



MEMBERS DISCIPLINARY COMMITTEE TERMS OF REFERENCE

1. AUTHORITY

- (a) The Members Disciplinary Committee (“**MDC**”) is constituted by the Board of Directors (“**Board**”) of the Institute of Corporate Directors Malaysia (“**ICDM**”) with the delegated authority to carry out the MDC’s functions and roles as set out in these Terms of Reference and ICDM’s By-Laws.
- (b) These Terms of Reference are made pursuant to Clause 12.4 of ICDM’s By-Laws and must be read with the roles and powers of the MDC as set out in ICDM’s By-Laws and approved by the Board.
- (c) The MDC shall exercise its authority in the best interest of ICDM in achieving the strategies and objectives of ICDM.

2. COMPOSITION OF THE MDC

- (a) The Board shall appoint not less than three members to be the members of the MDC. The Board shall appoint the following members of the MDC:
 - (i) Chairman of the MDC, which shall be a member of the Board;
 - (ii) Not exceeding three Board Members as ordinary members; and
 - (iii) The President / Chief Executive Officer of ICDM.
- (b) If the Chairman is unable to attend any meeting, the Chairman shall elect one of the members in paragraph 2(a)(ii) or 2(a)(iii) above as Chairman of the meeting.
- (c) The MDC shall be assisted by such employees of ICDM nominated by the President/Chief Executive Officer, who shall have no power to vote in any MDC meeting.
- (d) The secretariat to the MDC shall be the Head of the Membership Division or such other employee of ICDM as may be nominated by the President/Chief Executive Officer and shall provide administrative support to the MDC.
- (e) An external company secretary as may be recommended by the President/Chief Executive Officer shall be appointed to minute any meeting of the MDC. In the absence of the external company secretary aforementioned, the Head of the Membership Division or such other employee of ICDM nominated by the President/Chief Executive Officer will minute the meeting of the MDC.

3. DURATION OF TERM

Appointments to the MDC shall be for a period of up to two (2) years, which may be extended subject to the Board’s approval.

4. ANNUAL GENERAL MEETING

The Chairman of the MDC shall attend ICDM’s annual general meeting and respond to any ICDM member’s questions on the MDC’s activities or in his absence, another member of the MDC.



5. DUTIES OF THE MDC

- (a) The MDC is to uphold the conduct procedure of ICDM members and shall carry out its roles and functions as set out in these Terms of Reference, ICDM's By-Laws and such mandate delegated by the Board.
- (b) Without limiting the generality of the foregoing, the MDC shall:
 - (i) Investigate complaints made against members for failure to observe the professional and ethical standards laid down in the Code of Conduct or the Rules of ICDM.
 - (ii) Refer any investigation it conducts to an external regulatory authority if the complaint or matter relates to a breach of any applicable laws.
- (c) The disciplinary process set out in these Terms of Reference is underpinned by the principles of natural justice:
 - (i) The right to a fair hearing.
 - (ii) The right of reply.
 - (iii) No bias or conflicts of interest (or appearance of such).
- (d) The Board delegates the power to the MDC to investigate complaints and recommend appropriate sanctions. However, any decision made by the MDC is appealable to the Board. Where a matter has been referred to the Board for final decision under paragraph (7)(h), such final decision shall not be appealable to the Board.
- (e) The MDC may refuse to investigate a complaint if:
 - (i) The person is not, or is no longer, a member of ICDM.
 - (ii) The complaint is not in writing (notification by telephone can be accepted but must be followed up by email or postal communication). The MDC may investigate a complaint if it is made by an anonymous person, who may wish to retain their anonymity.
- (f) Complaints can be made by a member, ICDM, any stakeholder of ICDM, any government or regulatory authority or any member of the public.

6. CONDUCT OF THE DISCIPLINARY PROCESS

In general, the process of investigating a complaint made against a member is as follows:

- (a) **Initial assessment** made by the DC to verify that the complaint has merit. In making an initial assessment, the DC will check that:
 - (i) The person named in the complaint is a current member of ICDM.
 - (ii) The complaint is in writing and has sufficient particulars.
 - (iii) The complainant is generally identified without jeopardising any requests for anonymity.
 - (iv) The complaint relates to one or more principles of ICDM's Code of Conduct, By-Laws, Constitution, or applicable laws.



- (b) **Investigation** by the DC where the DC will gather all relevant information and meet to discuss the information gathered and agree one of the following options:
 - (i) That based on the information and evidence presented there is no case to be answered and the file can be closed.
 - (ii) There appears to be a case to answer but additional information or evidence is required before a decision can be made.
 - (iii) That based on the information and evidence presented there is a case to answer and a formal hearing should be held.
- (c) **Hearing.** The DC shall have the power to determine whether the hearing will be an oral hearing (*i.e.* where the member must attend in person to answer the case against him) or in writing. For oral hearings, the relevant member shall attend the hearing in person unless otherwise approved by the DC. If the member fails or refuses to attend the hearing, the DC may proceed with its Decision in paragraph (d) in default of the member's appearance.
- (d) **Decision.** The DC will select what it considers to be the most appropriate action as set out in the Constitution and By-Laws, which should be proportionate to the seriousness of the breach.

7. MEETINGS

- (a) The quorum for the MDC meetings shall be any two (2) members of the MDC.
- (b) The notice and agenda of each meeting shall be sent by the external company secretary or such other ICDM employee as the Board may determine to all members of the MDC and any other persons that may be required to attend.
- (c) The MDC may meet together for dispatch of business, adjourn, and otherwise regulate its meetings as the MDC members think fit, whether in person or by means of any communication technology by which all persons participating in the meeting are able to hear and be heard by all other participants without the need for a member to be in the physical presence in the meeting.
- (d) Reasonable notice of a meeting of the MDC shall be given. An agenda and accompanying meeting papers should be sent in full to all members of the MDC in a timely manner and at least three days before the intended date of a meeting (or such other period as approved by the MDC members). However, a meeting may be convened without reasonable notice being given with the consent of all the members of the MDC.
- (e) Management of ICDM is obliged to provide the MDC with adequate information in a timely manner, in order to enable it to make informed decisions.
- (f) Decisions and matters tabled for approvals at any meeting of the MDC shall be decided:
 - (i) unanimously if the quorum is 2 members;
 - (ii) by a majority of votes if the quorum is more than 2 members.
- (g) Decisions and matters tabled for approval can also be passed via circulation (whether in the form of paper, email or otherwise) if so approved unanimously by the MDC members.



- (h) In the case of an equality of votes or deadlock decision, the matter shall be referred to the Board for final decision.
- (i) The MDC shall refer to the Board if any of the following sanctions are being recommended:
 - (i) revocation of the members' rights and privileges;
 - (ii) temporary suspension from ICDM; or
 - (iii) immediate expulsion.
- (j) Minutes of meetings shall record in sufficient detail the matters considered by the MDC and decisions reached, including any concerns raised by any member, or dissenting views expressed.
- (k) Minutes of each meeting shall be kept and distributed to each MDC member and the minutes of the meetings shall be reported to the Board at its earliest meeting.
- (l) Full minutes of the MDC's meetings shall be kept by the secretary, and such minutes shall be available for inspection at any reasonable time on reasonable notice by any member or director of ICDM.

8. DECISION TO BE PUBLISHED.

As provided in ICDM's By-laws, the MDC may publish its decisions. The extent and method of the publication must be approved by the Board.

9. CONFIDENTIALITY

- (a) All information acquired by the MDC members during the disciplinary process is classified as CONFIDENTIAL and should not be released, EXCEPT after a decision has been made and with the prior written approval from the Board.
- (b) MDC members should not make any statements that might risk a breach of these requirements or jeopardise any investigation it conducts without the prior written approval from the Board.

10. FREQUENCY OF MEETING.

The MDC is an ad-hoc committee which is convened only when a complaint is lodged.

11. AMENDMENT

The Board may amend these Terms of Reference at any time and from time to time.

(This Terms of Reference for the Members Disciplinary Committee was approved and adopted by the Board on 28 July 2020.)