Chapter 17: Professional and Ethical Standards for Arbitrators: Enforcement Matters

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1. "You may keep your phones on, since you will not have time to check them anyway. From this moment on, you are being assessed". This was how Louise Barrington, as Course Director, started the Chartered Institute of Arbitrators (Ciarb) Fellowship accelerated program I attended in Brazil in 2013. After a few days of very little sleep, challenging workshops and overnight assignments, and a true "arbitration bootcamp" that ended in a 4.5-hour award-writing exam, I had grown to admire even more Louise and the institution she represented.

2. My journey with Louise had started in 2010, when I met her in person at the Rio edition of ICCA. After a few months, I received an invitation to arbitrate at Vis East in Hong Kong (always a privilege). It only grew from there. Many years later, my opportunities to collaborate with her have multiplied. So have my chances to witness her unsurpassed drive to extend the benefits of education and training to those who have less access and more difficulty in reaching them. She is tireless in advancing diversity and inclusion. Her focus on capacity building

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reflects a precise notion that the key for growth is opportunity. She teaches her thousands of Vis East participants, by example and words, the values of ethics and efficiency in dispute resolution.

3. This note deals with something I began learning with Louise: the unique system of professional ethics regulation and enforcement that Ciarb has developed and regularly deploys.

II. CODES OF CONDUCT FOR ARBITRATORS

4. There is no shortage of codes of conduct in international arbitration.[2] In 2024, UNCITRAL Working Group III approved one for arbitrators in the Investor State Dispute Settlement (ISDS) system.[3] It crystallised a series of ethical standards designed to tackle some of the criticisms aimed at investment arbitration, such as "double hatting" and "issue conflicts". Arbitral institutions, industry organisations and entities focused on education and development in this field often have their own sets of guidelines, directives or standards. Most are recommendations intended to be adhered to voluntarily by the target audience.

5. Codes of conduct have merit regardless of whether or how they are enforced. They set out expectations and provide an objective measure to expose bad behaviour. Unethical conduct can be identified as deviant from a previously settled norm. If nothing else, codes of conduct establish metrics for social reproach, peer pressure, and moral condemnation of transgressors. A reputational market, such as arbitration, based largely on perceptions founded on incomplete, insufficient, and possibly biased data, welcomes any level of rationality and foreseeability.

2 Jonathan Brosseau, 'Chapter 22: Applicable Ethical Framework in Commercial and Investment Arbitration' in Stefan M Kröll, Andrea Kay Bjorklund and others (eds), *Cambridge Compendium of International Commercial and Investment Arbitration* 586; Tamara Øyre, 'Ethical Codes of Conduct for Arbitrators and Disciplinary Proceedings of the Chartered Institute of Arbitrators' (2002) 68(2) Arbitration 105; Megan K Niedermeyer, 'Ethics for Arbitrators at the International Level: Who Writes the Rules of the Game?' (Juris Arbitration Law Library) 25(3-4) The American Review of International Arbitration 481; Sadaff Habib and Nayiri Boghossian, 'Is It Time for a Code of Conduct for Arbitrators in International Commercial Arbitration?' (Kluwer Arbitration Blog, 6 October 2023) <https://legalblogs.wolterskluwer.com/arbitration-blog/is-it-time-for-a-code-of-conduct-for-arbitrators-in-international-commercial-arbitration/> accessed 3 March 2026.

3 Ciarb, 'UNCITRAL adopts Code of Conduct for Adjudicators in Investor-State Dispute Settlement', Ciarb News Listing (14 February 2024). <https://www.ciarb.org/news-listing/uncitral-adopts-code-of-conduct-for-adjudicators-in-investor-state-dispute-settlement/> accessed 3 March 2026.

III. ENFORCEMENT

6. In an article from 2002, Tamara Øyre pointed out something that remains valid more than two decades later. Unlike most or virtually all other organisations involved in international arbitration, Ciarb couples its code of ethical conduct with a disciplinary enforcement procedure. This is a unique trait of Ciarb, directly linked to the fact that it awards its members a certain level of professional public recognition, as Associates, Members, Fellows, Chartered Arbitrators, or Adjudicators. By enforcing its ethical standards, Ciarb reinforces the significance of such public affirmation of the professional competence of its members. As Øyre put it, Ciarb undertakes an obligation to the public but also "to those competent members acting as arbitrators under its auspices to preserve its own reputation and ultimately the reputation of arbitration".[4]

7. Because arbitration operates in a reputational market, disciplinary measures must not be taken lightly. There is a delicate balance between enforcing standards of conduct and preventing vindictive initiatives by disgruntled parties or libellous peers. After decades of experience, Ciarb has developed a complex, multi-level arrangement of various independent bodies to assess, analyse, judge and review disciplinary actions regarding the ethical conduct of its members.

IV. ARBITRATION AS A PROFESSION

8. Scholars have argued for or against the characterisation of arbitration as a profession, with the ensuing (self-)regulatory consequences.[5]

9. The role of arbitration and arbitrators extends to an ever-growing, increasingly impactful range of settings. Arbitrators generally serve on a temporary basis in each specific proceeding, and no one serves as an arbitrator outside such temporary service. At the same time, many professionals with multiple backgrounds dedicate their time for being ready and available to serve in such circumstances, and they do so on a regular basis. Both legal frameworks and

4 Tamara Øyre, 'Ethical Codes of Conduct for Arbitrators and Disciplinary Proceedings of the Chartered Institute of Arbitrators', (May 2002) 68 (2) Arbitration 105.

5 Emmanuel Gaillard, 'Sociology of International Arbitration', (2015) 31(1) Arbitration International 1. Catherine A Rogers, 'Are International Arbitrators a Profession?' (Working Draft, 2026). Catherine A Rogers, 'The Vocation of the International Arbitrator', (2005) 20 American University International Law Review 957. João Ilhão Moreira, 'Arbitration vis-à-vis Other Professions: A Sociology of Professions Account of International Commercial Arbitrators', (2022) 49(1) Journal of Law and Society 48.

market expectations require such professionals to perform their service in a satisfactory manner.[6]

10. The arbitration has evolved into a complex and competitive market. Demand and diversification have increased, and heightened scrutiny of arbitrators' conduct has intensified expectations of competence, independence, and ethical integrity. There is a shift towards forms of self-regulation that Catherine Rogers identifies as hallmarks of an emergent transnational profession.[7] Legitimacy cannot rely solely on reputation or elite networks, but it requires peer-conceived ethical norms and institutional oversight.

11. By regulating, recognising and supervising the conduct of arbitrators, practitioners and neutrals in dispute resolution, Ciarb presupposes their activities merit structure—professional self-regulation. In no way does that supersede the essential premise that arbitration is fundamentally an expression of party autonomy. Rather than undermining party autonomy, professional self-regulation contributes to stabilising expectations and sustaining confidence in international dispute resolution.

V. A FACET OF SELF-REGULATION

12. In a 2015 paper, George Bermann praised the vitality of the arbitration community to self-reflect and evolve regardless of formal legislative changes.[8] Soft law, guidelines and non-binding rules created by specialised bodies are instruments of evolution based on self-assessment and criticism by the arbitration community.

13. Adopting and enforcing ethical standards is yet another aspect of that same vitality and vocation for self-regulation. It reflects the capacity to create standards, as well as the commitment to make them meaningful and effective—all without relying on outside interference, but on the engagement and voluntary adherence of its members. The same determination that drives the arbitration community to a constant state of reassessment and adaptation must inspire mechanisms to make its self-imposed ethical standards matter.

6 Alex Kamath, 'The Path to Becoming a Modern International Arbitrator: Implications for Diversity and Systemic Legitimacy' (2021) 87(3) Arbitration: The International Journal of Arbitration, Mediation and Dispute Management 298, 310-311.

7 Catherine A Rogers, 'Are International Arbitrators a Profession?' (Working Draft, 2026) 40-48.

8 George Bermann, 'International Commercial Arbitration: Past, Present, Future' (2015) 33(5) Alternatives to the High Cost of Litigation 65.

VI. SUBSTANTIVE RULES: WHAT IS "MISCONDUCT" FOR CIARB

14. By joining Ciarb, one adheres to and becomes subject to its bye-laws, including, and especially, its ethical standards.[9] Consistent with Ciarb's nature as an organisation that sees dispute resolution practitioners and neutrals as professionals, one's ethical commitment is permanent and not limited to their temporary service as neutrals in specific proceedings. For this reason, Catherine Rogers accounts Ciarb as "the closest thing to a professional regulator for international arbitrators".[10]

15. Chapter 14 provides for "Supervision and Discipline" rules and grants the Board of Trustees the powers to establish "processes and procedures for the purpose of investigating any allegation of Misconduct by a member and taking appropriate action (including the imposition of sanctions)". Section 14.1 lays out a variety of bodies in charge of disciplinary action, ranging from regional Peer Review Panels to a Professional Conduct Committee, a Disciplinary Tribunal and an Appeals Tribunal. The mere organisational complexity of such a disciplinary arrangement confirms how seriously any allegation or suspicion of misconduct is treated—neither lightly upheld nor lightly dismissed.

16. Section 14.2 defines Misconduct:

> 14.2 Misconduct shall mean one or more of the following:
> (1) conduct which is or could prove to be injurious to the good name of the Institute, or is likely to bring the Institute into disrepute, which renders a person unfit to be a member of the Institute;
> (2) a breach of professional or ethical conduct which shall include the Code of Professional and Ethical Conduct or other similar document published from time to time by the Institute;
> (3) falling below the standards expected of a reasonably competent Practitioner or a reasonably competent professional person acting in the field of private dispute resolution;

9 Chartered Institute of Arbitrators, 'Bye-laws' (Ciarb) <https://www.ciarb.org/about-us/governance/bye-laws/> accessed 3 March 2026.

10 Catherine A Rogers, 'Are International Arbitrators a Profession?' (Working Draft, 2026) 68.

> (4) a failure without reasonable excuse to comply with a direction and/or a recommendation of a Peer Review Panel constituted under Bye-law 14.1;
> (5) a significant breach of any of the Articles of the Charter or of these Bye-laws (or any Regulation or rule published thereunder from time to time).

17. Violation of the Code of Professional and Ethical Conduct is one of the instances of misconduct under Section 14.2(2). However, the definition is broader in order to protect the reputation of Ciarb, as per Section 14.2(1), and that of the dispute resolution process in itself, pursuant to Section 14.2(3). The definition also aims to protect the effectiveness of the disciplinary process by making it mandatory for a member to comply with disciplinary directions or recommendations under Section 14.2(4).

18. The defining language in Section 14.2 is open and broad, allowing for a certain level of discretion in the interpretation of the rules and construction of the facts. There is no a priori, black-and-white precision of when a conduct is injurious or causes disrepute, or when a member is unfit. The rules do not define objectively the reasonable standards a practitioner or professional must abide by to avoid a breach. This is why all the steps of the disciplinary procedure are carried out by panels of independent, qualified professionals, and each subsequent panel has no connection to or overlap with the previous panels that handled the matter.

19. By submitting any complaint to a detailed and multi-layered process of judgment and review, Ciarb avoids subjective interpretations that could compromise the unbiased analysis of any conduct. It also balances the need for enforcement with the necessary caution required for any disciplinary action in a reputational market. All Ciarb disciplinary bodies are formed with an eye to diversity in order to reflect the complex reality of a worldwide organisation, with global standards but awareness of local and regional realities.

VII. SUBSTANTIVE RULES: THE BYE-LAWS AND THE CODE OF PROFESSIONAL AND ETHICAL CONDUCT

20. Ciarb's Code of Professional and Ethical Conduct has been in force since October 2009. Its previous edition appeared in response to the change in Ciarb's bye-laws in June 1999, which modified the definition of "professional conduct".[11]

11 Chartered Institute of Arbitrators, Case P 93/2002.

21. The peculiar and most noteworthy aspect of Ciarb's disciplinary system is its enforcement mechanism, not its substantive standards.[12]

22. As explained above, such standards amount to the various instances of "misconduct" defined by the Ciarb Bye-laws. The definitions of "misconduct" under Section 14.2 of the Bye-laws comprise injurious or disreputable conduct in general, or substandard professional performance of members as practitioners or in any other capacity connected with dispute resolution. They also include the violation of the Code of Professional and Ethical Conduct.

23. For the broad purposes of this note, the relevant rules are found in Part 2 of the Code, which deals with the conduct of members as neutrals in dispute resolution processes. Part 1 focuses on the conduct of members as holders of offices or other official positions within Ciarb—which is evidently important within the Institute, but without as much impact outside the organisation.

24. The nature and scope of Part 2 of the Code of Professional and Ethical Conduct are aligned with many well-known similar sets of ethical rules for neutrals in dispute resolution.

1. Introduction

25. The Code sets out some principles of interpretation.

26. Firstly, the Code does not require a member to breach any other Code or applicable law. Secondly, the Code does not form part of the rules of any dispute resolution process. Thirdly, the Code does not override or replace the applicable rules or laws. Lastly, the Code does not provide grounds for judicial review or other legal action. The direct impact of the Code is internal to Ciarb—although the effects of the Ciarb disciplinary actions may have outward impacts, as discussed below.

2. Rule 1: Behaviour

> A member shall not behave in a manner which might reasonably be perceived as conduct unbecoming a member of the Institute.

27. This broad statement requires dignity and decorum from Ciarb members. It may encompass courteous, civil and respectful behaviour within the dispute

12 Catherine A. Rogers, 'Are International Arbitrators a Profession?', (Working Draft, 2026) 114 ("Such mechanisms offer functional analogs to bar associations in national legal systems and are a clear marker of consolidated professional authority.").

resolution process and in the member's professional practice generally. Unlike the bye-laws provisions focusing on institutional disrepute, Rule 1 also comprises conduct that may be unbecoming, although expressed in a contained environment, such as tribunal deliberations or in the relationship with specific persons involved in a dispute resolution process.

3. Rule 2: Integrity and Fairness

> A member shall maintain the integrity and fairness of the dispute resolution process and shall withdraw if this is no longer possible.

28. Withdrawal should not be the first option, but it may be necessary when integrity and fairness cannot be preserved. Any internal or external undue influence, such as pressure, clamour or fear, must be avoided. However, withdrawing may not simply be the easy way out. A neutral's first duty is to make appropriate efforts to preserve the integrity of the process, adopting the necessary measures to prevent disruptions.

29. The arbitrator must not place their own interests above those of the parties. As Canon II(G) of the ABA guidelines provides, an arbitrator who is requested by all parties to withdraw must do so.[13] Equal treatment of the parties falls under this provision, as does the arbitrator's restraint, avoiding overstepping their powers. Canon II(F) of the ABA Guidelines states that arbitrators may suggest possible settlement or mediation, but they should not exert pressure on any party for that purpose.

4. Rule 3: Conflicts of Interest

> Both before and throughout the dispute resolution process, a member shall disclose all interests, relationships and matters likely to affect the member's independence or impartiality or which might reasonably be perceived as likely to do so.
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> Where a member is or becomes aware that he or she is incapable of maintaining the required degree of independence or impartiality, the

13 American Bar Association, 'Code of Ethics for Arbitrators in Commercial Disputes' (ABA) <https://www.americanbar.org/content/dam/aba/administrative/dispute_resolution/dispute_resolution/commercial_disputes.pdf> accessed 3 March 2026.

> member shall promptly take such steps as may be required in the circumstances, which may include resignation or withdrawal from the process.

30. Impartiality and independence are the key aspects of an arbitrator's legitimacy. The rules require an arbitrator to disclose as much as possible, not keeping to themselves any information that either party might consider relevant. According to Gustavo Laborde, in "*Merck Sharpe & Dohme (IA) LLC v The Republic of Ecuador*, the UNCITRAL tribunal expressly endorsed the principle that, in case of doubt, an arbitrator should err on the side of disclosure. An ICSID tribunal has also expressly embraced this principle in the case *Eiser Infrastructure Limited and Energía Solar Luxembourg Sàrl v Kingdom of Spain*".[14]

31. Although resignation or withdrawal are actions authorised by the Code of Conduct, they must not be taken lightly. On the contrary, the correct solution may be to order the removal of the cause of possible conflict of interests, not the recusal of the neutral. That was the solution adopted by an ICSID tribunal in *Hrvatska Elektroprivreda, dd v The Republic of Slovenia*.

5. Rule 4: Competence

> A member shall accept an appointment or act only if appropriately qualified or experienced.
>
> A member shall not make or allow to be made on the member's behalf any representation about the member's experience or expertise which is misleading or deceptive or likely to mislead or deceive.

32. As Catherine Rogers puts it, "[a]n arbitrator should not accept an appointment unless actually possessing the requisite skills, such as language, and unless able to accommodate the arbitration in his or her schedule. This obligation of diligence also extends to issuance of the final award".[15] This is something a prospective neutral should consider carefully before accepting an appointment.

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14 Gustavo Laborde, 'Arbitrator Disclosure', (Jus Mundi,Wiki Notes, 17 November 2025). <https://jusmundi.com/en/document/publication/en-arbitrator-disclosure> accessed 3 March 2026.

15 Catherine A Rogers, Ethics in International Arbitration (Oxford University Press 2014) para 2.124.

33. In addition to language, the advent of artificial intelligence has brought about the issue of technological literacy. A prospective neutral must be mindful of the legal and technical context of the dispute at issue. The operative core of Rule 5 is the phrase "misleading or deceptive": the prospective neutral must be truthful and thorough in any representation about their own skills. The parties, the institution, the co-arbitrators, and any other participants in the dispute resolution process must have a clear picture of such skills and their possible limits.

6. Rule 5: Information

> Where appropriate and having regard to whether the parties are represented by professionals familiar with the dispute resolution process, the member shall ensure that the parties are informed of the procedural aspects of the process.

34. This situation is often disregarded by neutrals, who presume that parties are solely responsible for their own representation. The Code itself directs neutrals to preserve the integrity of the process, which means upholding the equal treatment of the parties. However, neutrals must ensure that parties have the appropriate level of information about the process itself. Without overstepping their powers or raising concerns regarding equal treatment, when ensuring a minimum level of knowledge, neutrals should not ignore the reality of how parties are represented. In *Nigeria v P&ID*, the issue of appropriate representation (or lack thereof) came into play at the vacatur stage.[16]

35. The subject matter covered by Rule 5 is one in which the warning at the introduction of the Code may be particularly relevant. The applicable rules of the dispute resolution method, or the relevant applicable law, may prevent a neutral from taking any steps or having any consideration regarding the level of sophistication of a party's representation. If so, a member will not be required to disregard the applicable laws or rules in order to comply with Rule 5. That is a general defence available generally in the enforcement of the Code: if the applicable laws or rules of the dispute resolution method mandate a certain conduct, the Code of Conduct's provisions are incapable of requiring a member to do otherwise and are insufficient to warrant any sanctions.

16 Cesar Pereira and Leonardo F Souza-McMurtrie, 'Arbitration. Government contract. Corruption. Annulment. Bribery. England and Wales High Court [EWHC]. King's Bench, Commercial Court. EWHC 2638 (Comm). Judge Mr Justice Robin Knowles. J. 23.10.2023', (2024), 21(81) Revista Brasileira de Arbitragem 89-268.

7. Rule 6: Communication

> A member shall communicate with those involved in the dispute resolution process only in the manner appropriate to the process.

36. Rule 6 is careful not to define what is the appropriate manner of communication, but only to bind the neutral to whatever form is appropriate to the process at hand.

37. In general, *ex parte* communications are to be avoided, but the process may require otherwise in specific circumstances. Many arbitration rules allow a certain level of *ex parte* communications during the phase of formation of the arbitral tribunal, for instance. In mediation, *caucuses* are allowed and recommended. Canon III of the ABA guidelines[17] and Rule 5 of the IBA rules of ethics[18] offer some detailed guidance on when *ex parte* communications are admitted. The applicable legal and regulatory framework must be considered in the interpretation of Rule 6.

38. Catherine Rogers relates that, despite different judicial practices regarding *ex parte* communications with judges, preventing *ex parte* communication with arbitrators is an essential feature of a balanced arbitration framework, given "its obvious potential to disrupt proceedings and taint results".[19]

8. Rule 7: Conduct of the Process

> A member shall prepare appropriately for the dispute resolution process concerned.
>
> A member shall not be influenced by outside pressure or self interest.
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> A member shall not delegate any duty to decide to any other person unless permitted to do so by the parties or applicable law.

17 American Bar Association, 'Code of Ethics for Arbitrators in Commercial Disputes' (ABA) <https://www.americanbar.org/content/dam/aba/administrative/dispute_resolution/dispute_resolution/commercial_disputes.pdf> accessed 3 March 2026.

18 International Bar Association, 'Rules of Ethics for International Arbitrators' (IBA 1987) <https://www.ibanet.org/document?id=Rules-of-ethics-for-international-arbitrators> accessed 3 March 2026.

19 Rogers (n 15) para 3.710.

> A member shall not unduly delay the completion of the dispute resolution process.

39. Rule 7 addresses much of what is needed to overcome frequent criticisms directed at international arbitration. Dedication of adequate time to prepare and study the case. Awareness and sufficient defence against undue influences. Abstention from the delegation of the duty to decide. Efficiency. These are tools advanced by Rule 7 that enable arbitrators to avoid many of the usual pitfalls which compromise the reputation of arbitration as an effective dispute resolution method.

40. The issue of delegation is especially visible in the relationship between neutrals and their assistants and tribunal secretaries.[20] The growing use of artificial intelligence (AI) tools has extended the discussion beyond delegation to persons to delegation to machines or other automated systems. Delegation is forbidden unless the neutral is "permitted to do so by the parties or applicable law". It is often not entirely clear to the parties the level of interaction a neutral may have with their assistants, tribunal secretaries or even AI tools. Some guidelines[21] aim to provide greater transparency by setting standards or requiring disclosure.[22] However, in cases like *Emek and WTE v European Commission*[23] and *Yukos*[24] courts have recognised that even the drafting of substantial portions of awards, provided that under the responsibility and ultimate supervision of the arbitrators, did not amount to an unacceptable delegation of powers or compromise the validity of the awards. Assuming that such a view adequately represents the applicable law, Rule 7, third sentence, would not require the arbitrators to act differently.

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20 Gary Born, *International Commercial Arbitration* (3rd edn, Wolters Kluwer 2020) 2143-2146.

21 International Chamber of Commerce, 'Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration Under the ICC Rules of Arbitration' (ICC 2019).

22 Anna Tujakowska, 'Secretary of the Tribunal', (Jus Mundi, Wiki Notes,18 November 2025) https://jusmundi.com/en/document/publication/en-secretary-of-the-tribunal accessed 3 March 2026.

23 *Emek İnşaat Şti and WTE Wassertechnik v European Commission*, Belgian Court of Cassation, C.21.0548.F (24 April 2023); Hannelore Buelens and Benoît Allemeersch, 'Belgian Supreme Court Rules on Delegation of Tasks to Arbitral Secretaries' (Kluwer Arbitration Blog, 3 August 2023) <https://legalblogs.wolterskluwer.com/arbitration-blog/belgian-supreme-court-rules-on-delegation-of-tasks-to-arbitral-secretaries/> accessed 3 March 2026; *P Q and others* [2017] EWHC 194 (Comm).

24 *Yukos Universal Limited (Isle of Man) v The Russian Federation*, PCA Case No 2005-04/AA227, Judgment of the Hague Court of Appeal (Unofficial English Translation), (18 February 2020); Lucy Winnington-Ingram, 'Awards: Challenges based on misuse of tribunal secretaries' (GAR, 16 June 2025) <https://globalarbitrationreview.com/guide/the-guide-challenging-and-enforcing-arbitration-awards/4th-edition/article/awards-challenges-based-misuse-of-tribunal-secretaries> accessed 3 March 2026.

9. Rule 8: Trust and Confidence

> A member shall abide by the relationship of trust which exists between those involved in the dispute and (unless otherwise agreed by all the parties, or permitted or required by applicable law), both during and after completion of the dispute resolution process, shall not disclose or use any confidential information acquired in the course of or for the purposes of the process.

41. Trust is an essential aspect of any dispute resolution process, and Rule 8 upholds such trust in the manner legitimately expected by the parties. The duty of trust and confidence extends beyond the completion of the process.

42. As is the case in several of the rules comprising the Code, Rule 8 is deferent to the applicable laws and rules. In many instances, such as in certain jurisdictions when state parties are involved, or in ISDS proceedings or awards, they are subject to transparency. In this situation, the issue of confidentiality may not exist or be strongly reduced. In any case, the neutral must be mindful of the characteristics of each proceeding. Regardless of whether confidentiality applies in a given setting, other rules in the Code require an arbitrator to exercise discretion and decorum. Such standards extend to the use of information acquired in the dispute resolution process, even if its dissemination is legally allowed.

10. Rule 9: Fees

> A member shall charge only reasonable fees and expenses having regard to all the circumstances and shall disclose beforehand and explain to the parties to the dispute resolution process the basis upon which the fees and expenses shall be calculated and charged.

43. Especially in ad hoc dispute resolution proceedings, in which no institution is responsible of setting the fees and administering the financial aspects of the process, the issue of fees may create embarrassments and difficulties in practice. Rule 9 is important for establishing certain minimum standards against which a party may assess its financial relationship with a neutral.

44. Canon VII(A)(B) of the ABA guidelines provide more detailed guidance on how arbitrators should behave regarding fees, particularly in an ad hoc scenario:

> (A) Arbitrators who are to be compensated for their services or reimbursed for their expenses shall adhere to standards of integrity and fairness in making arrangements for such payments.
>
> (B) Certain practices relating to payments are generally recognized as tending to preserve the integrity and fairness of the arbitration process. These practices include: (1) Before the arbitrator finally accepts appointment, the basis of payment, including any cancellation fee, compensation in the event of withdrawal and compensation for study and preparation time, and all other charges, should be established. Except for arrangements for the compensation of party-appointed arbitrators, all parties should be informed in writing of the terms established. (2) In proceedings conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, communication related to compensation should be made through the institution. In proceedings where no institution has been engaged by the parties to administer the arbitration, any communication with arbitrators (other than party appointed arbitrators) concerning payments should be in the presence of all parties; and (3) Arbitrators should not, absent extraordinary circumstances, request increases in the basis of their compensation during the course of a proceeding.[25]

25 American Bar Association, 'Code of Ethics for Arbitrators in Commercial Disputes' (ABA) <https://www.americanbar.org/content/dam/aba/administrative/dispute_resolution/dispute_resolution/commercial_disputes.pdf> accessed 3 March 2026.

VIII. SELF-ASSESSMENT AND SELF-ENFORCEMENT

45. Rules aimed at advancing ethical standards are ideally incorporated voluntarily by their target public. Instead of merely setting out rules and creating the necessary structure to enforce them, an organisation committed to making ethical standards matters must create opportunities for engagement and self-assessment by its members.

46. Ciarb does so through an annual declaration that all its members must make. This is an opportunity to reflect on their own conduct and disclose any necessary facts. A member is invited to comment on anything that may amount to a disciplinary fault and provide the appropriate explanations. The 2026 annual declaration requires the following information:

    - Have you, since the date of your last declaration, been subject to any investigation(s), finding(s), sanction(s) or action(s) by a regulatory body, professional body, appointing authority or nominating body?

    - Since the date of your last declaration, have you or a company, partnership or other entity which you are in a position of authority or control over, threatened to suspend payment of debts, been unable to pay debts as they fall due or admitted an inability to pay your debts, in any jurisdiction?

    - Are there any outstanding judgments against you?

    - Have you, since the date of your last declaration, been subject to any criminal investigation or cautioned, charged or convicted of any criminal offences, (other than a motoring offence that hasn't resulted in disqualification), in any jurisdiction? You are under no obligation to disclose a conviction if it is 'spent' – eg if (i) there is applicable legislation in the jurisdiction of the conviction, which allows the criminal record to be removed after a certain period of time; and (ii) that period of time has passed

    - Is there any requirement in the Code of Professional and Ethical Conduct with which you have not fully complied?

47. The annual declaration gives members the opportunity to come clear regarding any situation that might create discomfort. Ongoing criminal investigations, for instance, must be reported. They do not necessarily amount to an ethical infraction. It is not uncommon for arbitrators to be wrongly prosecuted by governments as a form of pressure or revenge. However, clarity and candour are required from Ciarb members to ensure that their ethical standards are preserved.

IX. ENFORCEMENT STRUCTURE

48. Ciarb reformed its disciplinary rules in July 2024, as determined by the Board of Trustees.[26] Its Royal Charter and Bye-law grant "Ciarb powers to initiate and maintain an independent and impartial system of disciplinary proceedings for dealing with complaints and information against any Member including Practitioners".

49. As expressed in Section 2.1 of the Disciplinary Rules, "Ciarb only has jurisdiction to consider complaints about its Members". Interestingly, Section 2.3 prevents a member from resigning pending an investigation for alleged misconduct. Any resignation will be effective only after the disciplinary proceeding is resolved (Section 2.3).

50. Information may reach Ciarb through a variety of means, including anonymous complaints if appropriate at the discretion of the Executive of Ciarb (Section 2.5). The typical time limit for considering a complaint or information is twelve (12) months from the date of the relevant facts (Section 3.1). There are numerous specific circumstances to be considered in determining the time bar in each case.

51. According to official Ciarb figures made public for the first time in 2026, as of January 2026, there were thirty-one (31) open complaints—each having been initially assessed with a Peer Review Panel (PRP) appointed—alongside nine (9) at the Initial Assessment stage and two (2) matters which were on hold pending related external investigations. Complaints are processed under the July 2024 Disciplinary Rules.

1. Initial Assessment

52. The first step when a complaint or information arrives is for the Ciarb Executive to assess it by delegation of the Board of Trustees.

53. Even though the disciplinary process allows broad opportunities to submit a defence, initiating and carrying out a proceeding entails a substantive investment of time and resources from Ciarb and the respondent. It is not a decision to be taken lightly or without rigorous, thoughtful consideration. Section 4 sets out standards for the Executive's preliminary assessment and, when appropriate, refusal to consider an allegation or possible evidence of misconduct. One of

26 Chartered Institute of Arbitrators, 'Disciplinary Rules' (Ciarb 2024) s 1.3 <https://www.ciarb.org/media/y2bgxjc0/ciarb-disciplinary-rules-2024.pdf> accessed 3 March 2026.

such instances is if "the allegation is clearly vexatious, spurious, or malicious" (Section 4.2.3).

54. If the complaint or information is not dismissed, the Executive will invite the respondent to submit a response with any supporting evidence (Section 4.3). The clarity and detail requirements of such notice to the respondent are set out in Section 4.4. When necessary, the Executive has the power to suspend all or some of the respondent's rights within Ciarb. However, such suspension must be "for no longer than is necessary to investigate and determine any allegations", since "[s]uspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations" (Section 4.7).

2. Investigation and Classification: Peer Review Panel

55. If a complaint or information goes beyond the Executive's initial assessment, a Peer Review Panel is appointed from a list of pre-selected Ciarb-qualified members. The Peer Review Panel's role is not to decide or to recommend dismissal or sanctions, but to investigate—including by hearing the respondent and gathering evidence—and classify the matter in one of two categories (Section 5.1). Category A cases are not apt for prosecution, due to a lack of prima facie evidence of misconduct or insignificance of the allegations. Category B cases are those which, in the Peer Review Panel's opinion, merit further prosecution.

56. An important aspect of the formation of the Peer Review Panel is regional diversity. If the respondent or claimant resides outside the United Kingdom, the Panel will comprise members from those respective regions. Panel members must make all necessary disclosures "to ensure that the matter is investigated free of bias and influence" (Section 5.3). The rules provide for an investigation plan (Section 5.4) and govern the gathering of evidence by the Panel (Sections 5.5 and 5.6). No report is issued before a draft report is submitted to the respondent for review of possible factual mistakes (Section 5.7).

3. Professional Conduct Committee

57. The Professional Conduct Committee (PCC) is the main standing body responsible for disciplinary measures, although certain actions are reserved for a Disciplinary Tribunal or an Appeals Tribunal. The rules are clear to prevent any overlap between members of each of those bodies: "Professional Conduct Committee members shall not also be members of either (i) the Peer Review Panel, (ii) the Disciplinary Tribunal or (iii) the Appeals Tribunal".

58. The PCC will invite the respondent for an interview, with sufficient notice and clarity to allow the respondent to understand the case and prepare their defence. The respondent may be accompanied by any companion (such as counsel) and submit evidence, including documents and witness testimony (Sections 6.4 and 6.5). If the PCC upholds the allegations, before issuing any sanctions, the PCC should invite comments from the respondent regarding factors to be considered, such as apologies, remorse, conduct record, mitigating circumstances and level of cooperation (Section 6.6).

59. Section 6.7 sets out the sanctions available to the PCC, which range from monitoring the respondent to orders of retraining, downgrading the respondent's Ciarb status, up to suspension from membership for up to twelve (12) months.

60. An interesting outcome, which is consistent with a tendency to prefer negotiated outcomes to imposed, unilateral sanctions, is the possibility of the PCC using "its discretion to recommend to the Board of Trustees, that Ciarb should enter into a compromise agreement with the Respondent. The decision to enter into a compromise agreement is a matter reserved to the Board of Trustees" (Section 6.7.7). The possibility of recommending a compromise agreement exists even when the PCC concludes that the sanctioning powers granted to it is insufficient in view of the seriousness of the misconduct.

61. The PCC may not impose permanent expulsion as a sanction. This matter is reserved for the Disciplinary Tribunal under Section 6.11. The PCC's role in this situation is to acknowledge that there is a serious incident that may amount to grounds for expulsion. In such determination, the PCC is guided by Section 6.11.1 through 6.11.3. The PCC proceedings may be put on hold pending criminal investigations regarding the same facts, without prejudice to the possibility of the Peer Review Panel's continuing its investigation and the PCC's issuing the appropriate sanctions. As Section 6.12 sets out, "[i]f the Peer Review Panel does continue with its own investigation, they should be careful not to prejudice the criminal proceeding or other investigation".

4. Disciplinary Tribunal

62. Serious charges should be referred by the PCC to a Disciplinary Tribunal so that more severe sanctions may be issued. Pursuant to Section 7.4, the Disciplinary Tribunal has exclusive powers to issue sanctions of suspension for longer than twelve (12) months, permanent expulsion from Ciarb—or also to recommend a compromise agreement for a final determination by the Board of Trustees.

63. Given the additional seriousness of its role, the composition of the Disciplinary Tribunal must follow specific requirements (Section 7.1.2), such as having as

chair a judge or former judge in the UK or other jurisdictions, or a lawyer with ten years of experience and preferably a practising one.

64. The Disciplinary Tribunal may order the matter to be confidential in whole or in part (Section 8.3). A possible compromise "shall not affect Ciarb's ability to publish the disciplinary proceedings and/or their outcome".

5. Appeals Tribunal

65. The last stage of the disciplinary proceedings takes place before the Appeals Tribunal, which is formed to hear appeals against decisions rendered by the Disciplinary Tribunal. The requirements for composition of the Appeals Tribunal are similar to those of the Disciplinary Tribunal. The Appeals Tribunal must give permission to appeal, otherwise the denial will be final and binding. If the permission is granted, the Appeals Tribunal will give directions on the conduct of the appeal and hearing (Section 9.9).

66. According to Section 9.11, there is no right of appeal from the decision of the Appeals Tribunal.

X. ASKING THE HARD QUESTIONS

67. The Ciarb disciplinary process is arguably the most robust and comprehensive system for enforcing ethical standards in dispute resolution. It actuates what other organizations hope to achieve through voluntary compliance. However, the process is entirely confidential. No documents or decisions are published. For the first time in 2026, Ciarb published statistics about its disciplinary process, still without details. Except if the sanctioned neutral volunteers the otherwise confidential news of the outcome of the proceedings, it will remain protected from public knowledge.

68. Such secrecy is unsatisfactory from the standpoints of the integrity of the process and of the dissemination of relevant information to the end users of dispute resolution. Covert sanctions may not do much to preserve the reputation of arbitration as a reliable process. Reputation is, by definition, connected with public perception. Asymmetry of information compromises perceptions.

69. In a context of confidential institutional reactions to misconduct, a sanctioned neutral is the only possible source of information regarding the existence, circumstances and scope of any sanctions. The only way for parties to have access

to such information is by asking and imposing on the neutral the burden to answer.[27]

70. In this regard, arbitral institutions may have a peculiar role. Similarly to what Ciarb does by requiring an annual ethical compliance declaration from its members, institutions may add such difficult and possibly embarrassing questions in their arbitrator vetting or confirmation processes. Of course, parties may ask them without any assistance from the institutions. However, they come more lightly, and they may be taken more seriously, as an institutional requirement than as a party initiative. Will a prospective neutral in this position be entitled to refuse to answer, based on the confidentiality of any possible disciplinary process or sanction? Absolutely—and immediately recuse themselves. The prospective neutral is entitled to protect their privacy, but not at the cost of the trust in the dispute resolution process. The consequence must not be their confirmation, but their refusal. If ethical standards matter and the prospective neutral is the only source to confirm compliance, silence means unsuitability.

XI. CONCLUSION

71. Trust is the cornerstone of dispute resolution. Clarity in ethical standards and compliance with them by arbitrators, mediators, and other professionals is a key element in building and maintaining a healthy environment for dispute resolution mechanisms to thrive. Voluntary compliance is ideal, but not always the reality. The professionalisation of arbitration and dispute resolution in general attracts self-regulatory mechanisms that comprise supervision and enforcement of standards of professional conduct.

72. The Chartered Institute of Arbitrators (Ciarb) is uniquely positioned to advance an ever more robust and sophisticated approach to supervision and enforcement of ethical standards in dispute resolution. Having been founded in 1915 and developed a global reach, Ciarb adopts universally applicable minimum standards while not ignoring local realities. It enforces its ethical rules through a detailed, multi-layered process deliberately conceived to uphold regional diversity and respect the reputational character of the dispute resolution market. Ciarb not only has a focused, time-tested Code of Professional Conduct, but also a carefully crafted enforcement mechanism comprising at least five independent bodies that do not overlap and perform distinct functions within a fair and balanced disciplinary process.

27 See Cesar Pereira and Leonardo F Souza-McMurtrie, 'A Duty to Disclose and A Right Not To?' (Kluwer Arbitration Blog, 19 August 2024) <https://legalblogs.wolterskluwer.com/arbitration-blog/a-duty-to-disclose-and-a-right-not-to/> accessed 3 March 2026.

73. Ciarb's public commitment to preserve, protect, and promote the reputation of dispute resolution processes and that of its competent members provides useful lessons and an invaluable contribution to the arbitral community at large.