

BY-LAW 15.3.5 DIRECTIONS AND PRACTICE NOTES

| CURRENT WORDING | PROPOSED WORDING | REASONS FOR CHANGES |
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| <p>15.3.6.2 Cautions</p> <p>If the investigated person refuses to accept the investigation committee’s proposed caution, or fails to respond to the notice thereof within 14 days of the date of any such notice, then the investigation committee shall formulate a charge under clause 35(1)(b) of the Act in respect of the complaint.</p> | <p>15.3.6.2 Cautions</p> <p>If the investigated person refuses to accept the investigation committee’s proposed caution, or fails to respond to the notice thereof within 14 days of the date of any such notice, then the investigation committee shall<u>may</u> formulate a charge under clause<u>section</u> 35(1)(b) of the Act in respect of the complaint <u>and direct that the charge be referred to the discipline committee.</u></p> | <p>This change would allow the Investigation Committee to exercise the power given to it by the Act to decide whether to escalate a formal caution into a charge.</p> <p>This will allow for minor matters to be resolved without a full hearing, though the IC would still be able to escalate a charge if needed.</p> |
| <p>15.3.6.3 Formal Caution becomes Charge</p> <p>The investigated person may, within 14 days of the date of any notice issued under 15.3.6.1, give notice to the investigation committee that the investigated person intends to make a proposal to vary the terms of the investigation committee’s proposed caution.</p> <p>If the investigated person gives such notice within the aforesaid time period, then the investigated person shall, within a further period of 30 days from the date of the notice given by the investigated person, provide written or oral representations proposing changes to the investigation committee’s proposed caution.</p> | <p>15.3.6.3 Formal Caution becomes Charge</p> <p>The investigated person may, within 14 days of the date of any notice issued under 15.3.6.1, give notice to the investigation committee that the investigated person intends to make a proposal to vary the terms of the investigation committee’s proposed caution.</p> <p>If the investigated person gives such notice within the aforesaid time period, then the investigated person shall, within a further period of 30 days from the date of the notice given by the investigated person, provide written or oral representations proposing changes to the investigation committee’s proposed caution.</p> | <p>See above.</p> |

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| <p>If the investigated person fails to provide such written or oral representation within said period of 30 days, or if the investigation committee and the investigated person are unable to agree upon the terms of the caution on or before the later of 10 days from the date of receipt of the investigated person's proposed charges and the date of the next meeting of the investigation committee, then the investigated person shall be deemed to have refused to accept the investigation committee's proposed caution and the investigation committee shall formulate a charge under clause 35(1)(b) of the Act in respect of the complaint, which charge shall be forwarded to the discipline committee.</p> | <p>If the investigated person fails to provide such written or oral representation within said period of 30 days, or if the investigation committee and the investigated person are unable to agree upon the terms of the caution on or before the later of 10 days from the date of receipt of the investigated person's proposed charges and the date of the next meeting of the investigation committee, then the investigated person shall be deemed to have refused to accept the investigation committee's proposed caution and the investigation committee shall <u>may</u> formulate a charge under clause <u>section</u> 35(1)(b) of the Act in respect of the complaint, which <u>and</u> <u>direct that the</u> charge shall be forwarded <u>be referred</u> to the discipline committee.</p> | |
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