3 The Appeal Panel shall study the record of the complaint and the grounds for the appeal and allow or disallow an appeal within 20 (twenty) days of receiving the Notice of Appeal, and the Company Secretary shall cause the Appellant to be informed in writing, accordingly (Notice of Response to Appeal). In the case of the Appeal Panel disallowing the appeal, the matter will be dealt with as if no appeal has been lodged.
- 5.4 No person who was involved in the initial consideration of the complaint, may be tasked to consider

the appeal thereof.

- 5.5 Where an appeal is allowed, the Appeal Panel shall consider both the record of the initial complaint and the appeal received from the Member concerned, but may not consider new evidence, except where:
- 5.5.1 new information becomes available and it would be impracticable, in the opinion of the Appeal Panel, to refer the matter back to the (initial) Panel; and/or
  - 5.5.2 a dispute arises as to a point of procedure followed by the (initial) Panel, and it is not possible to ascertain from the record, in the opinion of the Appeal Panel and on a balance of probabilities, the process that was initially followed.
- 5.6 The Appeal Panel shall, in its sole discretion, have the authority to:
- 5.6.1 substitute any finding of the (initial) Panel, with a new finding
  - 5.6.2 impose any new sanction(s) from the competent sanction(s) in section 4.4;
  - 5.6.3 confirm the finding(s) and/or sanction(s) of the (initial) Panel; and/or
  - 5.6.4 refer the matter back for a rehearing by a new Panel on all or some of the original charges.
- 5.7 The Appeal Panel shall execute their adjudication function in a reasonable, procedurally fair, transparent and unbiased manner in accordance with the provision of these Regulations and the principles of natural justice.
- 5.8 The Company Secretary shall cause a full record of the appeal to be kept in an appropriate format or medium for a minimum period of 5 (five) years after the date on which the matter ended.
- 5.9 Nothing in this section 5, shall preclude the Member concerned from approaching a Court for such relief as he/she may believe they may be entitled to in the event that they are aggrieved by the outcome of their appeal

## **6. Publication of findings**

The findings of SAMA's disciplinary procedure may be published in such form and manner as the Board determines from time to time, subject thereto that a finding and sanction(s) may only be published once the period for lodging an appeal has expired and no appeal was received, or in the event that the Member's appeal was unsuccessful, and the timing or content of the publication may not adversely affect the rights of those involved in related civil or criminal matters. Subject to the aforementioned, the findings may be communicated to other professional associations, regulators or similar forums as the Board deems appropriate.

## **7. External advice**

The Panel or Appeal Panel, as the case may be, may if it deems it necessary acquire appropriate external advice or consultation regarding any matter pertaining to a complaint or any procedural aspect not covered by these Procedures. The cost associated with such advice shall be borne by SAMA.

## **8. Continuity**

- 8.1 The termination, or voluntary cancellation, of a Member's membership shall in no way derogate from or affect the SAMA's jurisdiction to adjudicate a disciplinary procedure, in the manner set out in these procedures, a complaint(s) of misconduct against a Member which:
- 8.1.1 arose prior to the date the Member's membership being terminated or voluntarily cancelled;
  - 8.1.2 allegedly occurred while the Member was (still) a member of the SAMA; and

8.1.3 which complaint(s) have not yet been resolved.

This Procedure supersedes existing SAMA Member Disciplinary Procedures.

**Adopted by the SAMA Board of Directors on 18 July 2020.**