

## RULES OF INDEPENDENT HIGHER EDUCATION

### Membership Regulations

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**Rules made by the Board of Directors under the powers conferred by Article 48 of the Articles of Association of Independent Higher Education.**

**Last updated on 15 October 2024**, with amendments to M7 paragraph 6; and M10 paragraph 5.

Independent Higher Education (IHE) is the UK membership organisation and national representative body for independent providers of higher education, professional training and pathways. IHE is a private, not-for-profit company limited by guarantee and registered in England (number 06710925).

# INDEPENDENT HIGHER EDUCATION

## M1. Eligibility for Membership

1. Membership of IHE is open to any **institution** (or other organisation) in the United Kingdom of Great Britain and Northern Ireland (**UK**) which provides education or training to **adults** (aged 18 and above) and meets all of the **Conditions of Membership**.
2. The Member for the purposes of these rules is the institution (as embodied in a particular registered **company** or charity or other trading organisation) which is legally responsible for the provision of education or training.
3. The Member's provision of education or training must be **current** and the institution a **going concern**.
4. Any **connection** of the institution (or any of its shareholders, governors or senior staff) to another provider of education or training must be disclosed to IHE during the application process, or as soon as is practicable after the connection is made in the case of existing Members.
5. Where a **connected provider** would be eligible for IHE membership, the Board may require that both providers apply for membership at the same time and their applications considered in the round.
6. The Member is represented in all formal IHE matters by the **Head of Institution**, or, where this is not possible, by the Head's **Nominated Representative**. All members of staff may otherwise participate in the IHE community, at the discretion of their Head of Institution.
7. Members shall **disclose** to IHE the identities and roles of all persons (individuals and companies) who collectively **own and control the institution**, including:
  - the Head of Institution;
  - their Nominated Representative (if different);
  - the individual ultimately responsible for academic quality and standards (if different);
  - members of the supreme governing body (e.g. the Board of Directors); and
  - all owners, major shareholders and persons with significant control.

This disclosure must include any '**shadow director**', beneficial owner, investor or other individual or company that exercises significant influence or control over the institution. IHE reserves the right to request further information in the case of complex ownership structures.

8. Members shall **notify** IHE of any **changes** to the list of persons who own and control the institution as soon as is practicable, as well as in their Annual Declaration.

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## M2. Conditions of Membership

1. Members shall uphold our **Values**, endorse our **Mission**, and act in accordance with our **Rules**, including by following and upholding our **Code of Conduct** for Members.
2. Members shall undertake for their **eligible** higher education provision to be **regulated**, or shall deliver it through an **effective partnership** with a regulated higher education provider.
3. Members whose higher education provision is **ineligible** for regulation shall undertake a suitable alternative method of **accreditation** or **external quality assurance**.
4. Members shall **maintain** the regulated (or accredited or quality assured) status that initially qualified them for Membership, and inform IHE of any significant change in this status.
5. Members shall ensure that the individuals who own and control the institution (as disclosed under Section 7 of Regulation M1) are **fit and proper persons** (as defined in Regulation M6) to share in the responsibility for the management and governance of an IHE Member institution, and shall inform IHE of any changes in ownership and control.
6. Members shall pay the **annual subscription fee** which applies to their institution.
7. Members shall return an **Annual Declaration** with any supporting information requested.
8. Members shall complete the **Annual Survey** to the fullest extent possible.
9. Members shall engage constructively with any **concerns** or **complaints** that are raised with IHE, and any investigations that may be deemed necessary in response.

# INDEPENDENT HIGHER EDUCATION

## M3. Mission and Values

### Mission

1. IHE is the formal representative body for independent providers of higher education, professional training and pathways in the UK. We ensure that the voice of independent providers is heard and the interests of their students are protected when government, regulators and others make decisions which affect their lives and their learning.
2. Our representative role is underpinned by a mission to promote the Values of diversity, flexibility, innovation, student focus and collaboration within UK higher education. We achieve this by advising, supporting and promoting the institutions in our membership, all of whom in joining sign up to these Values and commit themselves to putting them into practice.

### Values

#### 3. Diversity

*recognising that the choices and aspirations of students are best promoted by supporting the distinctive nature of providers within a diverse ecosystem of provision*

#### Flexibility

*recognising that individual students have complex lives and varied needs which may shape how they can access and participate in learning, requiring flexibility in provision*

#### Innovation

*recognising that technological progress and economic change require education to undergo continual review, renewal and improvement in how it is designed and delivered*

#### Student focus

*recognising that the most important part in any education is played by the person who is learning, and their needs and interests must be kept at the heart of a provider's mission*

#### Collaboration

*recognising that higher education has the most potential to improve the lives of students by working closely in collaboration with the industries and communities they care about*

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## M4. Code of Conduct for Members

### Introduction

1. IHE believes in the powerful and positive impact that independent providers of higher education, professional training and pathways have on the lives of their students, on their staff, on their communities, industries and vocations, and on economies at a local, national and international level. Their very existence and dedication to their distinct missions enrich the UK's higher education sector, expanding student choice and supporting lifelong learning with a varied and interconnected ecosystem of provision, while helping to promote the values of diversity, flexibility, innovation, student focus and collaboration.
2. IHE exists to represent, promote and support these independent providers to unlock their full potential and maximise the positive impact they have on the world around them. We do so primarily through offering sector-leading intelligence and insights, advice and training, a range of forums for discussion and sharing good practice, and by leading the policy conversation and influencing the regulatory and funding environment to protect and enhance the ability of independent providers and their students to thrive.
3. To be a Member of IHE is to join a community shaped by core Values and motivated by a collective belief in the positive impact of our work. We are committed to supporting only those providers who share these Values, who recognise the rights and responsibilities of Membership, and who care about their students and strive wherever possible to put their interests first. We will only admit a new Member if we are satisfied that they are willing and able to uphold, and to be held to, this high standard and can demonstrate this in practice.
4. We take the conduct of Members seriously because the actions of one IHE Member inevitably reflect on all of us, and any misconduct can directly impair our ability to pursue our strategy, to influence and to bring about positive change for our members and for the sector as a whole. This Code of Conduct sets out our expectations on key aspects of business practice, the regulatory environment, student protection and participation in the IHE community (applying equally to all participating staff or other representatives).

### Shared values

5. As an IHE Member, you agree to uphold our Values (as defined in Regulation M3), incorporating them as appropriate into your own work, and you endorse our mission to promote these values within UK tertiary education, including by supporting, advising and sharing good practice with new and emerging providers alongside current Members.
6. As an IHE Member, you strive always to act in accordance with our Values and this Code of Conduct, and to do nothing which might bring IHE and its other Members into disrepute.

### Ethical business practices

7. As an IHE Member, you behave with honesty, integrity, and professionalism towards your staff and volunteers; your suppliers and partners; your prospective, current and former students; other customers and beneficiaries; government and regulatory bodies; IHE and

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other sector bodies; and the general public.

8. As an IHE Member, you take care always to communicate with accuracy and transparency about your courses, admissions processes, student experience, graduate outcomes and any other information relevant to current and prospective students.
9. As an IHE Member, you adopt admissions policies and processes which maintain appropriate academic standards and give students admitted to your courses a reasonable expectation of successfully completing them. Any recruitment activity for your courses is carried out with sufficient care so as to solicit applications only from students who understand, and are willing and able to undertake, the work that is necessary to succeed.

## **The regulatory environment**

10. As an IHE Member, you recognise that appropriate and proportionate regulation offers the scrutiny and public assurances needed to underpin an open, diverse and innovative sector, and you welcome the opportunity to use its associated processes and data in the continual improvement of your own provision and practices.
11. As an IHE Member, you engage and cooperate with government and regulatory bodies as required by law or by commitments you have undertaken voluntarily, and in any case when you consider it to be in the interests of students to do so.
12. As an IHE Member, you use your best endeavours to comply with all applicable laws and regulations of the UK and any other jurisdiction in which you operate.

## **Student protection**

13. As an IHE Member, you will always consider the interests of your students when making decisions which affect them, and where practical and appropriate will seek the views of student representatives in advance of making such decisions.
14. As an IHE Member, you recognise that the interests of your current and former students are best served by the continued success of the provider, and put in place effective financial management and governance oversight which prioritises long-term sustainability.
15. As an IHE Member, you put in place appropriate support for student welfare and wellbeing, and adopt policies and practices which are effective in creating and maintaining a safe and inclusive environment for your students, as well as for staff and visitors.
16. As an IHE Member, you ensure that your students have access to an independent and transparent process for complaints and appeals, and to any applicable statutory ombuds scheme.

## **Community behaviour**

17. As an IHE Member, you treat everyone you interact with in the IHE community (Members, IHE staff and officers, consultants, volunteers and guests) with dignity and respect, recognising the importance of constructive dialogue even – indeed especially – when

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someone disagrees with you.

18. As an IHE Member, you will not publicly disclose any private data or other confidential information shared by representatives of IHE or by other Members in the course of IHE meetings, events and communications.
19. As an IHE Member, you are open to learning about and where appropriate adopting good practice from IHE and other Members, and to sharing your own examples of good practice in return.
20. As an IHE Member, you are willing to volunteer for IHE groups, activities and initiatives where possible, and to collaborate with other Members where appropriate and likely to be of mutual benefit.

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## M5. Regulation, accreditation and external quality assurance

1. Members should consider adopting the IHE Code of Governance as a benchmark against which to evaluate and develop their own governance framework and practices.
2. Members who provide regulated higher education in partnership with a UK Degree Awarding Body are expected to follow any guidance issued by IHE or others that the Board deems necessary for the effective assurance of the quality and standards of such provision.

### Providers in England

3. Members who provide higher education in scope of regulation in England are expected:
  - to register with the Office for Students (OfS), if and when they become eligible to do so;  
*or*
  - to be working towards such registration with the support of IHE;  
*or*
  - to offer higher education in an effective partnership with one or more higher education provider registered with the OfS or regulated under the equivalent systems in Scotland, Wales or Northern Ireland. This will usually be a UK Degree Awarding Body.
4. Members who provide higher education in England are expected to be members of the student complaints scheme administered by the Office of the Independent Adjudicator (OIA), if and when they become eligible to do so.

### Providers in Wales

5. Members who provide higher education in scope of regulation in Wales are expected:
  - to register with the Welsh Government via the Higher Education Funding Council for Wales (HEFCW) for the designation of their courses, and in due course with the new Commission for Tertiary Education and Research, if and when they become eligible to do so,  
*and*
  - undergo the applicable method of review by QAA;  
*or*
  - to be working towards such registration and review with the support of IHE;  
*or*
  - to offer higher education in an effective partnership with one or more higher education provider registered with the OfS or regulated under the equivalent systems in Scotland, Wales or Northern Ireland. This will usually be a UK Degree Awarding Body.
6. Members who provide higher education in Wales are expected to be members of the student complaints scheme administered by the Office of the Independent Adjudicator (OIA), if and when they become eligible to do so.

### Providers in Scotland

7. Members who provide higher education in scope of regulation in Scotland are expected:
  - to register with the Scottish Government via the Student Awards Agency Scotland (SAAS) for the designation of their courses, if and when they become eligible to do so,  
*and*



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- undergo the applicable method of review by the Quality Assurance Agency for Higher Education (QAA);  
*or*
- to be working towards such registration and review with the support of IHE;  
*or*
- to offer higher education in an effective partnership with one or more higher education provider registered with the OfS or regulated under the equivalent systems in Scotland, Wales or Northern Ireland. This will usually be a UK Degree Awarding Body.

## Providers in Northern Ireland

8. Members who provide higher education in scope of regulation in Northern Ireland are expected:
- to register with the Department for the Economy (Northern Ireland) for the designation of their courses, if and when they become eligible to do so,  
*and*
  - undergo the applicable method of review by QAA;  
*or*
  - to be working towards such registration and review with the support of IHE;  
*or*
  - to offer higher education in an effective partnership with one or more higher education provider registered with the OfS or regulated under the equivalent systems in Scotland, Wales or Northern Ireland. This will usually be a UK Degree Awarding Body.

## Alternatives to regulation

9. Members who only provide higher education, professional training or pathway programmes deemed out of scope and hence ineligible for regulation in their home nation of the UK, or who are still in the process of working towards such regulation, may provide alternative evidence for the suitable accreditation or external quality assurance of their provision.
10. The suitability of different methods of accreditation, inspection, review and quality assurance for the purposes of IHE Membership, and the range of positive outcomes accepted as sufficient to meet the Conditions of Membership, will be kept under review and determined at the sole discretion of the Board.
11. Methods determined to be suitable currently are:
- Quality Assurance Agency for Higher Education (QAA): various review methods
  - Independent Schools Inspectorate (ISI): Private Further Education (PFE) inspection
  - Ofsted: further education and skills inspection
  - British Accreditation Council (BAC): various accreditation schemes
  - UK Degree Awarding Body: a current and effective partnership operating under a validation or subcontract agreement
  - Professional body accreditation, and specifically:
    - Association of Chartered Certified Accountants (ACCA)
    - British Association for Counselling and Psychotherapy (BACP)

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- British Psychological Society (BPS)
  - General Osteopathic Council (GOC)
  - Royal Academy of Arts (RA)
  - Royal Institute of British Architects (RIBA)
- For **study abroad** programmes only, accreditation by an overseas institution with recognised degree-awarding powers, these powers having been conferred by a recognised accrediting agency (this would normally be a national agency or, in the case of US institutions, an organisation recognised by the US Council for Higher Education Accreditation)
12. A provider which has not yet achieved OfS registration, the equivalent regulation in Scotland, Wales or Northern Ireland, or a successful final outcome through another suitable method of accreditation or external quality assurance, will not meet the Conditions of Membership but may apply to be a subscriber to our Launchpad service.

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## M6. Fit and proper person test

1. Members shall bear responsibility for confirming that the individuals who collectively own and control the institution all pass the fit and proper person test.
2. Where a Member is unsure whether or not an individual passes the test, for instance because one or more of the indicators below is considered likely to be met, they should inform IHE so that further investigation may be carried out and a determination then made by the Board.
3. Where a single indicator is found to be met, for instance a past involvement with a provider refused registration with the OfS, the Board may nevertheless determine that an individual passes the fit and proper person test for the purposes of IHE Membership.
4. A fit and proper person
  - is of good character;
  - has the qualifications, competence, skills and experience that are necessary for their role;
  - is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks of the office or position for which they are appointed;
  - has not been responsible for, been privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether unlawful or not) in their employment or in the conduct of any entity with which they are or have been associated.
5. The following are indicators that a person may **not** be a fit and proper person:
  - disqualification from acting as a company director, or from acting as a charity trustee, as set out in the Company Directors Disqualification Act 1986 or the Charities Act 2011;
  - unspent conviction of a criminal offence anywhere in the world;
  - subject of any adverse finding in civil proceedings, where relevant, including, but not limited to bankruptcy or equivalent proceedings (in the last three years);
  - subject of any adverse findings in any disciplinary proceedings by any regulatory authorities or professional bodies;
  - involvement in any abuse of the tax systems;
  - involvement with any entity that has been refused registration to carry out a trade or has had that registration terminated;
  - involvement in a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;
  - dismissal from a position of trust or similar;

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- involvement as a decision maker within a higher education provider that has had its registration refused or revoked by the OfS or has had similar action taken against it by another regulator (this includes, but is not limited to, serving on a board/governing body, having voting rights, being a significant shareholder/owner, serving in a senior position, etc.);
- found to have committed an act of academic fraud or misconduct, or falsely claim to hold a qualification they do not, or claim to hold a qualification which was not awarded by a recognised institution with the relevant authority to do so;
- current personal or business interests which create a conflict with their duties and responsibilities to the institution which cannot be sufficiently managed to ensure they will put the interests of the institution and its students first;
- having held a key decision-making role in an institution at a time when it
  - seriously and/or persistently breached consumer protection law (and the minimum requirements for compliance as set out in CMA guidance to UK higher education providers),  
*or*
  - was implicated in fraud or other criminality,  
*or*
  - failed to maintain the systems and processes necessary to prevent the proliferation of fraud, academic misconduct, or consistently poor student outcomes.

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## M7. Membership subscriptions

1. Members shall pay an annual subscription made up of a basic element and, where applicable, a supplementary element.
2. Every Member shall pay the **basic element** applicable to their size, based on the accepted UK accounting definitions of micro, small, medium and large companies which derive from the number of employees, annual turnover and balance sheet total. Where these three indicators point to different sizes, the balance of 'two out of three' will generally apply, but a determination will be made by the Chief Executive.
3. A Member who is **ineligible for registration with the Office for Students** by virtue of being located in the devolved nations, or being too much under foreign ownership and control, or having a portfolio which does not include any courses formally recognised as higher education, will pay only the basic element which is appropriate to their size.
4. A Member who is **eligible for registration** with the Office for Students must pay the **supplementary element** applicable to their FTE 'regulated HE students', except where IHE confirms that the Member is not registered, does not have an application for registration in progress, and has no plan to register within the next two years. In the event that such a Member decides later to apply for registration, the Member shall inform IHE of this decision as soon as is practicable and shall become liable from this point for a supplementary fee for the current year pro rata.
5. Where a member is liable for the supplementary element but also teaches some students on regulated higher education courses via a **subcontractual arrangement**, these students will be added to the Member's registered students when determining the applicable band.
6. A Member who operates more than one brand or trading name under their corporate entity will have the option of paying the **multiple brand supplement**. This will enable the brands to have individual listings on all relevant IHE promotional material, including the IHE website.
7. The subscription year runs from 1 January to 31 December. Full-time equivalent student numbers for the preceding academic year (1 August to 31 July) must be submitted to IHE by 30 November each year as part of the Member's Annual Declaration. These self-reported numbers will be checked against the official statistics released by HESA annually, and where the two sets of figures diverge significantly, IHE will contact the member in order to reach a final determination of the correct subscription band, and where necessary to issue a further invoice or credit note.
8. The basic and supplementary elements of the subscription fee for Members who join IHE after 1 January shall be calculated pro rata on the basis of the number of calendar months in membership for the remainder of the year from the date of admission into membership.
9. Where a Launchpad Subscriber is duly admitted as a full Member during the course of a year, it shall become liable from the date of admission for a pro rata basic element to cover the remainder of the subscription year not already paid, as well as any applicable pro rata supplementary element which becomes due.

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10. Payment of all annual dues to the Association shall be in full settlement within 30 days of invoice.
11. Any Member who has not paid the annual subscription in full by 1 March will be reported to the Board, and may have its membership suspended in line with the provisions of the Membership Regulations. On the occasion of the next meeting of the Board, the Member may have its membership terminated.

## **Calculation of Full-time Equivalent Students**

12. Members shall report annually to the Chief Executive the number of all students registered with them (both directly and via subcontractual arrangements) in the previous academic year, including part-time, full-time, distance, blended, and work-based learners, on long and short courses.
13. Where a Member is liable for the supplementary element of the annual subscription, the applicable band of regulated student numbers will be determined with reference to the full-time equivalence (FTE) calculation used by the Higher Education Statistics Agency (HESA).
14. Where a Member reports all of its regulated student numbers to HESA directly, this data will stand as their submission for IHE subscription purposes. Where a member is not eligible to submit data to HESA, or where an additional submission of subcontracted students is required, the annual student number declaration should include the number of full-time and part-time student instances in each programme, and include the length of each programme to support the calculation of a full-time equivalent student number count comparable to the data submitted to HESA.
15. If IHE has reason to query a Member provider's reported student numbers, it may contact partner organisations, including Jisc, HESA, OfS, QAA, BAC and ISI, for corroboration, or commission an independent audit of a member provider's returns. In the case of an independent audit, the member provider shall allow reasonable access to and provide all information requested by the auditor promptly. If the member provider's student numbers are found to have been incorrectly reported, the provider may be charged for the costs of the audit, and if the figure is found to have been significantly understated the member will be liable to be charged any applicable higher rate for subscription for the year in question, but not retrospectively. If the returns are found to have been calculated correctly, IHE shall pay for the audit.

## **Administrative procedures**

16. Invoices for the membership subscription shall be issued no later than December, being the month before the start of the subscription year. Payment shall be made by cheque or BACS. Payments received later than 30 days from the date of invoice may be subject to a late payment surcharge of 2% over Bank Base Rate.
17. In the case of new Members, the subscription is due for payment within 30 days of invoice following their admission into membership. Membership will not be confirmed until after payment has been received.

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## M8. Annual Declarations and mid-year reporting

1. Members shall at the earliest practicable time inform IHE of any investigation, audit, inspection or review carried out by a government or regulatory body, outside of any usual cycle of inspections or reviews that might arise as a result of their accreditation and quality assurance arrangements.
2. Members shall at the earliest practicable time inform IHE of any change of ownership, control or key management personnel. This includes a change in the majority shareholder of the company, a change of the executive head of the institution, or a change of the individual who Chairs the governing body.
3. Members shall at the earliest practicable time inform IHE of any other change or event that might affect their ability or willingness to continue to meet the Conditions of Membership.
4. Where any information reported by a Member to IHE is judged by the Chief Executive to represent an increased risk of breaching the Code of Conduct or other Condition of Membership, the Member may be placed on investigatory probation (as set out in Regulation M10).
5. Where there has been a change of ownership, control or key management personnel, IHE will require the Member to certify that all relevant individuals would pass our Fit and Proper Person test.
6. Members shall complete an Annual Declaration, which:
  - declares their commitment to continue to uphold and abide by the Rules of the Association, including the Code of Conduct and other Conditions of Membership;  
*and*
  - certifies that no investigation, audit, inspection or review of the types specified above has taken place during the year in question, or notes a previous disclosure, or makes a late disclosure of such an event;  
*and*
  - certifies that no change of ownership, control or key management personnel of the types specified above has taken place during the year in question, or notes a previous disclosure or makes a late disclosure of such a change;  
*and*
  - declares their confidence that the organisation remains a going concern and will continue to trade for the entirety of the coming year;  
*and*
  - discloses any criminal or civil legal action brought against it in the year in question.

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## M9. Applications for Membership

1. Applications for membership by eligible providers shall be made to the Chief Executive in a form agreed by the Board, subject to review from time to time, and published on the IHE website. An application shall be deemed valid only upon receipt of the following:
  - an Application Form completed in full (using the form provided on the IHE website);
  - a registration decision letter from the Office for Students (if applicable);
  - confirmation of regulated status in Scotland, Wales or Northern Ireland (if applicable);
  - documentation of any notification or decision relating to regulatory enforcement or investigation in the last 12 months;
  - if not regulated, documentation relating to the current alternative method of accreditation or external quality assurance, confirming the successful outcome, and any follow-up correspondence or action plan relating to this outcome;
  - full payment of the applicable Application Fee and any outstanding debts.
2. The Application Form shall include:
  - a full list of the names and roles of:
    - the Head of Institution
    - the Nominated Representative (if different)
    - the person with responsibility for academic quality and standards (if different)
    - members of the supreme governing body (e.g. the Board of Directors)
    - owners / major shareholders / persons with significant control
  - details of any connection or association of the institution or of the above-named individuals to any other education provider;
  - a formal declaration that all of the above-named individuals meet IHE's definition of a fit and proper person, or further details if such a declaration cannot be made in full;
  - staff and student numbers in the form requested;
  - a formal declaration that the provider is committed to the Values of IHE and supports our Mission to promote them;
  - declaration of any legal action (criminal or civil), and any audit, investigation or review by a government, regulatory, professional or statutory body, or awarding organisation, that is active currently or was in the past 12 months;
    - *N.B. Where any such activity is ongoing, IHE may put the application on hold until it is completed, or the Board may decide to approve the application and may extend the initial probationary period until the activity has been concluded, as set out in Regulation M10.*



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- confirmation that the applicant has read these Rules and agrees to abide by all relevant provisions, including continuing to meet the Conditions of Membership and to follow and uphold the Code of Conduct for Members.
3. A representative of IHE will review the application and may draw upon external sources of information where this provides additional evidence of whether or not the applicant meets the Conditions of Membership and/or is likely to uphold the Values of IHE and Code of Conduct for Members. Such external sources may include but shall not be limited to public records of regulatory compliance, published research and analysis by Government and others, the Parliamentary Hansard, and coverage in print, electronic and broadcast media, and other sources listed as credible under Section 4 of Regulation M10.
  4. A summary report on the application shall be considered by the Chief Executive, who may require further information or assurances from the applicant where necessary before coming to a decision. He or she may also draw upon credible sources of information about the applicant, about the named individuals who own and control the institution, and about other education providers and businesses connected to the applicant and/or named individuals, in order to come to a view of whether the applicant is likely to uphold the Values of IHE and the Code of Conduct for Members, and whether there is any risk that it may bring the sector and/or IHE into disrepute. Once satisfied that there is sufficient information on which to judge the suitability of the applicant for membership, the Chief Executive shall make a recommendation to the Board.
  5. At its next meeting, or from time to time in writing between meetings, the Board shall decide by majority vote whether or not to admit the applicant into membership of IHE. While the initial review of the application and the subsequent recommendation of the Chief Executive will form the basis of any decision, the Board shall remain the final authority on and shall reserve complete discretion over which providers are admitted to membership. In exercising this discretion, it shall give due consideration to the need to protect the good name and reputation of Independent Higher Education and its members.
  6. If the application is approved, the new Member shall commence their initial probationary period, as set out in Section 1 of Regulation M10.
  7. If the application is refused, the Board shall be required to give a reason to the applicant. The Chief Executive may report to the Board any further information and correspondence related to this refusal, but the decision of the Board in such cases is nonetheless final.
  8. A provider whose application has been refused may reapply for Membership only after the completion of a moratorium on reapplications for a period of time to be determined by the Board but no less than six months after the date of the refusal decision.

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## M10. Probation, suspension and termination of Membership

### Initial probation for new Members

1. An **initial probationary period** of 12 months shall apply to **all newly admitted Members**, who shall:
  - take steps to ensure that all of their staff and other representatives who may wish to participate in the IHE community have read and agree to uphold the Code of Conduct;  
*and*
  - engage constructively with IHE in addressing any risk or concern identified through the membership application process;  
*and*
  - not be eligible for appointment to any governance or community role within IHE without the express approval of the Board, who may require some additional element of due diligence before any consideration of such an appointment.
2. The Board may **extend** this probation by up to 6 months if at the end of the initial period:
  - the Member is undergoing a regulatory or quality assurance process whose outcome will not be known for a number of months still;  
*or*
  - particular risks or concerns are identified during the course of this first year that the Board determines to be necessary to monitor and keep under review;  
*or*
  - there is insufficient evidence or track record of engagement with IHE for the Board to have full confidence that the Member will uphold the Code of Conduct and other Conditions of Membership.

### Probation and investigation of concerns in current Members

3. The Board may place a **current Member** on **investigatory probation** for up to 6 months in the event that:
  - IHE receives a credible complaint or concern about the Member;  
*or*
  - IHE receives evidence from a credible source of a prima facie breach by the Member of the Code of Conduct or another Condition of Membership;  
*and*
  - the Chief Executive determines that there is a need to investigate further in order to assess whether or not a breach has taken place.
4. Sources of evidence for concerns and complaints that are likely to be considered sufficiently **credible** for IHE to investigate include (non-exhaustively):
  - reporting by recognised local, national or international media
  - whistleblowing by current or former staff, students or members of governing bodies
  - UK government departments, ministers and officials, devolved national and regional governments, Mayors, councils and other local authorities

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- statutory regulators and other non-departmental public bodies
- professional, statutory and regulatory bodies for particular industries and occupations
- IHE Members, Board and Committee Members, consultants and staff
- UK universities, further education colleges, state and independent schools, and their umbrella organisations

## 5. **Members on investigatory probation** shall:

- supply IHE with any information and supporting evidence deemed necessary in order to assess whether the Member is in breach of the Code of Conduct or other Conditions of Membership, and according to any timetable that IHE may reasonably specify;  
*and*
- upon request make any individual member of staff, students, the governing body or shareholders available for interview by IHE in the course of an investigation into a potential breach;  
*and*
- make the necessary arrangements for IHE to speak with and receive information and supporting evidence from awarding organisations, validating universities and other business partners, where it is relevant to the investigation of the alleged breach;  
*and*
- not be eligible for appointment to any governance or community role within IHE without the express approval of the Board, who may require some additional element of due diligence before any consideration of such an appointment;  
*and*
- not be eligible for any IHE Award, and at the discretion of the Chief Executive and Chair of the Board, may be temporarily removed from any IHE publication or promotional material.

6. The Board may **extend** any period of investigatory probation by a further 6 or 12 months where it determines that a risk to quality and standards or the Code of Conduct remains, or that more time is needed to complete an investigation.

7. The Board may bring any period of investigatory probation to an early **conclusion** where it determines that no further investigation or monitoring is required and it is satisfied that the risk of any breach of the Code of Conduct or other Condition of Membership is low.

## **Suspension of Membership**

8. The Board (or the Chair of the Board acting on its behalf) may **suspend** the Membership of a Member with immediate effect pending the outcome of any investigation where the complaint or other evidence of a breach of the Code of Conduct or other Condition of Membership is deemed to be sufficiently serious as to

- bring IHE and its Members into disrepute by association with the Member,  
*or*
- put the safety and wellbeing of IHE staff or other members of the IHE community at risk through the Member's continued participation.

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9. The Board may **suspend** the Membership of any Member which falls in arrears in the payment of all or any part of its subscription or other dues to the Association by 30 or more days. The period of arrears is calculated from the date of invoice.
10. Members whose Membership is currently suspended shall:
- not have the right to be listed on IHE's member directory (on the IHE website or elsewhere) or otherwise to be publicly recognised as a Member;  
*and*
  - not have the right to attend IHE networks, forums or other member-only events;  
*and*
  - be permitted to attend IHE's public events only at the discretion of the Chief Executive, but shall be entitled to a refund of any ticket purchased for an event from which they are excluded;  
*and*
  - be permitted to use the members area of the IHE website or any other member-only resource only at the discretion of the Chief Executive;  
*and*
  - not have the right to any refund of membership subscription fees already paid for the period of suspension;  
*and*
  - be subject to all other provisions that apply to a Member on probation.

## Investigation outcomes and termination of Membership

11. The outcome of a completed investigation will be reported with recommendations for action to the Board at its next meeting. Where the Board **determines** that the Member has breached the Code of Conduct or any other Condition of Membership, it may:
- **terminate** the Membership of the Member with immediate effect;  
*or*
  - require a number of specified **remedial actions** that the Member must carry out within a specified time period to avoid termination of its Membership, and may suspend its Membership during this period;  
*or*
  - conclude that sufficient remedial actions have already been taken by the Member, where provided with clear evidence to support this conclusion, and **lift the probation** and/or **suspension** of its Membership.
12. Where the report of an investigation recommends **termination** of its Membership, the Member will be given the opportunity to **address the Board** to respond to the evidence of the report. The Member shall be given at least 14 days' notice in writing of the meeting of the Board and may address the Board for not more than ten minutes and answer any questions that members of the Board may wish to ask but shall then withdraw from the meeting.
13. Where a complaint or investigation concerns a Member represented by a **Member of the Board**, the Board Member:
- shall not receive any confidential information or other details relating to the complaint or investigation except where this is disclosed under the provisions giving the Member an

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opportunity to respond;

*and*

- shall leave any meeting at which a paper is presented or a discussion is held relating to the complaint or investigation, for the duration of this presentation or discussions;
- and*
- shall be excluded from voting on the matter.

14. The Board may terminate the Membership of a Member that falls in **serious arrears** in the payment of all or any part of its subscription or other dues to IHE, and may do so with immediate effect, provided that the Member shall be given at least 14 days' notice in writing of the meeting of the Board at which this decision may be taken, so as to allow it a final opportunity to settle its debts.

## **Automatic termination of Membership**

15. A Member shall **automatically cease** to be a Member if:

- being a company, or controlled by a company, it
  - has a proposal for a Voluntary Arrangement for a composition of debts or scheme or arrangement approved in accordance with the Insolvency Act 1986;
  - or*
  - has an application made under the Insolvency Act 1986 to the Court for an appointment of an Administrator;
  - or*
  - has a winding up order made or a Resolution for voluntary winding up passed or a provisional Liquidator, Receiver or Manager of the business or undertaking duly appointed;
  - or*
  - has an administrative Receiver as defined in the Insolvency Act 1986 appointed or possession taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the floating charge;
  - or*
  - if its name be struck off the Register of Companies;
- or*
- being an individual, he or she
  - becomes bankrupt;
  - or*
  - makes a composition or arrangement with his or her creditors;

provided, however, that the Board in its discretion may in such circumstances defer the cancellation of membership, for a period of up to 12 months, at the end of which the Board shall review the matter and either notify the Member that Membership is no longer in question or implement the termination. Such deferral may be made retrospective to the date of the event which triggered the termination which the Board is exercising its discretion to defer.

16. A Member whose Membership is **terminated** shall:

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- lose all of the benefits, rights and privileges of Membership with immediate effect;  
*and*
- refrain with immediate effect from stating or implying any connection to IHE and remove all references, logos etc from websites, publications and documents as soon as is reasonably practicable;  
*and*
- not have the right to any refund of membership subscription fees already paid for the current membership year, and shall remain liable for any subscription fees already incurred but not yet paid.

17. The Board may at its sole discretion exceptionally agree to a pro rata refund of membership subscription fees already paid in the event of the termination of Membership.

## **Voluntary withdrawal from Membership**

18. A Member may **voluntarily withdraw** from Membership by giving formal written notice of resignation to the Chief Executive to take effect at the end of any subscription year, provided that such notice is given not less than two calendar months before the end of that year. In the event of such length of notice not being given the Member shall be liable for the appropriate subscription for the following subscription year, but shall be permitted to retain the benefits, rights and privileges of Membership for the same period.