INSTITUTE AND FACULTY OF ACTUARIES

DISCIPLINARY AND CAPACITY FOR MEMBERSHIP SCHEMES

DISCIPLINARY SCHEME REFERRED TO IN RULE 20 AND CAPACITY FOR MEMBERSHIP SCHEME REFERRED TO IN BYE LAWS 48 AND 49

~~***(Effective 1 February 2018***~~
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CONTENTS

SECTION I - GENERAL

Rule

1. Introduction and Scope

• Interpretation ..... 1.1 - 1.4

• Burden and Standard of Proof ..... 1.5 – 1.6

2. Appointments

~~• Disciplinary Appointments Committee ..... 2.1 - 2.7~~

• Disciplinary Pool ..... 2.8 - 2.12

• Pool of Investigation Actuaries ..... 2.13 - 2.16

• Independent Examiner ..... 2.17 - 2.19

• Interim Orders Panels ..... 2.20 - 2.21

• Adjudication Panels ..... 2.22 - 2.25

• Disciplinary Tribunal Panels ..... 2.26 - 2.27

• Capacity for Membership Panels ..... 2.28 - 2.31

• Appeals Tribunal ..... 2.32 - 2.35

~~• Disciplinary Board ..... 2.36 - 2.44~~

• Legal Advisers Pool 2.45

• General provisions relating to appointments ..... 2.46 - 2.60

3. General Provisions of these Schemes

• General.....3.1

• Pre-Hearing Matters .....3.2 - 3.3

• Hearings.....3.4 - 3.7

SECTION II – DISCIPLINARY SCHEME RULES

4. General

• Misconduct ..... 4.1 – 4.6

• Proof of certain matters ..... 4.7 – 4.12

• Liability for disciplinary proceedings under the FRC Scheme ..... 4.13 – 4.14

• Members' duty to co-operate ..... 4.15 – 4.19

• Disclosure of information under the Disciplinary Scheme 4.20

• Miscellaneous provisions 4.21- 4.25

5. Investigation Stage

• Allegations and assignment for investigation.....5.1 - 5.6

• Disciplinary Investigations ..... 5.7 – 5.12

• Expedited procedure for certain matters..... 5.13

• Content of a Case Report..... 5.14 – 5.16

• Completion of an investigation ..... 5.17 – 5.19

• Advisory Reports ..... 5.20 – 5.25

• Interim Orders..... 5.26 – 5.42

6. Adjudication Panels

• General ..... 6.1 – 6.2

• Handling of Advisory Reports..... 6.3

• Handling of Case Reports ..... 6.4 – 6.15

• Charges .....6.16 - 6.18

7. Review by the Independent Examiner

• Grounds for review ..... 7.1 - 7.6

• Conduct of the review ..... 7.7 - 7.8

• Determination of the Independent Examiner ..... 7.9 - 7.13

• General ..... 7.14 - 7.16

8. Disciplinary Tribunal Panels

• Charges ..... 8.1 - 8.3

• Pre-hearing procedure (service of grounds of defence and documentary evidence) .. 8.4 - 8.8

• Rights of the Respondent ..... 8.9 - 8.10

• General provisions for the Disciplinary Tribunal Panel ..... 8.11 - 8.15

• Hearings ..... 8.16 - 8.23

• Costs 8.24

• Communication of determination ..... 8.25 - 8.26

9. Transfer to a Capacity for Membership Panel…… ..... 9.1 – 9.6

10. Readmission to Membership following disciplinary expulsion or exclusion

• Application ..... 10.1 - 10.2

• Action on receipt of an application ..... 10.3 - 10.4

• Hearing the application ..... 10.5 - 10.14

11. Appeals 11.1

• Appeal against a determination by the Disciplinary Tribunal Panel under Part 8 .. 11.2 - 11.20

• Appeal against Interim Orders ..... 11.21 - 11.35

• Appeal against refusal of readmission to membership following disciplinary

• expulsion or exclusion ..... 11.36 - 11.45

12. Costs orders and fines ..... 12.1 - 12.3

13. The FRC

• Duty to co-operate 13.1

• Call-in of cases by the Conduct Committee .....13.2 - 13.4

• Referral of cases to the Conduct Committee prior to an investigation under the Disciplinary Scheme..... 13.5 - 13.8

• Referral of cases to the Conduct Committee during an investigation under the Disciplinary Scheme .....13.9 - 13.11

• Referral of cases to the Conduct Committee by an Adjudication Panel.....13.12 - 13.14

• Referral of cases to the Conduct Committee prior to a referral under rule 4.21 ..13.15 - 13.17

• Enforcement of FRC sanctions and findings.....13.18 - 13.19

• Enforcement of costs awarded by the FRC 13.20

SECTION III – CAPACITY FOR MEMBERSHIP SCHEME

14. General ..... 14.1 – 14.2

15. Pre-Hearing Matters ..... 15.1 – 15.4

16. Interim Orders ..... 16.1 – 16.3

17. Consent Orders ..... 17.1 – 17.7

18. Hearings ..... 18.1 – 18.2

19. Outcomes ..... 19.1 – 19.3

20. Review Hearings ..... 20.1 – 20.6

21. Appeal against the outcome of a Capacity for Membership Panel hearing ..... 21.1 – 21.8

SECTION IV – COMMENCEMENT, TRANSITION AND DEFINITIONS

22. Commencement and Transitional Provisions

• Commencement .....…22.1

• Transitional Provisions ..... …22.2 - 22.3

23. Definition of terms used in these Schemes

SECTION I - GENERAL

1. Introduction and scope

Interpretation

1.1 The provisions of this Part shall apply, according to the context, to both the Disciplinary and Capacity for Membership Schemes, unless otherwise stated.

1.2 In the interpretation and operation of these Schemes regard shall be had to the principles of natural justice and procedural fairness and applicable articles of the European Convention on Human Rights.

1.3 In these Schemes:

(a) the words defined in Part 23 of these Schemes shall have the meanings ascribed to them therein;

(b) words defined in the Bye-laws shall have the same meaning in these Schemes.

1.4 The Interpretation Act 1978 shall apply to these Schemes.

Burden and Standard of Proof

1.5 In all proceedings before a Disciplinary Tribunal Panel or an Appeal Tribunal Panel under the Disciplinary Scheme, the Institute and Faculty of Actuaries shall bear the burden of proving to the civil standard as applied by the Courts of England and Wales in relation to disciplinary proceedings cases that the Respondent is guilty of Misconduct.

1.6 In all proceedings before a Capacity for Membership Panel or Appeal Tribunal Panel under the Capacity for Membership Scheme, the Party making the Application shall bear the burden of proving to the civil standard as applied by the Courts of England and Wales that the Respondent's capacity to be a member of the Institute and Faculty of Actuaries is impaired.

2. Appointments

~~**Disciplinary Appointments Committee**~~

~~2.1 The Disciplinary Appointments Committee shall consist of:~~

~~(a) four Fellows appointed by the Council;~~

~~(b) a Lay member being a Queen's Counsel appointed alternately by the Dean for the time being of the Faculty of Advocates and by the Chairman for the time being of the General Council of the Bar;~~

~~(c) a Lay member nominated by the President for the time being of the Chartered Institute of Personnel and Development,~~

~~all holding office for a term of three years, such term being renewable.~~

~~2.2 The Chair of the Disciplinary Appointments Committee shall be the Lay member appointed under rule 2.1(b).~~

~~2.3 Any meeting of the Disciplinary Appointments Committee shall be quorate only if there shall be three or more members present, of whom one is a Lay member. In the absence of a quorum at the date set for any meeting or hearing of the Disciplinary Appointments Committee, such meeting or hearing shall stand adjourned to a place and time to be determined by the Chair of the Disciplinary Appointments Committee.~~

~~2.4 The Disciplinary Appointments Committee may convene in person or through appropriate telephone conferencing or other similar facilities, or both, and the quorum provisions of rule 2.3 shall apply taking into account those present through the telephone or other similar facilities.~~

~~2.5 Decisions of the Disciplinary Appointments Committee shall be made by simple majority.~~

~~2.6 The Disciplinary Appointments Committee shall comprise Appropriate persons and shall, when making and/or renewing appointments under this Part 2, appoint Members and Lay members who are Appropriate persons.~~

~~2.7 Any Member or Lay member who is deemed by the Disciplinary Appointments Committee no longer to be an Appropriate person, shall be required to stand down from any appointment under Part 2 of these Schemes.~~

Disciplinary Pool

2.8 The ~~Disciplinary Appointments Committee~~Regulatory Appointments Committee shall appoint members of a Disciplinary Pool from which members of:

(a) Disciplinary Tribunal Panels;

(b) Interim Orders Panels;

(c) Adjudication Panels; and

(d) Capacity for Membership Panels

may be selected under the provisions of these Schemes.

2.9 Members of the Disciplinary Pool shall consist of Fellows and Lay members, and may include Overseas Fellow Equivalents.

2.10 In appointing members to the Disciplinary Pool, the ~~Disciplinary~~ Regulatory Appointments Committee shall have regard to the numbers of members of the panels likely to be required from time to time for the purpose of the proper functioning of these Schemes.

2.11 The Regulatory~~Disciplinary~~ Appointments Committee shall nominate from the Disciplinary Pool:

(a) a Convener and Deputy Convener of the Disciplinary Tribunal Panels;

(b) a Convener and Deputy Convener of the Interim Orders Panels; an

(c) a Convener and Deputy Convener of the Adjudication Panels; and

(d) a Convener and Deputy Convener of the Capacity for Membership Panels

save that no person can occupy more than one position under this rule.

2.12 The appointments under rule 2.8 and nominations under rule 2.11 shall be for a term of three years, such term being renewable.

Pool of Investigation Actuaries

2.13 The ~~Disciplinary~~ Regulatory Appointments Committee shall appoint a Pool of Investigation Actuaries who shall consist of Fellows, and may include Overseas Fellow Equivalents, each holding office for a term of three years, such term being renewable.

2.14 The ~~Disciplinary~~ Regulatory Appointments Committee shall nominate two of the Pool of Investigation Actuaries to be the Chair and Deputy Chair of the Pool of Investigation Actuaries respectively, each holding office for a term of three years, such term being renewable.

2.15 In appointing members to the Pool of Investigation Actuaries, the ~~Disciplinary~~ Regulatory Appointments Committee shall have regard to the numbers of Investigation Actuaries likely to be required for the purposes of the proper functioning of these Schemes.

2.16 At the request of the Chair of the Pool of Investigation Actuaries the member of the ~~Disciplinary~~ Regulatory Appointments Committee so designated by the ~~Disciplinary~~ Regulatory Appointments Committee for this purpose for the time being may appoint to the Pool of Investigation Actuaries a Fellow, or an Overseas Fellow Equivalent as an Investigation Actuary for the purpose of assisting the Case Manager in the investigation of a specified Allegation or preparing an Application under rule 9.1 of the Disciplinary Scheme.

Independent Examiner

2.17 The ~~Disciplinary~~ Regulatory Appointments Committee shall appoint an Independent Examiner and a Deputy Independent Examiner who shall be Lay members.

2.18 The Independent Examiner and the Deputy Independent Examiner shall be appointed for a term of three years, such term being renewable.

2.19 Should the Independent Examiner appointed under rule 2.17 be unavailable or unable for any reason to fulfil her/his functions under Part 7 of the Disciplinary Scheme, the Deputy Independent Examiner shall for the time being exercise the functions of the Independent Examiner under Part 7 of the Disciplinary Scheme.

Interim Orders Panels

2.20 Each Interim Orders Panel shall be appointed and a Chair nominated from the members of the Disciplinary Pool, with the approval of the Convener of the Interim Orders Panels, in accordance with regulations to be made by the Disciplinary ~~Board~~Committee, for the purpose of hearing a particular referral made under the provisions of rule 5.28 or 16.1.

2.21 Each Interim Orders Panel shall consist of:

(a) two Fellows; and

(b) one Lay member, being a solicitor, advocate or barrister, who shall chair the Interim Orders Panel.

Adjudication Panels

2.22 Each Adjudication Panel shall consist of three or more persons, at least one of whom shall be a Lay member, appointed from the members of the Disciplinary Pool, with the approval of the Convener of the Adjudication Panels, in accordance with regulations to be made by the Disciplinary ~~Board~~Committee.

2.23 One of the members appointed to each panel under rule 2.22 shall be nominated, with the approval of the Convener of the Adjudication Panels, in accordance with regulations to be made by the Disciplinary ~~Board~~Committee, as Chair of the panel.

2.24 An Adjudication Panel may consider one or more Case Reports submitted under the provisions of rule 5.19.

2.25 Members of an Adjudication Panel who have commenced the consideration of a Case Report shall remain constituted as the Adjudication Panel for the purpose of that Case Report until the conclusion of its determinations under Part 6 of the Disciplinary Scheme, subject to the provisions of rule 7.10.

Disciplinary Tribunal Panels

2.26 Each Disciplinary Tribunal Panel shall be appointed and a Chair nominated from the members of the Disciplinary Pool, with the approval of the Convener of the Disciplinary Tribunal Panels, in accordance with regulations to be made by the Disciplinary ~~Board~~Committee.

2.27 Each Disciplinary Tribunal Panel shall consist of three or more persons, at least one of whom shall be a Fellow; and at least one shall be a Lay member.

Capacity for Membership Panels

2.28 Each Capacity for Membership Panel shall consist of three members, at least one of whom shall be a Lay Member and at least one of whom shall be a Fellow, appointed from members of the Disciplinary Pool, all as appointed by the ~~Disciplinary~~ Regulatory Appointments Committee.

2.29 A Lay member appointed to each Capacity for Membership Panel under rule 2.28 shall act as the Chair of the Capacity for Membership Panel.

2.30 A Capacity for Membership Panel may, under the provisions of Section III, consider any matter transferred to it under Part 9 of the Disciplinary Scheme.

2.31 Decisions of the Capacity for Membership Panel shall be made by simple majority.

Appeals Tribunal

2.32 Subject to rule 2.34 the ~~Disciplinary~~ Regulatory Appointments Committee shall appoint members of an Appeals Tribunal from whom members of Appeals Tribunal Panels shall be selected under the provisions of these Schemes.

2.33 Members of the Appeals Tribunal shall comprise:

(a) Queen's Counsel appointed by the Dean for the time being of the Faculty of Advocates;

(b) Queen's Counsel appointed by the Chairman for the time being of the General Council of the Bar;

(c) Fellows and Lay members appointed by the ~~Disciplinary~~ Regulatory Appointments Committee; and

(d) may include Overseas Fellow Equivalents;

all holding office for a term of three years, such term being renewable.

2.34 The Chair and the Deputy Chair of the Appeals Tribunal shall be the Queen's Counsel appointed in accordance with the provisions of rule 2.33 each position being held for a term of three years, such term being renewable. The position of Chair and Deputy Chair shall be nominated alternately by the Dean for the time being of the Faculty of Advocates and by the Chairman for the time being of the General Council of the Bar.

2.35 When an appeal is referred to the Appeals Tribunal, the Chair of the Appeals Tribunal shall appoint an Appeal Tribunal Panel for the purposes of hearing an appeal, comprising:

(a) herself/himself or the Deputy Chair of the Appeals Tribunal who shall be the Chair of the Appeal Tribunal Panel; and

(b) two or four other members of the Appeals Tribunal at her/his discretion to include at least one Fellow and one Lay member.

~~**Disciplinary Board**~~

~~2.36 The Disciplinary Appointments Committee shall appoint the members of a Disciplinary Board to consist of:~~

~~(a) six Fellows; and~~

~~(b) three Lay members,~~

~~each appointed for a term of three years, such term being renewable.~~

~~2.37 The Disciplinary Appointments Committee shall nominate one of the Lay members appointed under rule 2.36(b) to be the Chair of the Disciplinary Board.~~

~~2.38 Any meeting of the Disciplinary Board shall be quorate only if there shall be three or more members present, of whom one is a Lay member. In the absence of a quorum at the date set~~

for any meeting or hearing of the Disciplinary Board, such meeting or hearing shall stand adjourned to a place and time to be determined by the Chair of the Disciplinary Board.

2.39 The Disciplinary Board may convene in person or through appropriate telephone conferencing or other similar facilities, or both, and the quorum provisions of rule 2.38 shall apply taking into account those present through the telephone or other similar facilities.

2.40 Decisions of the Disciplinary Board shall be made by simple majority.

2.41 The functions of the Disciplinary Board shall comprise:

(a) overseeing the management and operation of these Schemes;

(b) deciding the maximum fine which an Adjudication Panel may invite a Respondent to pay under rule 6.6(b);

(c) providing bi-annual reports to the Council and such other interim reports on specific issues as it deems necessary;

(d) producing an annual report to the Institute and Faculty of Actuaries;

(e) setting and monitoring time frames for investigations and proceedings under these Schemes;

(f) organising training of those involved in these Schemes;

(g) receiving and considering reports from the Independent Examiner, from any Chair, committee, panel or tribunal appointed under these Schemes, from the FRC regarding Allegations considered under the FRC Scheme and from the Chief Executive of the Institute and Faculty of Actuaries on the operation of these Schemes;

(h) making and varying such regulations (not being inconsistent with the provisions of the Charter, the Bye-laws, Rules or these Schemes) as it may consider necessary for the implementation of these Schemes and for the performance by Investigation Actuaries, Interim Orders Panels, Adjudication Panels, Disciplinary Tribunal Panels, Capacity for Membership Panels and Appeal Tribunal Panels of their respective functions under these Schemes;

(i) providing guidance on procedure it considers appropriate not being inconsistent with these Schemes for the performance of functions under these Schemes;

(j) giving feedback to the Council, and/or the FRC and/or any of its operating bodies on lessons learned from any proceedings conducted under these Schemes, in respect of any standards, advice, guidance, memorandum or statement on professional conduct, practice or duties issued by them;

(k) providing such guidance on procedure as it considers necessary for the performance by the Institute and Faculty of Actuaries of functions under rule 4.20;

(l) providing advice and guidance to the Council about entering into mutual disciplinary agreements with actuarial associations outside the UK who are members of the International Actuarial Association; and

(m) such other functions as shall be agreed from time to time by the Council.

2.42 The Disciplinary Board may at any time, subject to the agreement of the Council or such other body delegated by them for the purpose, arrange for a review of the provisions and operation of these Schemes or any aspect of it to be undertaken.

2.43 The Disciplinary Board shall from time to time provide guidelines for the manner in which sanctions involving education, retraining and/or supervised practice under these Schemes may be imposed. Such guidelines shall be published by the Institute and Faculty of Actuaries.

~~2.44 The Disciplinary Board shall, as soon as reasonably practicable, be given:~~

~~(a) by the Case Manager brief particulars of any Allegation or Application made under these Schemes after it is assigned for investigation; and~~

~~(b) by the Chair of each of an Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal Panel, a Capacity for Membership Panel or an Appeal Tribunal Panel, (as the case may be) a report on the proceedings under these Schemes, containing such particulars as she/he shall consider appropriate.~~

Legal Advisers Pool

2.45 The ~~Disciplinary~~ Regulatory Appointments Committee shall from time to time nominate a pool of barristers, advocates and solicitors (each being called or admitted in England and Wales or in Scotland as the case may be for a period of ten years or more) who may advise an Adjudication Panel, an Interim Orders Panel, a Disciplinary Tribunal Panel, a Capacity for Membership Panel or an Appeal Tribunal Panel as provided for under these Schemes.

General provisions relating to Appointments

2.46 No appointment shall be made under the Disciplinary Scheme of:

(a) a member of the Council;

(b) a person currently or previously appointed under the Disciplinary Scheme in respect of the same Allegation, Case Report, Charge, or the subject matter thereof; or

(c) a person previously appointed to any role under Part 2 of these Schemes in respect of the same Allegation, Case Report or Charge or the subject matter thereof; or

(d) a member and/or director of the FRC or any person carrying out functions under the FRC Scheme.

2.47 Any person who has been appointed under these Schemes who becomes a member of the Council shall be deemed to have resigned from her/his appointment under these Schemes with immediate effect.

2.48 No person who is a member of the ~~Disciplinary~~ Regulatory Appointments Committee may be appointed to any other body or position held under these Schemes. Any person being appointed to the Regulatory~~Disciplinary~~ Appointments Committee shall be deemed to have resigned with immediate effect from any other body or position held under the provisions of these Schemes.

2.49 No person who is a member of the Disciplinary ~~Board~~ Committee may be appointed to any other body or position held under these Schemes. Any person being appointed to the Disciplinary ~~Board~~ Committee shall be deemed to have resigned with immediate effect from any other position or body held under the provisions of these Schemes.

(a) If for any reason a person appointed to any role under these Schemes is permanently unable to act, a new appointment may be made on the same basis as the person being replaced.

(b) In the event of the temporary absence for any reason of a person appointed to a position under these Schemes, the Chair of the Regulatory~~Disciplinary~~ Appointments Committee, or any person appointed by the Chair, may make an interim nomination to fill the vacancy.

2.50 (a) No Member who has been found guilty of Misconduct shall be appointed to any position or body referred to in these Schemes. Any person so appointed who is found guilty of Misconduct shall be deemed to have resigned immediately from her/his appointment to the relevant position referred to in these Schemes.

(b) For the avoidance of doubt, a Member has been found guilty of Misconduct who has

accepted an invitation issued under rule 6.6(a) by an Adjudication Panel.

2.51 Any Member, Lay member and any legal adviser who is a member of another professional body and is found guilty of misconduct by that body shall be deemed to have resigned immediately from any appointment which she/he holds under these Schemes.

2.52 Any Member, Lay member or legal adviser shall stand down from any appointment to any position or body referred to in these Schemes if she/he has before a Court of competent jurisdiction in the United Kingdom been convicted of an indictable offence or has, before a Court elsewhere, been convicted of an offence which would have been indictable had the offence been prosecuted before a Court in the United Kingdom, or has in any civil proceedings before a Court of competent jurisdiction in the United Kingdom or elsewhere, been found to have acted fraudulently or dishonestly.

2.53 Any Member shall, unless otherwise agreed by the Regulatory~~Disciplinary~~ Appointments Committee, stand down from any appointment to any position or body referred to in these Schemes if she/he is the subject of an Allegation or Application under these Schemes, unless and until she/he is the subject of a determination or decision in relation to that Allegation or Application:

(a) by an Adjudication Panel under rule 6.4(b) that no disciplinary action shall be taken against her/him; or

(b) by a Disciplinary Tribunal Panel that she/he is not guilty of Misconduct under rule 8.20;

(c) by an Appeal Tribunal Panel that she/he is not guilty of Misconduct, under rule 11.16; or

(d) by a Capacity for Membership Panel or Appeal Tribunal Panel that her/his capacity to hold membership of the Institute and Faculty of Actuaries is not materially impaired by reason of illness or other relevant health or medical condition.

2.54 Any meeting of an Adjudication Panel (subject to rule 2.55) or any meeting or hearing of an Interim Orders Panel, Disciplinary Tribunal Panel or Capacity for Membership Panel shall be quorate only if there shall be three or more members present, of whom one is a Lay member. In the absence of a quorum at the date set for any meeting or hearing of the relevant panel, such hearing shall stand adjourned to a place and time to be determined by the chair of the relevant panel.

2.55 An Adjudication Panel may convene in person or through appropriate telephone conferencing or other similar facilities, or both, and the quorum provisions of rule 2.54 shall apply taking into account those present through the telephone or other similar facilities.

2.56 Any Interim Orders Panel, Adjudication Panel, Disciplinary Tribunal Panel, Capacity for Membership Panel or Appeal Tribunal Panel shall have the power to elect a temporary chair on the day if a designated chair is unable to perform that function.

2.57 The proceedings of any investigation under these Schemes, or before any Adjudication Panel, Interim Orders Panel, Disciplinary Tribunal Panel, Capacity for Membership Panel or Appeal Tribunal Panel, or of the Independent Examiner shall be valid notwithstanding any invalidity in the appointment of any member thereof.

2.58 Any person appointed under this Part may continue to act in that capacity in relation to any relevant ongoing Allegation, Case Report, Charge or Application as the case may be notwithstanding that her/his term of office has otherwise expired.

2.59 In these Schemes, any function which may be undertaken by:

(a) the Chair of the Regulatory~~Disciplinary~~ Appointments Committee;

(b) the Chair of the Investigation Actuaries Pool;

(c) the Convener of the Interim Orders Panels;

(d) the Convener of the Adjudication Panels;

(e) the Convener of the Disciplinary Tribunal Panels;

(f) the Chair of the Appeals Tribunal;

(g) the Chair of the Disciplinary ~~Board~~Committee; or

(h) the Convener of the Capacity for Membership Panels,

may be undertaken by any Deputy Chair or Deputy Convener of that body previously so nominated or appointed or, in the absence of such a Deputy Chair or Deputy Convener, by such other member of the body as the Chair or Convener of the body shall designate for that purpose, in each case in the event that the Chair/Convener or Deputy Chair/Deputy Convener shall be unavailable to fulfil that function.

2.60 Anyone who serves as an Investigation Actuary, on an Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal Panel, a Capacity for Membership Pane, an Appeal Tribunal Panel, or as the Independent Examiner, shall be entitled to such remuneration as the Regulatory ~~Disciplinary~~ Appointments Committee provides for.

3. General Provisions of these Schemes

General

3.1 Provisions of these Schemes shall form part of the Bye-laws and may be rescinded, varied or added to accordingly.

Pre-Hearing Matters

3.2 An Interim Orders Panel, Adjudication Panel, Disciplinary Tribunal Panel, Capacity for Membership Panel or Appeals Tribunal Panel (or the Chair of any such Panel) or the Convener of Adjudication Panels may at their discretion suspend an investigation and/or any proceedings under these Schemes. Before deciding to suspend such investigation or proceedings, the said Panel or Convener must be satisfied that the Respondent has been accorded a reasonable opportunity to make submissions in relation to the application to suspend proceedings, and shall consider any such submissions made by the Respondent. Any such Panel or Chair, or the Convener of Adjudication Panels, may, on the application of either Party, direct that a suspended investigation is resumed.

3.3 Any notice or other document required by any provision of these Schemes to be given or sent to a Party may be sent by pre-paid post addressed to her/him at her/his address notified to the Institute and Faculty of Actuaries for communications, or, if the Institute and Faculty of Actuaries is aware that this address is no longer current for her/him, to her/his usual or last known place of business or residence. Service of any notice or document shall be deemed to have been effected at the end of 48 hours from the time of posting, and in proving that a document was so sent it shall be sufficient to prove that the cover containing it was properly addressed, stamped and posted.

Hearings

3.4 At any hearing of an Interim Orders Panel, a Disciplinary Tribunal Panel (including any procedural hearing before the Chair), a Capacity for Membership Panel or an Appeal Tribunal Panel, the Respondent may be:

(a) represented by a solicitor, barrister or advocate, or another Member or such other person as the Chair of the relevant panel may agree, provided that this does not unreasonably delay any such hearing; and

(b) accompanied by a friend or member of her/his family, or by another Member, but the accompanying person may remain during any private session of the relevant panel only with the agreement of the panel.

3.5 An Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal Panel, a Capacity for Membership Panel and an Appeal Tribunal Panel (or the Chair of such Panel as the case may be) may give all such directions with regard to the conduct of and procedure at meetings or hearings as it considers most suitable for the clarification of the issues and generally for the just handling of the proceedings before it. This includes the power to vary the time limits set out in these Schemes and to adjourn any meeting or hearing. Any such Panel or Chair shall at their discretion be entitled to accept written undertakings from the Respondent.

3.6 Provided that an Interim Orders Panel, a Disciplinary Tribunal Panel, a Capacity for Membership Panel or an Appeal Tribunal Panel is satisfied that the Respondent has been given reasonable notice of a hearing, the proceedings of that body shall be valid and of full effect even if the Respondent does not attend, is not represented or does not state her/his case.

3.7 All documents put before an Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal Panel, a Capacity for Membership Panel or an Appeal Tribunal Panel shall be deemed to be authentic. If a Party challenges the authenticity of any document the relevant body shall consider the objections raised by such Party (and any evidence raised in rebuttal), and shall, on the basis of such representations, give the evidence contained in such document such weight as it thinks fit.

SECTION II – DISCIPLINARY SCHEME

4. General

Misconduct

4.1 A Member shall be liable to disciplinary action under the Disciplinary Scheme if she/he has been guilty of Misconduct.

4.2 For the purposes of the Disciplinary Scheme, Misconduct means any conduct by a Member, whether committed in the United Kingdom or elsewhere, in the course of carrying out professional duties or otherwise, constituting failure by that Member to comply with the standards of behaviour, integrity, competence or professional judgement which other Members or the public might reasonably expect of a Member having regard to the Bye-laws of the Institute and Faculty of Actuaries and/or to any code, standards, advice, guidance, memorandum or statement on professional conduct, practice or duties which may be given and published by the Institute and Faculty of Actuaries and/or, for so long as there is a relevant Memorandum of Understanding in force, by the FRC (including by the former Board for Actuarial Standards) in terms thereof, and to all other relevant circumstances.

4.3 Misconduct may include any conduct which occurred either before or after the Respondent became a Member save that conduct which was disclosed in writing to the Institute and Faculty of Actuaries by the Respondent prior to being admitted as a Member shall not be Misconduct for the purposes of the Disciplinary Scheme.

4.4 References to the Respondent shall include a former Member who has resigned or has ceased to be a Member for any reason since the time of the conduct in respect of which an Allegation is made. Any such former Member shall remain bound to supply such information and explanations as may be required by an Investigation Actuary, a Disciplinary Tribunal Panel or an Appeal Tribunal Panel regarding her/his conduct and shall remain bound by any determinations of a Disciplinary Tribunal Panel or an Appeal Tribunal Panel or any determination of an Adjudication Panel which is the subject of an agreement under rule 6.10 in respect of any Misconduct committed notwithstanding that her/his membership has ceased.

4.5 A Member may be liable for Misconduct:

(a) where a person with whom she/he is connected is guilty of conduct which if committed by the Member would have amounted to Misconduct and either:

(i) any act, omission or behaviour by the Member has caused or contributed to such conduct; or

(ii) following her/his becoming aware of any such conduct, the Member does not take such action as other Members might reasonably expect her/him to take in the circumstances; or

(b) notwithstanding that other proceedings may be taken against the Member or any firm of which she/he is a partner, any body corporate of which she/he is a director, employee or controller (within the meaning of section 422 of the Financial Services and Markets Act 2000 or any amendment or re-enactment thereof), or any person employed by her/him or by any such firm or body corporate.

4.6 For the purposes of rule 4.5 and without limitation, a Member shall be deemed to be connected with:

(a) his employer or employee;

(b) any director or employee of a body corporate of which she/he is a director or employee; and

(c) any member or employee of a partnership of which she/he is a member or employee.

Proof of certain matters

4.7 The failure by a Respondent to comply with an undertaking accepted under rule 5.11(d) shall amount to *prima facie* evidence of Misconduct. Evidence of such non-compliance may be referred, on the application of the Case Manager, for the consideration, as the case may be, of the Adjudication Panel, Interim Orders Panel, Disciplinary Tribunal Panel or Appeals Tribunal Panel by whom the undertaking is accepted. Such Panel shall be recalled for this purpose (but may be of new composition) and, in considering such evidence, such Panel shall take such steps as it shall see fit and shall have available to it all of the powers, including powers of sanction, otherwise available to it under the Disciplinary Scheme.

4.8 For the purposes of the Disciplinary Scheme it shall amount to conclusive evidence of Misconduct that a Member has been subject to an adverse disciplinary determination by her/his nominated Primary Professional Regulator. For the purposes of this provision, a disciplinary determination means a disciplinary determination which is final within the terms of the disciplinary scheme of that Primary Professional Regulator.

4.9 For the purposes of the Disciplinary Scheme it shall amount to *prima facie* evidence of Misconduct that:

(a) a Respondent has in any civil proceedings before a Court of competent jurisdiction in the United Kingdom or elsewhere been found to have acted fraudulently or dishonestly; and/or

(b) a Respondent has, before a Court of competent jurisdiction in the United Kingdom, been convicted of an indictable offence, or has, before a Court elsewhere, been convicted of an offence which would have been indictable had the offence been prosecuted before a Court in the United Kingdom.

4.10 The fact that a Member:

(a) has by a court of competent jurisdiction in the United Kingdom or elsewhere been convicted of a criminal offence; and/or

(b) has been the subject of an adverse final determination by a regulatory body in exercise of

functions conferred by any of the following Acts, as from time to time amended, and/or any successor legislation to these Acts: the Financial Services Act 1986, the Financial Services and Markets Act 2000, the Insolvency Act 1986, the Companies Act 1989, the Companies Act 2006, the Pensions Act 1995, the Pensions Act 2004; and/or

(c) has been the subject of an adverse final determination by an actuarial regulatory body which is a full member of the International Actuarial Association; and/or

(d) has had a disqualification order made against her/him under any of the following Acts, as from time to time amended, and/or any successor legislation to these Acts: the Company Directors Disqualification Act 1986 and/or the Pension Schemes Act 1993; and/or

(e) has been the subject of a judgement or determination arising from civil proceedings before a court of competent jurisdiction in the United Kingdom or elsewhere;

shall for the purposes of the Disciplinary Scheme be treated as conclusive evidence of the findings of fact upon which the conviction, determination, judgement or disqualification order is based.

4.11 The fact that a Member has been the subject of an adverse final determination by a regulatory body of competent jurisdiction in the UK or elsewhere, other than a determination to which rule 4.10 applies, shall for the purposes of the Disciplinary Scheme be treated as *prima facie* evidence of the findings of fact upon which the determination is based.

4.12 In a hearing before a Disciplinary Tribunal Panel that involves the decision of a court or tribunal that relates to the Respondent:

(a) the fact that the Respondent has been convicted of a criminal offence may be proved by producing a certified copy of the certificate of conviction relating to the offence;

(b) the finding and sentence of any tribunal exercising a professional disciplinary jurisdiction may be proved by producing a certified record of the finding and sentence; and

(c) the judgement of any civil court may be proved by producing a certified copy of the judgement.

Liability for disciplinary proceedings under the FRC Scheme

4.13 All Members shall be liable to disciplinary proceedings under the FRC Scheme on the grounds set out in the FRC Scheme, irrespective of whether the act of misconduct upon which such proceedings are based took place before or after the commencement of the FRC Scheme.

4.14 Part 13 of the Disciplinary Scheme makes further provision in relation to the FRC Scheme.

Members' duty to co-operate

4.15 Every Member has, at all times, a duty to co-operate fully with any investigation, process or procedure under the Disciplinary Scheme. This duty includes providing such written or oral information and/or evidence as may be required by the Case Manager or Investigation Actuary under rule 5.11.

4.16 Every Member has a duty to disclose promptly to the Institute and Faculty of Actuaries any conviction, adverse finding, judgement or determination or disqualification order of a type referred to in rules 4.8, 4.9, 4.10 or 4.11, to which she/he is subject.

4.17 Members working for the same employer as a Respondent under the Disciplinary Scheme shall be obliged to co-operate in the implementation of any sanction which is binding upon the Respondent under the Disciplinary Scheme.

4.18 Nothing in the Disciplinary Scheme, including rule 4.15, shall mean that a Member, including a Respondent, shall be required to produce any document or information which is the subject of legal professional privilege or which might tend to incriminate her/him or expose her/him to criminal penalties.

4.19 The failure to comply with rule 4.15 and/or rule 4.16 shall amount to *prima facie* evidence of Misconduct. For the avoidance of doubt, rules 4.15 and rule 4.16 apply to any former Member whose conduct, at the date that their membership of the Institute and Faculty of Actuaries ceased, was subject to disciplinary proceedings under the Disciplinary Scheme.

Disclosure of information under the Disciplinary Scheme

4.20 The Institute and Faculty of Actuaries may disclose to any of the following bodies such information as it sees fit in relation to any Allegation, referral, investigation, hearing or procedure under the Disciplinary Scheme, for the purpose of assisting that body in properly undertaking its regulatory functions:

(a) any regulatory body to whom functions are conferred by any of the following Acts, as they may be amended from time to time, and/or any successor legislation to these Acts: the Financial Services Act 1986, the Financial Services and Markets Act 2000, the Insolvency Act 1986, the Companies Act 1989, the Companies Act 2006, the Pensions Act 1995, the Pensions Act 2004;

(b) any overseas actuarial professional regulatory body which is a full member of the International Actuarial Association;

(c) the FRC.

Miscellaneous Provisions

4.21 Subject to rule 13.15, where, having regard to the interests of the public and/or of the Institute and Faculty of Actuaries, any Executive Officer of the Institute and Faculty of Actuaries considers it appropriate that a matter relating to the conduct of a Member should be investigated, such matter may be referred by her or him for consideration as an Allegation under the Disciplinary Scheme; thereafter the matter shall proceed for the purposes of the Disciplinary Scheme as if the Allegation had been made to the Institute and Faculty of Actuaries under rule 5.2 save that the provisions of Part 7 of the Disciplinary Scheme shall not apply.

4.22 The following matters shall be made public by the Institute and Faculty of Actuaries as soon as reasonably practicable in accordance with arrangements prescribed by the Disciplinary ~~Board~~ Committee under rule 4.23:

(a) the making, rescission or variation of an Interim Order;

(b) the referral by an Adjudication Panel of matters in a Case Report to a Disciplinary Tribunal Panel under rule 6.4(a)(ii);

(c) the determination and, where applicable, any sanction imposed by an Adjudication Panel resulting from the acceptance by a Respondent under rule 6.10 of an invitation by the Adjudication Panel under rule 6.6;

(d) any final determination of a Disciplinary Tribunal Panel; and

(e) any final determination of an Appeal Tribunal Panel.

4.23 The Disciplinary ~~Board~~ Committee shall prescribe such arrangements as it thinks fit for the manner in which the following shall be published as soon as reasonably practicable:

(a) determinations of an Adjudication Panel to refer to a Disciplinary Tribunal Panel or, to find Misconduct, and, where relevant, to reprimand, fine or require the completion of a period of education, retraining and/or supervised practice;

(b) the election by the Respondent to refer a matter to a Disciplinary Tribunal Panel under rule 5.18;

(c) Interim Orders and the rescission or variation of those orders;

(d) determinations (with reasons) of a Disciplinary Tribunal Panel and Appeal Tribunal Panel;

(e) referrals to a Disciplinary Tribunal Panel and Appeal Tribunal Panel;

(f) date(s) and place of any public hearings to be held under the Disciplinary Scheme.

4.24 The following arrangements shall apply in respect of Members who are resident and/or practising outside the UK:

(a) The Disciplinary ~~Board~~ Committee may prescribe such arrangements as it sees fit for the implementation under the Disciplinary Scheme of any disciplinary determination imposed on a Member by her/his Primary Professional Regulator.

(b) The Disciplinary ~~Board~~ Committee may prescribe such arrangements for investigation and determination of Allegations against all other Members who are resident and/or practising outside the UK as seem appropriate under the circumstances to accord as nearly as possible with the Disciplinary Scheme.

4.25 Save where fairness requires otherwise, any hearing or meeting of an Interim Orders Panel, an Adjudication Panel, a Disciplinary Tribunal Panel or an Appeal Tribunal Panel can deal with Allegations, Case Reports or Charges involving one or more Respondents and for such purpose appropriate directions may be given under rule 3.5.

5. Investigation stage

Allegations and assignment for investigation

5.1 For the avoidance of doubt, the applicability of this Part 5 is subject to Part 13 of the Disciplinary Scheme (The FRC), which provides for certain circumstances in which action under the Disciplinary Scheme may require to be suspended or to cease.

5.2 Every Allegation received by the Institute and Faculty of Actuaries shall be referred by the Case Manager to the Chair of the Pool of Investigation Actuaries.

5.3 The Chair of the Pool of Investigation Actuaries shall assign one or more Investigation Actuaries to assist the Case Manager in investigating the Allegation and to provide such advice as is required. The Chair of the Pool of Investigation Actuaries shall not however proceed under this rule unless she/he has first considered whether it is appropriate in the circumstances to make a referral for consideration by the Conduct Committee and to proceed under rule 13.6 of the Disciplinary Scheme.

5.4 As soon as reasonably practicable upon an assignment under rule 5.3, the Case Manager shall send to the Respondent:

(a) a copy of the Allegation;

(b) a copy of the Disciplinary Scheme;

(c) the name of the Investigation Actuary; and

(d) the name and contact details of the Case Manager.

5.5 In making an assignment under rule 5.3, or at any time thereafter, the Chair of the Pool of Investigation Actuaries may assign the Allegation to more than one member of the Pool of Investigation Actuaries to assist the Case Manager in investigating the Allegation and, if so, shall nominate one of the Investigation Actuaries as Lead Investigation Actuary.

5.6 The Chair of the Pool of Investigation Actuaries may at any time replace any member serving as an Investigation Actuary with another member of the Pool of Investigation Actuaries or change the nomination of who shall be Lead Investigation Actuary.

Disciplinary Investigations

5.7 (a) The Allegation shall form the basis of the investigation by the Institute and Faculty of Actuaries into the alleged Misconduct.

(b) In addition the investigation:

(i) may take into account any additional conduct of the Respondent which might constitute Misconduct which comes to the notice of the Case Manager and/or the Investigation Actuary during the investigation; and/or

(ii) may be conducted in conjunction with the investigation of any other Allegation being undertaken under the Disciplinary Scheme relating to the Respondent.

5.8 The Case Manager may:

(a) appoint a Member, a solicitor or other person or persons to carry out enquiries on the Institute and Faculty of Actuaries' behalf; and/or

(b) instruct a barrister, advocate or solicitor to assist in the preparation of the Case Report and/or application for an Interim Order and/or Charge, to present the application to an Interim Orders Panel under rule 5.33 and/or to present the Charge to the Disciplinary Tribunal Panel and/or to the Appeal Tribunal Panel.

5.9 The Case Manager may seek and receive from the person making the Allegation and/or any other person such information as she/he thinks proper.

5.10 The Case Manager may interview any Member, the person making the Allegation, the Respondent and/or any other individual. Neither the Respondent nor her/his representatives shall be present during any interview or meeting arranged with any other person unless in her/his discretion the Case Manager consents thereto. The Investigation Actuary may, however, elect to be present.

5.11 The Case Manager and the Investigation Actuary shall have the power:

(a) to require copies or originals of any documents relevant to the investigation from any Member (whether or not such Member is the subject of the investigation);

(b) to require any further information from any Member relating to the subject matter of the investigation;

(c) to require any Member (whether or not such Member is the subject of the investigation) to attend before them (and/or such other persons as they may designate) at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation;

(d) to accept written undertakings from the Respondent as they deem necessary in accordance with guidelines issued by the Disciplinary ~~Board~~ Committee~~under rule 2.41(i)~~; and

(e) to take any legal or other expert advice as to any matter relevant to the subject matter of the investigation.

5.12 The failure by the Respondent to comply with any undertaking accepted under rule 5.11(d) shall amount to *prima facie* evidence of Misconduct.

Expedited procedure for certain matters

5.13 (a) Where at any stage prior to the consideration of an Allegation by the Adjudication Panel, the Case Manager and Investigation Actuary consider that the issues raised by the Allegation are such that it is in the interests of the public and/or of the profession to refer the Allegation directly for consideration by a Disciplinary Tribunal Panel, they shall

proceed in accordance with this rule. The Case Manager and Investigation Actuary shall not however proceed under this rule unless they have first considered whether it is appropriate in the circumstances to make a referral for consideration by the Conduct Committee and to proceed under rule 13.10 of the Disciplinary Scheme.

(b) In a case to which paragraph (a) of this rule 5.13 applies, the Case Manager shall notify the Respondent that the Case Manager and Investigation Actuary are inclined to refer the Allegation directly for consideration by a Disciplinary Tribunal Panel, in accordance with the provisions of this rule. The Respondent shall be asked to confirm in writing within 21 days whether she/he agrees to the Allegation being so referred. If the Respondent does so agree, the Case Manager shall notify the secretary to the Disciplinary Tribunal and the matter shall proceed directly to be heard by a Disciplinary Tribunal Panel in accordance with Part 8 of the Disciplinary Scheme. In that case, a Case Report shall not be prepared and the Case Manager shall proceed directly to prepare a Charge in accordance with rules 6.16 to 6.18 and Parts 6 and 7 of the Disciplinary Scheme shall otherwise not apply.

(c) If the Respondent does not agree to the matter being referred directly to a Disciplinary Tribunal Panel, the matter may only be so referred at the discretion of the Convener of Adjudication Panels, to whom written application may be made for this purpose by the Case Manager. The Respondent shall be provided by the Case Manager with a copy of any such application and accorded reasonable opportunity to make written submission in response to the Convener of Adjudication Panels.

(d) The Convener of Adjudication Panels shall, having considered the application and any submission from the Respondent under paragraph (c), and having taken account of the factors set out in paragraph (g) of this rule 5.13, direct the Case Manager whether or not to refer the matter directly to a hearing of the Disciplinary Tribunal Panel.

(e) In the event that the Convener of Adjudication Panels directs the Case Manager to refer the matter directly to the Disciplinary Tribunal Panel, the secretary to the Adjudication Panel shall notify the following in writing of this decision, which shall be final:

(i) the person who made the Allegation;

(ii) the Respondent;

(iii) the Case Manager;

(iv) the Disciplinary ~~Board~~Committee;

(v) the Institute and Faculty of Actuaries;

and the matter shall proceed directly to be heard by a Disciplinary Tribunal Panel in accordance with Part 8 of the Disciplinary Scheme. In that case, a Case Report shall not be prepared and the Case Manager shall proceed directly to prepare a Charge in accordance with rules 6.16 to 6.18 and Parts 6 and 7 of the Disciplinary Scheme shall otherwise not apply.

(f) In the event that the Convener of Adjudication Panels does not direct the Case Manager to refer the matter directly to the Disciplinary Tribunal Panel, the Case Manager shall proceed to prepare a Case Report in accordance with Part 5 of the Disciplinary Scheme and, subject to the Respondent's right of election under rule 5.18, the matter shall be considered by the Adjudication Panel in accordance with the Disciplinary Scheme.

(g) The factors to be taken into account, as applicable, by the Convener of Adjudication Panels under paragraph (c) of this rule 5.13 are as follows:

(i) whether the Allegation discloses a prima facie case of Misconduct;

(ii) the gravity of the issues raised, including whether the Allegation, if proved, would be likely to give rise to the imposition of sanction at a level exceeding that available to the Adjudication Panel in making an invitation under rule 6.6;

(iii) the extent to which there is a reasonable prospect of establishing the matters giving rise to the Allegation before a Disciplinary Tribunal Panel;

(iv) the interests of the public and/or the profession; and

(v) all other relevant circumstances.

Content of a Case Report

5.14 The Case Report shall contain a statement of all the relevant facts that the Case Manager and Investigation Actuary regard as material to whether or not there has been Misconduct.

5.15 The Case Report shall contain, but is not limited to, a report on the Allegation received under rule 5.2. The Case Report may contain references to matters which may amount to Misconduct outside the scope of the Allegation, if that alleged Misconduct:

(a) has come to the attention of the Case Manager and/or the Investigation Actuary in the course of the investigation; and

(b) is not or has not been the subject of an Allegation being investigated separately and/or a separate Charge.

5.16 The Case Report shall be signed by both the Case Manager and the Investigation Actuary or the Lead Investigation Actuary as the case may be.

Completion of an investigation

5.17 The signed Case Report shall be sent to the Respondent by the Case Manager.

5.18 The Respondent may, within 14 days of receipt of the Case Report sent under rule 5.17, by written notice to the Case Manager, elect to proceed directly to a Disciplinary Tribunal Panel. If so, Part 6 of the Disciplinary Scheme, save for rules 6.16, 6.17 and 6.18, shall not apply.

5.19 Subject to the right of the Respondent to elect to proceed directly to a Disciplinary Tribunal Panel under rule 5.18, the Case Manager shall submit the Case Report to an Adjudication Panel as soon as reasonably practicable after the Case Report has been sent to the Respondent under rule 5.17, and shall invite the Respondent to send, within 14 days of receipt of the Case Report, any comments on the Case Report to the secretary to the Adjudication Panel, for consideration by the Adjudication Panel.

Advisory Reports

5.20 The withdrawal, by the person who made it, of an Allegation at any stage prior to the completion of an investigation shall cause the Case Manager and the Investigation Actuary to consider whether to discontinue the investigation forthwith.

5.21 Where the Case Manager and the Investigation Actuary consider that the investigation should be so discontinued, they shall prepare an Advisory Report for the Adjudication Panel, setting out, with brief reasons, their recommendation that the investigation should be discontinued. The Case Manager shall submit the Advisory Report to an Adjudication Panel as soon as reasonably practicable.

5.22 Where, however, the Case Manager and the Investigation Actuary consider that it is in the interests of the public and/or the profession that the investigation should continue, notwithstanding the withdrawal of the Allegation on which it is based, they shall complete the investigation in accordance with this Part 5 of the Disciplinary Scheme.

5.23 An Advisory Report may also be submitted to an Adjudication Panel, at the discretion of the Case Manager and the Investigation Actuary, where it appears during the course of an investigation either that an Allegation, if found proven, would not disclose a *prima facie* case of Misconduct or where there is no reasonable prospect of establishing the matters giving rise to the Allegation.

5.24 Rules 5.17 to 5.19 of the Disciplinary Scheme shall not apply in relation to the submission to the Adjudication Panel of an Advisory Report.

5.25 If, following consideration of an Advisory Report in accordance with rule 6.3, the Adjudication Panel refers the Allegation back to the Case Manager and Investigation Actuary, the investigation shall be resumed, as appropriate, and a Case Report prepared and submitted in accordance with this Part 5 of the Disciplinary Scheme.

Interim Orders

5.26 An Interim Order is an order made by an Interim Orders Panel for:

(a) a period of supervised practice ~~in the terms provided for under rule 2.43~~; and/or

(b) suspension of any Certificate of the Respondent; or

(c) suspension of the Respondent from membership of the Institute and Faculty of Actuaries.

5.27 An Interim Order shall cease to have effect:

(a) after six months, or such shorter period as may be specified in the order;

(b) on a determination of the Adjudication Panel under rule 6.4(b);

(c) on the acceptance by the Respondent of an invitation issued by the Adjudication Panel under rule 6.6;

(d) on a determination of the Disciplinary Tribunal Panel; or

(e) on a determination of the Interim Orders Panel or the Chair thereof under rule 5.38,

whichever shall be the sooner, unless the order is renewed by a further hearing of an Interim Orders Panel.

5.28 Where there is alleged Misconduct the Case Manager and Investigation Actuary may at any time up to a hearing by the Disciplinary Tribunal Panel submit to an Interim Orders Panel an application for an Interim Order together with the Allegation and/or a Case Report and/or any relevant material in support of the application.

5.29 The Respondent shall forthwith be served with written notice of:

(a) any application to the Interim Orders Panel under rule 5.28, including a copy of the Allegation and any relevant material; and

(b) the hearing of the Interim Orders Panel under rule 5.30.

5.30 On an application under rule 5.28 or at a further hearing under rule 5.36, the Interim Orders Panel shall convene a hearing and shall, subject to rules 5.34 and 5.35, determine (by simple majority) whether to make an Interim Order.

5.31 The Interim Orders Panel, before deciding whether to make an Interim Order under rule 5.30, shall give the Respondent a reasonable opportunity to make representations to the Interim Orders Panel in writing or, at the election of the Respondent, orally, as to:

(a) whether the Interim Orders Panel shall make an Interim Order; and/or

(b) the duration of any Interim Order.

5.32 Any election by the Respondent for an oral hearing under rule 5.31 shall be made by

the Respondent in writing to reach the secretary to the Interim Orders Panel at least seven days prior to the hearing of the Interim Orders Panel convened under rule 5.30.

5.33 In the event of an oral hearing under rule 5.31:

(a) the Case Manager and/or the Investigation Actuary may also attend to present the application; and

(b) the Respondent may attend and make such representations as are provided for in rule 5.31.

5.34 The Interim Orders Panel shall not make an Interim Order under rule 5.30 unless it is satisfied that:

(a) there is sufficient *prima facie* evidence before it to support such allegations; and

(b) such measure is warranted by the seriousness of the alleged Misconduct.

5.35 If the Interim Orders Panel is satisfied that the conditions in rule 5.34 are fulfilled, it shall then have regard to the following considerations in deciding whether to make an Interim Order under rule 5.30 and, if so, the appropriate period to specify under rule 5.27(a):

(a) the effect on the Respondent; and

(b) the protection of the public, including the likelihood of further alleged Misconduct occurring.

5.36 The Interim Orders Panel may hold a further hearing in accordance with the provisions of this Part 5 to consider:

(a) the renewal of an Interim Order when the term of an Interim Order would otherwise expire;

(b) whether to make a further Order.

5.37 The Respondent may by notice under rule 11.21 appeal to the Appeals Tribunal within 14 days of the making of an Interim Order. Such an appeal shall not affect the continued operation of the Interim Order.

5.38 The Case Manager or the Respondent may at any time make an application to the Chair of the Interim Orders Panel for the rescission or variation of an Interim Order on the basis that the circumstances upon which the order was made have changed to a material degree.

5.39 Written notice of the making, rescission or variation of an Interim Order shall be served forthwith upon the Respondent and upon the Institute and Faculty of Actuaries.

5.40 The Interim Orders Panel may be advised by a barrister, advocate or solicitor chosen from the Legal Advisers Pool.

5.41 Subject to rule 5.42 hearings of the Interim Orders Panel shall be in private.

5.42 Hearings of the Interim Orders Panel shall be held in public whenever the Respondent so requests. In the event of a public hearing the Interim Orders Panel may, acting of its own motion or upon the application of any Party, hold all or part of the hearing in private if there is good reason to do so.

6. Adjudication panels

General

6.1 The Adjudication Panel shall meet in private.

6.2 The Adjudication Panel may consider one or more Case Reports submitted under rule 5.19 and one or more Advisory Reports submitted under rules 5.21 or 5.23.

Handling of Advisory Reports

6.3 In the case of an Advisory Report submitted to the Adjudication Panel under rule 5.21 or 5.23,

the Adjudication Panel must either:

(a) determine that no disciplinary action is appropriate, in which case it shall dismiss the Allegation; or

(b) refer the matter back to the Case Manager and Investigation Actuary for further investigation and/or the submission of a Case Report in accordance with the provisions of the Disciplinary Scheme.

Handling of Case Reports

6.4 The Adjudication Panel (by simple majority) shall determine whether:

(a) a Case Report, or one or more matters within it, discloses a *prima facie* case of Misconduct and, if so, that:

(i) the Respondent shall be invited to accept that there has been Misconduct and, where the Adjudication Panel considers it appropriate, invited to accept a sanction in accordance with the procedure in rules 6.6 to 6.10; or

(ii) the matters referred to in the Case Report should be referred to a Disciplinary Tribunal Panel;

or

(b) a Case Report discloses no *prima facie* case of Misconduct and that no disciplinary action shall be taken against the Respondent.

6.5 Before making a determination under rule 6.4, the Adjudication Panel shall consider:

(a) the Allegation;

(b) the Case Report; and

(c) any representations submitted to the Adjudication Panel by the Respondent in accordance with rule 5.19.

6.6 In accordance with rule 6.4(a)(i), the Adjudication Panel may in writing invite the Respondent to accept that there has been Misconduct and, where the Adjudication Panel considers it appropriate:

(a) invite the Respondent to accept a reprimand in terms provided for by the Adjudication Panel; and/or

(b) invite the Respondent to pay within a specified time scale a fine up to the ~~amount provided for under rule 2.41(b~~maximum amount set by the Disciplinary Committee~~)~~; and/or

(c) invite the Respondent to complete a period of education, retraining and/or supervised practice,~~ on terms provided for under rule 2.43 .~~

6.7 When exercising its discretion whether to issue an invitation under rule 6.6, the Adjudication Panel shall have regard to the gravity of the alleged Misconduct as set out in the Allegation and/or the Case Report.

6.8 A determination under rule 6.4 shall be served upon the Respondent and the Institute and Faculty of Actuaries forthwith.

6.9 When making a determination under rule 6.4 or issuing an invitation under rule 6.6, the Adjudication Panel shall provide to the Respondent and the Institute and Faculty of Actuaries a statement of its reasons.

6.10 A Respondent accepting an invitation pursuant to rule 6.6 shall do so in writing within 21 days of such invitation and in so doing:

(a) shall be deemed to have accepted that the conduct in the Case Report as specified by the

Adjudication Panel as amounting to Misconduct is Misconduct for the purposes of the Disciplinary Scheme;

(b) agrees to be bound by any sanction specified as if it was a sanction imposed by a Disciplinary Tribunal Panel save that the appeal procedure in Part 11 of the Disciplinary Scheme shall not apply.

6.11 If the Respondent does not accept, within 21 days, an invitation pursuant to rule 6.6 the conduct in the Case Report shall be referred to a Disciplinary Tribunal Panel.

6.12 The Adjudication Panel may at any time adjourn its consideration of a matter and, in particular, seek further information from the Case Manager and/or the Investigation Actuary or, through the Case Manager, from the Respondent and/or the person making the Allegation to which the Case Report refers. The Adjudication Panel may consider this further information before issuing an invitation under rule 6.6 and/or a determination under rule 6.4.

6.13 Forthwith upon the determination of the Adjudication Panel under rule 6.4(a)(ii) or rule 6.4(b), or the Respondent's acceptance under rule 6.10 of an invitation under rule 6.6, the Adjudication Panel shall communicate the determination and the reasons to the person who made the Allegation to which the Case Report refers.

6.14 If the Respondent has accepted an invitation issued under rule 6.6(c), but has failed to comply with the requirement to complete a period of education, retraining and/or supervised practice, the Adjudication Panel (which may be newly constituted) shall consider any evidence submitted to it that the Respondent has not so complied with such a requirement. Such evidence may be submitted to the Adjudication Panel by the Case Manager and/or such other person as may have been appointed by the Adjudication Panel to supervise or monitor compliance by the Respondent with the agreed requirement. If satisfied that the Respondent has not complied with such a requirement, the Adjudication Panel shall, having regard to the evidence produced, reconsider the Case Report afresh in accordance with the provisions of this Part 6 of the Disciplinary Scheme.

6.15 The Adjudication Panel may be advised by a barrister, advocate or solicitor chosen from the Legal Advisers Pool.

Charges

6.16 A determination under rule 6.4(a)(ii) to refer the matter to a Disciplinary Tribunal Panel or an election by a Respondent under rule 5.18, or a direct referral under rule 5.13, shall cause the Case Manager to prepare a Charge in accordance with the provisions of rules 6.17 and 6.18, for submission to a Disciplinary Tribunal Panel.

6.17 A Charge shall include where necessary concise particulars of the Charge and a statement of all the facts and matters that the Case Manager regards as material. The Charge shall be supported where necessary by documentary and other evidence.

6.18 The Charge shall not be limited to the matters within the scope of the Allegation or the Case Report. The Charge may contain alleged Misconduct outside the scope of the Allegation or the Case Report, provided that:

(a) such alleged Misconduct is not or has not been the subject of an Allegation being investigated separately and/or a separate Charge; and

(b) the Respondent is given a proper opportunity to answer the additional matters in the Charge.

7. Review by the Independent Examiner

Grounds for review

7.1 Where:

(a) the Adjudication Panel has determined under rule 6.4(b) that a Case Report does not disclose a prima facie case of Misconduct and no disciplinary action shall be taken against the Respondent; and

(b) the person who made the Allegation on which the Case Report is based, is dissatisfied with the determination in so far as it relates to the Allegation she/he made,

then, subject to rules 7.2 to 7.3, she/he may refer the determination insofar as relating to her/his Allegation for review by the Independent Examiner.

7.2 No referral for review shall be made:

(a) in the event of a determination under rule 6.4(a); or

(b) of a decision pursuant to rules 14.12 and 14.13.

7.3 A referral under rule 7.1 shall be made only on the following grounds:

(a) that the determination of the Adjudication Panel was manifestly unreasonable or wrong in law; and/or

(b) that there was injustice because of a serious procedural or other irregularity in the proceedings before the Adjudication Panel; and/or

(c) that significant and relevant new evidence has come to light which was not previously available and could not reasonably have been made available during the investigation.

7.4 A referral shall:

(a) be made in writing to reach the Independent Examiner within 28 days after communication of the determination of the Adjudication Panel under rule 6.4(b) to the person making the referral;

(b) state on which of the grounds in rule 7.3 the referral is based. The grounds so stated shall not thereafter be altered except with the leave, reasonable cause having been shown, of the Independent Examiner.

7.5 If the referral was not made within the period set out in rule 7.4(a), the Independent Examiner shall refuse to accept the referral, except that, in exceptional circumstances, and upon the basis of reasonable cause shown, she/he shall be entitled to accept a referral outwith this time period.

7.6 (a) Subject to rule 7.5, the Independent Examiner may accept a referral if she/he is satisfied that the person making the referral has stated an arguable and relevant basis for that referral in accordance with rule 7.3. If accepted, the Independent Examiner shall send a copy of the referral to the Institute and Faculty of Actuaries.

(b) If she/he is not so satisfied, in her/his sole discretion, the Independent Examiner shall inform the person making the referral that the referral is not accepted, and shall send a copy of her/his decision to the Institute and Faculty of Actuaries.

Conduct of the review

7.7 The review conducted by the Independent Examiner shall include consideration, as appropriate, of:

(a) the determination reached by the Adjudication Panel under rule 6.4(b);

(b) the investigation procedures followed under Part 5;

(c) the procedures followed by the Adjudication Panel in making its determination;

(d) the Allegation;

(e) the Case Report and any other material considered by the Adjudication Panel; any

representations made to the Independent Examiner by the person making the referral;

(f) any representations made to the Independent Examiner by the Respondent; and

(g) any representations made to the Independent Examiner by the Case Manager, having regard to the grounds set out in rule 7.3.

7.8 The Disciplinary ~~Board~~ Committee shall have power to make regulations for the procedure of the Independent Examiner. Subject to the Disciplinary Scheme and such regulations made under this rule, the Independent Examiner has discretion to determine her/his own procedure.

Determination of the Independent Examiner

7.9 After concluding her/his review, the Independent Examiner shall either:

(a) affirm the determination of the Adjudication Panel; or

(b) remit papers to an Adjudication Panel for reconsideration having taken into account the matters contained in the review of the Independent Examiner,

giving reasons for her/his determination in either case.

7.10 When remitting papers to an Adjudication Panel under rule 7.9(b) the Independent Examiner shall specify whether the Adjudication Panel should, so far as reasonably possible, comprise the same members who dealt with the matter which was the subject of her/his review or should be a newly constituted Adjudication Panel.

7.11 The determination of the Independent Examiner under rule 7.9 and her/his reasons shall be notified in writing to:

(a) the person who made the referral;

(b) the Respondent;

(c) the Adjudication Panel;

(d) the Case Manager;

(e) the Disciplinary ~~Board~~Committee; and

(f) the Institute and Faculty of Actuaries.

7.12 Any decision of the Independent Examiner under rule 7.5 or rule 7.6 and any determination of her/his under rule 7.9 shall be final and there shall be no appeal against any such decision or determination.

7.13 The determination of an Adjudication Panel to whom a matter has been remitted under rule 7.9(b) shall not be subject to further referral to the Independent Examiner.

General

7.14 A referral to the Independent Examiner may be withdrawn at any time by the person who made it, whereupon the review under this Part 7 of the Disciplinary Scheme shall cease.

7.15 The Independent Examiner may seek and receive advice from any individual on legal or actuarial matters.

7.16 The Independent Examiner may provide to the Disciplinary ~~Board~~ Committee from time to time a report covering such matters as she/he thinks fit in relation to the operation of the Disciplinary Scheme and the procedures adopted by the Case Manager, the Investigation Actuary and the Adjudication Panel.

8. Disciplinary Tribunal Panels

Charges

8.1 The Institute and Faculty of Actuaries, assisted by the Investigation Actuary, shall be responsible for presenting the Charge and relevant evidence to the Disciplinary Tribunal Panel.

8.2 The Case Manager shall serve the Charge on the Respondent and submit the Charge to the secretary to the Disciplinary Tribunal Panel following:

(a) a referral to the Adjudication Panel under rule 6.4(a)(ii); or

(b) an election by the Respondent to proceed directly to a Disciplinary Tribunal Panel under rule 5.18; or

(c) a direct referral under rule 5.13.

8.3 As soon as reasonably practicable following receipt of the Charge submitted under rule 8.2, the secretary of the Disciplinary Tribunal Panel shall provide notice in writing of the date, time, venue and duration of the hearing to each of the following:

(a) the Respondent

(b) the Case Manager

(c) the Investigation Actuary; and

(d) the Institute and Faculty of Actuaries.

Pre-hearing procedure (service of grounds of defence and documentary evidence)

8.4 The Respondent, if not intending to make an admission of Misconduct shall, subject to any decision of the Chair of the Disciplinary Tribunal Panel under this rule to the contrary, serve upon the secretary to the Disciplinary Tribunal Panel and the Investigation Actuary written grounds of defence to be received not later than 21 days following service of the Charge under rule 8.2.

8.5 The Institute and Faculty of Actuaries may amend the Charge, provided that:

(a) The Respondent is given a proper opportunity to answer any new matters introduced by the amendment; and

(b) The Case Manager serves the amended Charge to reach the Respondent and secretary to the Disciplinary Tribunal Panel not later than 28 days prior to the Disciplinary Tribunal hearing.

8.6 All Parties must serve upon the secretary to the Disciplinary Tribunal Panel and each other no later than 21 days before the hearing the copies of the documents upon which they intend to rely.

8.7 The Respondent may amend any grounds of defence served under rule 8.4, provided that such amended grounds of defence are served such as to reach the secretary to the Disciplinary Tribunal Panel and Case Manager not later than 14 days prior to the Disciplinary Tribunal Panel hearing.

8.8 Where written grounds of defence have been served under rule 8.4 the Investigation Actuary and the Respondent shall, subject to any decision of the Chair of the Disciplinary Tribunal Panel under this rule to the contrary, provide to the Disciplinary Tribunal Panel submissions on any point of law identified by the Parties which may be required to be considered by the Disciplinary Tribunal Panel no less than 7 days before the hearing. Any legal submission shall be in the form of a skeleton argument and shall be accompanied by copies of supporting authorities.

Rights of the Respondent

8.9 The Respondent shall be given a proper opportunity of answering the Charge.

8.10 The Respondent shall be entitled to make representations and call any witnesses before the

Disciplinary Tribunal Panel in relation to:

(a) whether or not there has been Misconduct; and/or

(b) if she/he accepts that there has been Misconduct or is found guilty of Misconduct by the Disciplinary Tribunal Panel, mitigation as to the sanction.

General provisions for the Disciplinary Tribunal Panel

8.11 Where in the opinion of the Disciplinary Tribunal Panel the Charge does not show a prima facie case of Misconduct the Disciplinary Tribunal Panel may dismiss the Charge without hearing the Parties.

8.12 The Chair of the Disciplinary Tribunal Panel may require the Respondent and the Institute and Faculty of Actuaries and/or their representatives to appear before her/him from time to time for the purpose of making such orders as she/he shall think fit as to procedural matters for the proper determination of the matter by the Disciplinary Tribunal Panel. Any procedural hearings under this rule shall be held in private.

8.13 On the application of any Party, the Chair of the Disciplinary Tribunal Panel may order the disclosure of documents in another Party's possession if they are relevant and if she/he considers that it is fair in all the circumstances that the documents should be so disclosed.

8.14 The Chair of the Disciplinary Tribunal Panel shall not require under rule 8.13 the production of any document which is the subject of legal professional privilege or which might tend to incriminate or expose the Respondent to penalties imposed by law.

8.15 Where a Charge concerns:

(a) acts, omissions or other conduct committed by that Respondent outside the United Kingdom; or

(b) facts which may best be ascertained by the Disciplinary Tribunal Panel sitting outside the United Kingdom,

and in the opinion of the Disciplinary Tribunal Panel it is necessary, convenient or in the interests of justice for it to sit outside the United Kingdom, then the Disciplinary Tribunal Panel may in its discretion convene outside the United Kingdom for the purpose of taking some or all of the evidence in the matter or for the purpose of disposing of the matter.

Hearings

8.16 Subject to rule 8.17, the Disciplinary Tribunal Panel shall hear the Charge in public.

8.17 The Disciplinary Tribunal Panel may, acting of its own motion or upon the application of any Party, hear the Charge, in full or in part, in private if there is good reason to do so.

8.18 At any stage the Disciplinary Tribunal Panel may appoint a barrister, advocate or solicitor from the Legal Advisers Pool to assist it in any matters of law or procedure. Such adviser may be present at any hearing and may give such advice to the members of the Disciplinary Tribunal Panel during any private deliberations as may be requested by them. Any advice given in private must be made available to the Parties and included in the record of the hearing.

8.19 Subject to the Disciplinary Scheme, the Disciplinary Tribunal Panel shall have complete discretion over the procedure to be adopted before it and may, save where fairness requires otherwise, consolidate or hear together any related Charge or Charges under the Disciplinary Scheme.

(a) The Disciplinary Tribunal Panel may at any time before or during the hearing direct that a Charge or any particulars of a Charge shall be amended, provided that the Disciplinary Tribunal Panel (or the Chair of the Disciplinary Tribunal Panel if prior to the substantive hearing) is satisfied that the Respondent will not be substantially prejudiced in the conduct

of her/his defence by the making of such an amendment; and

(b) the Disciplinary Tribunal Panel shall, if so requested by the Respondent, adjourn for such time as is reasonably necessary to enable her/him to deal with the Charge as so amended.

8.20 At the conclusion of the hearing, the Disciplinary Tribunal Panel shall determine, by simple majority, if a Charge of Misconduct has been established. In the absence of such a majority, the Charge shall be dismissed.

8.21 In determining its findings on the Charge and the sanction, the Disciplinary Tribunal Panel shall not have regard to any proceedings or correspondence of the Adjudication Panel under Part 6 of the Disciplinary Scheme or of the Independent Examiner under Part 7 of the Disciplinary Scheme or to any decision under rule 5.13 in relation to the matters giving rise to the Charge.

8.22 If the Disciplinary Tribunal Panel determines that the Respondent has been guilty of Misconduct, the Disciplinary Tribunal Panel shall:

(a) determine that no sanction is appropriate; or

(b) impose one or more of the following sanctions:

(i) reprimand the Respondent;

(ii) order the payment of a monetary fine by the Respondent;

(iii) suspend any Certificate of the Respondent;

(iv) withdraw any Certificate of the Respondent;

(v) exclude the Respondent from holding any Certificate for any period it thinks appropriate up to a maximum of five years, which must elapse before any application to hold such a Certificate may be submitted to the Institute and Faculty of Actuaries;

(vi) suspend the Respondent from membership of the Institute and Faculty of Actuaries for any period it thinks appropriate up to a maximum of two years;

(vii) expel the Respondent from membership of the Institute and Faculty of Actuaries for any period it thinks appropriate up to a maximum of five years, which must elapse before an application for readmission as a Member may be granted in accordance with Part 10 of the Disciplinary Scheme;

(viii) exclude the Respondent (being a former Member who is subject to the Disciplinary Scheme pursuant to rule 4.4) from membership of the Institute and Faculty of Actuaries for any period it thinks appropriate up to a maximum of five years, which must elapse before an application for readmission as a Member may be granted in accordance with Part 10 of the Disciplinary Scheme;

(ix) order the Respondent to complete a period of education, retraining and/or supervised practice~~, on terms provided for under rule 2.43~~;

(x) impose conditions on the Member's continued membership of the Institute and Faculty of Actuaries, or on their continuing to hold any Certificate.

8.23 If a sanction has been imposed under rule 8.22(b)(ix), the Disciplinary Tribunal Panel (or a newly constituted Disciplinary Tribunal Panel) may be recalled on the application of the Investigation Actuary and impose a further sanction should the Respondent not comply with the terms of the sanction of education, retraining and/or supervised practice first imposed.

Costs

8.24 The Disciplinary Tribunal Panel may make an award of costs against the Respondent or the Institute and Faculty of Actuaries as it considers appropriate.

Communication of determination

8.25 A determination of the Disciplinary Tribunal Panel shall be served upon the Respondent forthwith, which determination shall be effective from the date of its making. The Disciplinary Tribunal Panel's reasons shall be served upon the Respondent when the determination is served or as soon as reasonably practicable thereafter.

8.26 The Disciplinary Tribunal Panel shall also communicate its determination and reasons to:

(a) the Investigation Actuary;

(b) the person making the Allegation;

(c) the Disciplinary ~~Board~~Committee; and

(d) the Institute and Faculty of Actuaries.

9. Transfer to a Capacity for Membership Panel

9.1 At any stage prior to a determination being issued by an Adjudication Panel or Disciplinary Tribunal Panel under the Disciplinary Scheme, the Case Manager and/or Investigation Actuary, and/or the Respondent may apply to the relevant Adjudication Panel or Disciplinary Tribunal Panel for the matter to be transferred for consideration by a Capacity for Membership Panel under Section III.

9.2 Upon receipt of an Application under rule 9.1, the Adjudication Panel or Disciplinary Tribunal Panel as the case may be, shall decide whether the matter should be appropriately heard by a Capacity for Membership Panel. The Adjudication Panel or Disciplinary Tribunal Panel may only grant such a request where it is satisfied that; -

(a) there is prima facie evidence of Misconduct;

(b) there is prima facie evidence that the Respondent's current capacity to hold membership of the Institute and Faculty of Actuaries may be materially impaired by reason of illness or other relevant health or medical condition and that any such impairment is directly relevant to the allegation or charge; and

(c) it is in the public interest that the request is granted.

9.3 Where the Adjudication Panel or Disciplinary Tribunal Panel determines that a matter should be transferred for consideration by a Capacity for Membership Panel, the matter shall be considered as soon as practicable by a Capacity for Membership Panel in accordance with Section III and the Adjudication Panel or Disciplinary Tribunal Panel considering the matter under this Part 9 shall stand down.

9.4 The relevant Adjudication Panel or Disciplinary Tribunal Panel shall provide written reasons to the Parties for its decision to grant or refuse an Application.

9.5 Nothing in this Part 9 shall prevent an Adjudication Panel or Disciplinary Tribunal Panel from exercising its discretion in determining in the absence of an Application that a matter should be transferred for consideration by a Capacity for Membership Panel, where it is satisfied that the conditions in rule 9.2 above are fulfilled.

9.6 Nothing in this Part 9 shall prevent an Adjudication Panel from issuing an invitation to a Respondent in accordance with rule 6.6 of the Disciplinary Scheme.

10. Readmission to membership following disciplinary expulsion or exclusion

Application

10.1 A Member who, in accordance with the Disciplinary Scheme or the FRC Scheme, has been expelled or excluded from membership for a specified period, and who subsequently wishes to apply for readmission, may only do so by application in writing to the Institute and Faculty of

Actuaries in accordance with this Part 10 and with such regulations as may for this purpose be issued by the Disciplinary ~~Board~~Committee.

10.2 In the case of the first such application, this may be made at the earliest three months prior to the expiry of the specified period of expulsion or exclusion. No subsequent application may be made prior to the expiry of a period of one year, or such shorter period as the Disciplinary Tribunal Panel may at its discretion determine, following the determination of the first such application.

Action on receipt of an application

10.3 Upon receipt of an application for readmission under this rule, the Chief Executive of the Institute and Faculty of Actuaries shall notify the Convener of Disciplinary Tribunal Panels and assign the application to a Case Manager. Where the Applicant was subject to exclusion or expulsion under the FRC Scheme, the Chief Executive of the Institute and Faculty of Actuaries shall also notify the Conduct Committee.

10.4 The Case Manager may make such investigations, and obtain such information, documents or reports as she/he considers appropriate, including inquiries as to the Applicant's conduct before and after the order for exclusion or expulsion.

Hearing the application

10.5 The Convener of Disciplinary Tribunal Panels shall convene a Disciplinary Tribunal Panel to hear the application or may assign the application for hearing by a Disciplinary Tribunal Panel already convened for hearing a different matter.

10.6 Not later than 28 days before the hearing before a Disciplinary Tribunal Panel to consider her/his application, the Applicant shall receive from the secretary to the Disciplinary Tribunal Panel notice of the hearing:

(a) requesting the Applicant to notify, within 14 days of the date of the notice, whether she/he wishes to attend the hearing; and

(b) inviting the Applicant, if she/he chooses not to attend the hearing, to make written representations to be received by the secretary no later than 14 days before the hearing.

10.7 The notice under rule 10.6 shall be accompanied by a copy of any statement, report or other document which:

(a) has not previously been sent to the Applicant; and

(b) has been made available to the Disciplinary Tribunal Panel for the purposes of its consideration of the application.

10.8 If any statement, report or other document is subsequently obtained by the Case Manager which is relevant to the Disciplinary Tribunal Panel's consideration of the matter, this may be made available to the Disciplinary Tribunal Panel, subject to the Applicant being given a reasonable opportunity to consider and comment upon any such additional documentation prior to the Disciplinary Tribunal Panel making its determination.

10.9 Subject to rule 10.10 the Disciplinary Tribunal Panel shall hear the application in public.

10.10 The Disciplinary Tribunal Panel may, acting of its own motion or upon the application of any Party, hear the application, in full or in part, in private if there is good reason to do so.

10.11 The Disciplinary Tribunal Panel and the Parties shall be provided, as soon as reasonably practicable with:

(a) the determination of the Disciplinary Tribunal Panel or Appeal Tribunal Panel which imposed or affirmed the exclusion or expulsion;

(b) any record of the proceedings before the Disciplinary Tribunal Panel, and where applicable

before the Appeal Tribunal Panel;

(c) any relevant documentary and other evidence including papers from the Applicant in support of readmission.

10.12 Unless the Disciplinary Tribunal Panel determines otherwise, the order of proceedings at a readmission hearing shall be as follows:

(a) the Institute and Faculty of Actuaries shall:

(i) inform the Disciplinary Tribunal Panel of the background to the case, and, the circumstances in which the Applicant was expelled or excluded from membership; and

(ii) direct the attention of the Disciplinary Tribunal Panel to any relevant evidence and may call witnesses in relation to the Applicant's suitability for readmission to membership;

where the facts relating to any matter are in dispute the Institute and Faculty of Actuaries shall bear the burden of proving such facts to the standard referred to in rule 1.5.

(b) the Applicant may provide any relevant evidence on which she/he intends to rely and call witnesses in relation to any relevant matter, including her/his suitability for readmission to membership;

(c) the Disciplinary Tribunal Panel may question the Parties;

(d) the Disciplinary Tribunal Panel shall determine, by simple majority, whether to accept or refuse the application;

(e) the Disciplinary Tribunal Panel shall give reasons for its determination.

10.13 In reaching its determination the Disciplinary Tribunal Panel shall consider all relevant factors including where appropriate the circumstances of the Applicant, the Applicant's behaviour since expulsion or exclusion, the steps which the Applicant has taken to keep up to date with professional standards and practice, the nature of any professional opportunities open to the Applicant and whether, if readmitted, the Applicant could be expected to uphold the standards expected of a Member.

10.14 The provisions of rule 8.18 shall apply to the hearing, and of rules 8.25 and 8.26 to the communication of the determination.

11. Appeals

11.1 On appeal, the Respondent shall be known as the Appellant. The Institute and Faculty of Actuaries shall have the right to participate in proceedings as a part for the purposes of Part 11. The Respondent may by notice appeal against:

(a) a determination of a Disciplinary Tribunal Panel under Part 8 of the Disciplinary Scheme;

(b) an Interim Order; and/or

(c) a refusal of readmission to membership following disciplinary expulsion or exclusion.

Appeal against a determination by the Disciplinary Tribunal Panel under Part 8

11.2 A notice of appeal under rule 11.1 shall be given in writing and served upon the Chair of the Appeals Tribunal and the Institute and Faculty of Actuaries no later than 28 days after the receipt by the Respondent of the written determination of the Disciplinary Tribunal Panel (or such longer period as the Chair of the Disciplinary Tribunal Panel may decide on the application of the Respondent).

11.3 A notice of appeal under rule 11.1(a) shall request leave to appeal and state the grounds of the

appeal. The grounds of appeal so stated shall not thereafter be amended except, reasonable cause having been shown, with the leave of the Appeal Tribunal Panel appointed under rule 2.32 to hear the appeal.

11.4 The Respondent may appeal on any one or more of the following grounds:

(a) that the determination of the Disciplinary Tribunal Panel was manifestly unreasonable, inconsistent with the evidence or wrong in law; and/or

(b) that there was injustice because of a serious procedural or other irregularity in the proceedings before the Disciplinary Tribunal Panel; and/or

(c) that significant and relevant new evidence has come to light which was not previously available to the Respondent and could not have become available to her/him on the making of reasonable enquiry; and/or

(d) that the sanction imposed was manifestly unreasonable.

11.5 Upon receiving a notice of appeal the Chair of the Appeals Tribunal shall, if satisfied that it discloses arguable grounds for appeal under rule 11.4, appoint an Appeal Tribunal Panel to hear the appeal in accordance with the provisions of the Disciplinary Scheme.

11.6 If the notice of appeal was not served within the timescale set out in rule 11.2 the Chair of the Appeals Tribunal shall refuse leave to appeal, except that, in exceptional circumstances, and upon the basis of reasonable cause shown, she/he shall be entitled to accept a referral outwith this time period.

11.7 If in the Chair's absolute discretion leave to appeal is not granted, the determination of the Disciplinary Tribunal Panel shall continue to apply. Where leave to appeal is granted, the Respondent shall thereafter be referred to as the Appellant.

11.8 Where the Appellant has been expelled, excluded or suspended under rule 8.22 or where any Certificate of the Appellant has been withdrawn or suspended under rule 8.22, the Appellant shall remain suspended, excluded or expelled from membership or the holding of any Certificate and the Certificate of the Appellant shall remain withdrawn or suspended, as the case may be, until the appeal has been determined.

11.9 The secretary of the Appeals Tribunal shall provide to the Chair of the Appeals Tribunal as soon as reasonably practicable:

(a) the determination of the Disciplinary Tribunal Panel; any record of the proceedings before it; and

(b) any documentary evidence and any other evidence and written submissions placed before it.

11.10 The Chair of the Appeal Tribunal Panel shall appoint a hearing of the appeal and shall give reasonable notice in writing of the hearing to the Parties, but such hearing shall be vacated in the event of the Appellant withdrawing her/his notice of appeal.

11.11 At any time before the determination of the appeal by the Appeal Tribunal Panel the Appellant may withdraw her/his notice of appeal by writing to the secretary of the Appeals Tribunal, whereupon the appeal shall be deemed dismissed and the Appeal Tribunal Panel shall, if requested to do so by any Party, consider the making of a cost determination pursuant to rule 11.16(c).

11.12 Subject to rule 11.13, the hearing of the appeal shall normally be by way of review of the papers provided under rule 11.9 and shall be conducted in private.

11.13 The Appeal Tribunal Panel may, at the absolute discretion of its Chair, permit an oral appeal hearing and:

(a) give the Appellant a reasonable opportunity to be heard before it and to call any witnesses before the Appeal Tribunal Panel;

(b) hear or re-hear any witnesses who gave oral evidence before the Disciplinary Tribunal Panel;

(c) admit fresh evidence if it is reasonable and in the interests of justice to do so; and

(d) obtain legal or other advice or opinions as appropriate.

11.14 Subject to rule 11.15, any oral hearing of the Appeal Tribunal Panel shall be in public.

11.15 The Appeal Tribunal Panel may, acting of its own motion or upon the application of any Party, hear any oral appeal, in full or in part, in private if there is good reason to do so.

11.16 The Appeal Tribunal Panel shall make one or more of the following determinations on the appeal:

(a) affirm, vary or rescind any determination of the Disciplinary Tribunal Panel;

(b) substitute any other determination or determinations which the Disciplinary Tribunal Panel may have made, which may include substituting a more severe sanction;

(c) make an award of costs against the Appellant or Institute and Faculty of Actuaries as it considers appropriate.

11.17 The Appeal Tribunal Panel shall make its determination by simple majority.

11.18 The determination of the Appeal Tribunal Panel shall be final.

11.19 A determination of the Appeal Tribunal Panel shall be served upon the Appellant forthwith, which determination shall be effective from the date of its making. The Appeal Tribunal Panel's reasons shall be served upon the Appellant when the determination is served or as soon as reasonably practicable thereafter.

11.20 The Appeal Tribunal Panel shall also communicate its determination and reasons to:

(a) the Disciplinary Tribunal Panel;

(b) the Case Manager;

(c) the person who made the Allegation;

(d) the Disciplinary ~~Board~~Committee; and

(e) the Institute and Faculty of Actuaries.

Appeal against Interim Orders

11.21 A notice of appeal under rule 11.1(b) shall be given in writing and served upon the Case Manager and upon the Chair of the Appeals Tribunal no later than 14 days after the making of an Interim Order under rule 5.30 (or such longer period as the Chair of the Appeals Tribunal may decide on the application of the Appellant).

11.22 Any notice of appeal shall:

(a) identify the Interim Order or determination appealed against; and

(b) state the ground(s) of appeal; and

neither the scope of the appeal, nor the grounds so stated, shall be amended or changed except, reasonable cause having been shown, with the leave of the Appeal Tribunal Panel appointed to hear the appeal.

11.23 The Interim Order shall remain in force until the appeal is determined.

11.24 The secretary of the Appeals Tribunal shall notify the person who made the Allegation of any appeal under rule 11.1(b).

11.25 The Chair of the Appeal Tribunal Panel shall appoint a hearing of the appeal and shall give reasonable notice in writing of the hearing to the Parties, but such hearing shall be vacated in the event of the Appellant withdrawing her/his notice of appeal.

11.26 At any time before the determination of the appeal by the Appeal Tribunal Panel the Appellant may withdraw her/his notice of appeal whereupon the appeal shall be deemed dismissed and the Appeal Tribunal Panel shall, if requested to do so by any Party, consider the making of a cost determination pursuant to rule 11.31(c).

11.27 Subject to rule 11.28, the hearing of the appeal shall normally be by way of review of the papers and shall take place in private.

11.28 The Appeal Tribunal Panel may, at the absolute discretion of its Chair, permit an oral hearing and:

(a) give the Appellant a reasonable opportunity to be heard before it on the question of whether an Interim Order should be imposed;

(b) admit fresh evidence relevant to whether an Interim Order should be affirmed, if it is reasonable and in the interests of justice to do so; and

(c) obtain such legal or other advice or opinions as appropriate.

11.29 Subject to rule 11.30, any oral hearing of the Appeal Tribunal Panel arising from an appeal against an Interim Order shall be in private.

11.30 Oral hearings of the Appeal Tribunal Panel arising from an appeal against an Interim Order shall be held in public whenever the Appellant so requests. In the event of a public hearing the Appeal Tribunal Panel may, acting of its own motion or upon the application of any Party, hold all or part of the hearing in private if there is good reason to do so.

11.31 The Appeal Tribunal Panel shall make one or more of the following determinations on the appeal:

(a) affirm, vary or rescind any determination of the Interim Orders Panel;

(b) substitute any other determination or determinations which the Interim Orders Panel may have made;

(c) make an award of costs against the Appellant or Institute and Faculty of Actuaries as it considers appropriate.

11.32 The Appeal Tribunal Panel shall make its determination by simple majority.

11.33 The determination of the Appeal Tribunal Panel shall be final.

11.34 A determination of the Appeal Tribunal Panel shall be served upon the Appellant forthwith, which determination shall be effective from the date of its making. The Appeal Tribunal Panel's

reasons shall be served upon the Appellant when the determination is served or as soon as reasonably practicable thereafter.

11.35 The Appeal Tribunal Panel shall also communicate its determination and reasons to:

(a) the Interim Orders Panel;

(b) the Case Manager;

(c) the person who made the Allegation;

(d) the Disciplinary ~~Board~~Committee; and

(e) the Institute and Faculty of Actuaries.

Appeal against refusal of readmission to membership following disciplinary expulsion or exclusion

11.36 An Applicant whose application for readmission is refused may, within 28 days of the date on which the written reasons for such refusal are sent to her/him, serve in writing a notice of appeal addressed to the Chair of the Appeals Tribunal.

11.37 The determination of the Disciplinary Tribunal Panel regarding readmission to membership shall remain in force until the appeal is determined.

11.38 (a) A notice of appeal shall state the grounds of appeal.

(b) The grounds of appeal shall be one or more of the following:

(i) that the determination was manifestly unreasonable, and/or inconsistent with the evidence and/or wrong in law; and/or

(ii) that there was injustice because of a serious procedural or other irregularity in the proceedings before the Disciplinary Tribunal Panel; and/or

(iii) that significant and relevant new evidence has come to light which was not previously available to the Applicant and could not reasonably have been made available to the Disciplinary Tribunal hearing.

(c) If the Chair of the Appeals Tribunal considers that there is an arguable basis for the appeal on any of the foregoing grounds she/he shall grant leave to appeal and shall appoint an Appeal Tribunal Panel to hear the appeal.

(d) Thereafter the grounds for appeal may not be amended without the leave, on reasonable cause shown, of the Appeal Tribunal Panel or its Chair.

(e) If the Chair decides not to grant leave to appeal, she/he shall issue to the Parties and the Disciplinary ~~Board~~ Committee written reasons for her/his decision, and her/his decision shall be final.

11.39 At any time before the determination of the appeal by the Appeal Tribunal Panel the Applicant may withdraw her/his notice of appeal, whereupon the appeal shall be deemed dismissed and the Appeal Tribunal Panel shall, if requested to do so by any Party, consider the making of a cost determination pursuant to rule 11.44(d).

11.40 Subject to rule 11.41, the hearing of the appeal shall normally be by way of review of the papers and shall take place in private.

11.41 The Appeal Tribunal Panel may, at the absolute discretion of its Chair, permit an oral hearing and:

(a) hear new evidence adduced pursuant to rule 11.38(b)(iii); and/or

(b) permit the Applicant and/or the Case Manager to make oral representations and call any

witnesses.

11.42 The Appeal Tribunal Panel and the Parties shall be provided, as soon as reasonably practicable, with:

(a) the determination of the Disciplinary Tribunal Panel which refused readmission;

(b) any record of the proceedings before it;

(c) any documentary evidence and any other evidence and written submissions placed before it; and

(d) the notice of appeal and supporting papers.

11.43 Any oral hearing of the Appeal Tribunal Panel shall be in public except that the Appeal Tribunal Panel may, acting of its own motion or upon the application of any Party, determine to conduct the oral hearing, in full or in part, in private, if there is good reason to do so.

11.44 The Appeal Tribunal Panel may:

(a) affirm the refusal of the application, and may also determine that a further application from the Applicant should not be considered within a specific period of time (having regard to rule 10.13); or

(b) allow the appeal, granting readmission; or

(c) if it is of the view that it is necessary in the interests of justice to do so, in light of new evidence adduced pursuant to rule 11.38(b)(iii);

(i) remit the application to a Disciplinary Tribunal Panel for rehearing; and

(ii) when remitting the application, specify whether it should be re-heard by the same Disciplinary Tribunal Panel whose determination had been appealed or by a newly constituted Disciplinary Tribunal Panel; and

(d) make an award of costs against the Appellant and/or Institute and Faculty of Actuaries as it considers appropriate.

11.45 The provisions of rules 11.17 to 11.20 shall also apply to appeals under this rule.

12. Costs orders and fines

12.1 A fine or an award of costs made by the Disciplinary Tribunal Panel or by the Appeal Tribunal Panel shall be recoverable by the Respondent, Appellant or the Institute and Faculty of Actuaries in whose favour the order is made as a debt due from the Respondent or the Institute and Faculty of Actuaries against whom the order is made.

12.2 Any fine payable or costs ordered to be paid shall be paid by the paying party within 28 days:

(a) of the Disciplinary Tribunal Panel's determination unless notice of appeal is given in which case the period of 28 days begins from the notification, as the case may be, of the Chair of the Appeals Tribunal's decision to refuse leave, or of the dismissal of the appeal under rule 11.11, or of the determination of the appeal under rule 11.16; or

(b) of the Respondent's acceptance of an invitation of the Adjudication Panel under rule 6.10.

12.3 If a Respondent or Appellant does not pay any fine or award of costs imposed under the Disciplinary Scheme or the FRC Scheme in the time required, she/he may be guilty of Misconduct and further disciplinary proceedings may be commenced against her/him under the Disciplinary Scheme.

13. The FRC

Duty to co-operate

13.1 The Respondent and any Member (not being a Respondent) shall ensure her/his or her full and prompt co-operation with the FRC and/or its representatives in connection with any investigation under the FRC Scheme, and in particular (but without limitation) provide the FRC with all information and copies of documents relevant to the investigation which are in the Member's control.

Call-in of cases by the Conduct Committee

13.2 If, before the making of any determination under rule 6.4, or as the case may be the exercise by the Respondent of the right of election under rule 5.18, the Institute and Faculty of Actuaries receives notice in writing from the Conduct Committee that the Conduct Committee is considering whether an Allegation currently being dealt with under the Disciplinary Scheme should be investigated under the FRC Scheme, then:

(a) any action in relation to that Allegation under the Disciplinary Scheme shall immediately be suspended; and

(b) the Respondent, the person who made the Allegation, the Investigation Actuary, the Disciplinary ~~Board~~ Committee and, if appropriate, the Adjudication Panel shall be informed that investigation of the Allegation is suspended pending the determination of the Conduct Committee as to whether the Allegation should be investigated under the FRC Scheme.

13.3 Where the Conduct Committee determines that the Allegation should be investigated under the FRC Scheme:

(a) no further investigation shall be undertaken, and no determination shall be made, under the Disciplinary Scheme; and

(b) the Respondent, the person who made the Allegation, the Investigation Actuary, the Disciplinary ~~Board~~ Committee and, if appropriate, the Adjudication Panel shall be informed that the Allegation will be investigated by the FRC.

13.4 Where the Conduct Committee determines that the Allegation should not be investigated under the FRC Scheme:

(a) any action in relation to that Allegation under the Disciplinary Scheme may be recommenced; and

(b) the Respondent, the person who made the Allegation, the Investigation Actuary, the Disciplinary ~~Board~~ Committee and, if appropriate, the Adjudication Panel shall be informed that investigation of the Allegation under the Disciplinary Scheme has resumed.

Referral of cases to the Conduct Committee prior to an investigation under the Disciplinary Scheme

13.5 Where an Allegation is received by the Institute and Faculty of Actuaries that relates to matters that are the subject of an investigation under the FRC Scheme no action shall be taken by the Institute and Faculty of Actuaries in relation to that Allegation under the Disciplinary Scheme.

13.6 Where the Chair of the Pool of Investigation Actuaries considers that the Allegation should be referred for consideration under the FRC Scheme she/he shall refer the Allegation to the Conduct Committee to determine whether or not to accept the referral.

13.7 Where the Conduct Committee decides to accept a referral under rule 13.6 the Chair of the Pool of Investigation Actuaries shall:

(a) take no further action under the Disciplinary Scheme in relation to the Allegation; and

(b) inform the Respondent, the person who made the Allegation, and the Disciplinary ~~Board~~ Committee that the Allegation will be investigated by the FRC .

13.8 Where the Conduct Committee declines to accept a referral made under rule 13.6, the Chair of the Pool of Investigation Actuaries shall proceed under rule 5.3 of the Disciplinary Scheme with the investigation of the Allegation.

Referral of cases to the Conduct Committee during an investigation under the Disciplinary Scheme

13.9 Where, at any stage during the course of an investigation, it appears to the Case Manager and/or Investigation Actuary that it is appropriate that an Allegation is referred for consideration under the FRC Scheme, the Case Manager and/or Investigation Actuary shall immediately refer the Allegation to the Chair of the Pool of Investigation Actuaries.

13.10 Upon receipt of a referral under rule 13.9, where the Chair of the Pool of Investigation Actuaries considers that the Allegation should be referred for consideration under the FRC Scheme, she/he shall:

(a) forthwith suspend any further investigation of the Allegation under the Disciplinary Scheme; and

(b) proceed in accordance with rules 13.6 and 13.7.

13.11 Where the Conduct Committee declines to accept a referral under rule 13.10, the Chair of the Pool of Investigation Actuaries shall, in accordance with rule 5.3, assign the Allegation to an Investigation Actuary to recommence investigation under the Disciplinary Scheme. Any assignment under this rule may be to the Investigation Actuary who acted under rule 13.9, or to an Investigation Actuary newly appointed under rule 5.6.

Referral of cases to the Conduct Committee by an Adjudication Panel

13.12 Before making any determination under rule 6.4, if the Adjudication Panel considers that any matter raised by the Allegation included in a Case Report should be referred for consideration under the FRC Scheme, the Chair of the Adjudication Panel shall:

(a) refer the Allegation to the Conduct Committee to determine whether or not to accept the referral; and

(b) adjourn consideration of the Case Report and notify the Respondent, the person who made the Allegation and the Investigation Actuary accordingly.

13.13 Where the Conduct Committee decides to accept the referral under 13.12 the Chair of the Adjudication Panel concerned shall:

(a) arrange for the Adjudication Panel to take no further action under the Disciplinary Scheme in relation to the Case Report; and

(b) inform the Respondent, the person who made the Allegation, the Investigation Actuary and the Disciplinary ~~Board~~Committee, that the Allegation will be investigated by the FRC.

13.14 Where the Conduct Committee declines the referral made under rule 13.12:

(a) an Adjudication Panel shall resume consideration of the Case Report under the Disciplinary Scheme; and

(b) the Convener of Adjudication Panels shall determine whether the Adjudication Panel should be the Panel which acted under rule 13.12 or a Panel newly appointed for the purpose.

Referral of cases to the Conduct Committee prior to a referral under rule 4.21

13.15 Before proceeding under rule 4.21 the Executive Officer shall first consider whether, having regard to all the circumstances, it is appropriate that the matter is referred to the FRC Scheme and, if so, she/he shall refer the matter for decision by the Conduct Committee whether to accept the referral.

13.16 Where the Conduct Committee decides to accept the referral, the Executive Officer shall:

(a) take no further action under these Schemes in relation to the matter; and

(b) inform the Respondent and the Disciplinary ~~Board~~ Committee of the referral.

13.17 Where the Conduct Committee declines the referral the Executive Officer shall proceed under rule 4.21.

Enforcement of FRC sanctions and findings

13.18 Subject to rule 13.19, any finding made or sanction imposed under the FRC Scheme shall be put into effect, for the purposes of enforcement only, as if it were made or imposed under the Disciplinary Scheme.

13.19 Rule 13.18 only has effect in relation to a finding or sanction against which there is no possibility of appeal within the FRC Scheme, either because all routes of appeal have been exhausted or because no notice of appeal against the finding made or sanction imposed has been received by the Conduct Committee within the time limit set out under the FRC Scheme.

Enforcement of costs awarded by the FRC

13.20 Where costs are awarded against a Member in accordance with the FRC Scheme, that Member shall pay the costs so ordered in accordance with the FRC Scheme.

SECTION III – CAPACITY FOR MEMBERSHIP SCHEME

14. General

14.1 The rules set out in this section shall apply where a transfer is made pursuant to Part 9 of the Disciplinary Scheme.

14.2 Upon the transfer of a matter under Part 9 of the Disciplinary Scheme, the Capacity for Membership Panel shall consider all of the relevant evidence before it and shall decide whether the facts of the allegations are proven and whether the current capacity of the Respondent to be a Member is materially impaired by reason of illness or other relevant health or medical condition, such impairment being directly relevant to the allegation or charge.

15. Pre Hearing Matters

15.1 Where a matter is transferred under Part 9 of the Disciplinary Scheme a Capacity for Membership Panel shall be convened in accordance with rule 9.3.

15.2 The Capacity for Membership Panel may, in accordance with rule 3.5 of these Schemes, receive and consider evidence, including expert medical evidence, presented to it by the Parties. The Capacity for Membership Panel may separately request that the Institute and Faculty of Actuaries and/or the Respondent obtain any such evidence, expert or otherwise, as it considers most suitable for the clarification of the issues and generally for the just handling of the proceedings before it. Any such evidence shall be disclosed to the Parties. The Capacity for Membership Panel shall have discretion over what documents it considers admissible as evidence, and what weight to accord evidence accepted as admissible, however the following shall normally be relevant to proceedings under the Capacity for Membership Scheme: the Respondent's medical records,

expert medical reports and reports from any medical adviser or health professional involved in the treatment of the Respondent.

15.3 At any stage the Capacity for Membership Panel may appoint a member of the Legal Advisers Pool to assist in any matters of law or procedure. Such adviser may be present at any hearing. Any advice given to the Capacity for Membership Panel must be made available to the Parties, who shall be given the opportunity to comment upon such advice.

15.4 The Respondent shall be given at least 21 days' notice of any hearing date.

16. Interim Orders

16.1 Where there is alleged Misconduct the Case Manager and/or Investigation Actuary may at any time up to a hearing by the Capacity for Membership Panel submit to an Interim Orders Panel an application for an Interim Order together with the Allegation and/or a Case Report and/or any relevant material in support of the application.

16.2 The procedure and rules for an application for an Interim Order under this Part 16 shall be consistent with the procedure and rules under Part 5 of the Disciplinary Scheme. Rules 5.26 to 5.42 shall be read accordingly in that light and references to Disciplinary Tribunal Panels, in this context, shall be read as references to the Capacity for Membership Panel.

16.3 Where a Respondent has been made subject to an Interim Order prior to her or his case being transferred to the Capacity for Membership Scheme, the Interim Order shall continue to have effect until such time as any of the events set out in rule 5.27 of the Disciplinary Scheme takes place.

17 Consent Orders

17.1 At any stage after a matter has been transferred to the Capacity for Membership Scheme under Part 9 of the Disciplinary Scheme, the Case Manager may invite the Respondent to agree a provisional consent order to conclude proceedings.

17.2 The provisional consent order shall be drafted by the Case Manager and shall propose one or more of the outcomes available to the Capacity for Membership Panel under Part 19 below.

17.3 The Respondent shall be invited to agree the provisional consent order and she or he must confirm her or his agreement in writing.

17.4 Once agreed, the provisional consent order shall be put before the Capacity for Membership Panel. The Capacity for Membership Panel shall meet in private to consider the provisional consent order and determine whether to approve or reject the order in whole or in part.

17.5 After a full consideration of the provisional consent order the Capacity for Membership Panel may determine the matter by:

(a) Approving the provisional consent order; or

(b) Rejecting the provisional consent order and directing that the matter should proceed as normal under the Capacity for Membership Scheme; or

(c) Varying the consent order with the consent of the Parties.

17.6 The Capacity for Membership Panel shall provide written reasons to the Parties for its decision to grant, reject or vary the provisional Consent Order.

17.7 Nothing in this Part 17 shall delay the convening of a Capacity for Membership Panel to hear a substantive matter under the Capacity for Membership Scheme rules.

18. Hearings

18.1 Hearings of the Capacity for Membership Panel shall be in private.

18.2 Where a Respondent fails to attend in person or be represented at a hearing, the matter may be heard in the Respondent's absence provided that the Capacity for Membership Panel is satisfied that it is in the interests of justice to do so.

19. Outcomes

19.1 After full consideration of all of the relevant evidence before it, the Capacity for Membership Panel will make findings on the facts and the Respondent's current capacity to hold membership and then may direct one or more of the following outcomes:

(a) No action is appropriate under the Capacity for Membership Scheme;

(b) Membership of the Institute and Faculty of Actuaries to be suspended for any period the Capacity for Membership Panel thinks appropriate up to a maximum of two years;

(c) Membership of the Institute and Faculty of Actuaries to continue but to have special conditions attached to it for a specified period; or

(d) The matter in whole or in part should be considered under the Disciplinary Scheme. In these circumstances the Capacity for Membership Panel shall make any directions that it sees fit.

19.2 The decision of the Capacity for Membership Panel shall be communicated to the Respondent and the Institute and Faculty of Actuaries forthwith after the hearing. This shall be done in writing, and shall include a statement of the Capacity for Membership Panel's reasons for the conclusions it has drawn.

19.3 The effective date for the purposes of any appeal shall be the date the decision of the Capacity for Membership Panel is served on the Respondent in writing.

20. Review Hearings

20.1 Before the expiry of any order made under Part 19 above, a Capacity for Membership Panel shall review the order and may, subject to rule 20.5 below, direct any one or more of the following outcomes:

(a) Confirm the existing order;

(b) Extend or reduce the remainder of the term for which the existing order has effect;

(c) Vary the terms of the existing order or replace the order for a specified period with any one or more of the outcomes falling under Part 19 above;

(d) Revoke the existing order in whole or in part either with immediate effect or on expiry of the term of the order;

(e) Set a recommended period before the expiry of which no early review application can be made.

20.2 On cause shown, a review hearing may take place after the expiry of any order made under Part 19 above, provided that the Respondent has been notified of the date of the review hearing prior to the expiry of the order.

20.3 The Respondent or the Institute and Faculty of Actuaries may apply to the Judicial Committees Secretary for a review of the suspension, conditions or other order made by the Capacity for Membership Panel under this Part 19 above at any time prior to the expiry of that order, provided that:

(a) Either Party is able to demonstrate that new information relevant to the substantive order has come to light or that there has been a material change in circumstances that warrants an early review of the order; and

(b) Subject to rule 20.4 below, no review hearing has taken place in the previous 6 months.

20.4 Where there is evidence that the Respondent has failed to comply with the terms of the substantive order made by the Capacity for Membership Panel, the Institute and Faculty of Actuaries shall be entitled to apply to the Judicial Committees Secretary for an early review of the order.

20.5 The Capacity for Membership Panel may not extend an order by more than two years at any time.

20.6 The Capacity for Membership Panel shall give written reasons for its decision.

21. Appeal against the outcome of a Capacity for Membership Panel hearing

21.1 The Respondent may by notice in writing seek leave to appeal against the decision of the Capacity for Membership Panel, such notice to be served upon the Judicial Committees Secretary no later than 28 days after the decision appealed against is deemed served on the Respondent.

21.2 The Chair of the Appeal Tribunal may grant permission to appeal if supportable grounds are made in writing.

21.3 The Notice shall state the grounds of appeal. The grounds so stated may only be amended, reasonable cause having been shown, with the permission of the Appeal Tribunal Panel appointed to decide the appeal. If no such panel has yet been appointed, the Chairman of the Appeal Tribunal shall decide this point.

21.4 The Respondent may appeal on any one or more of the following grounds:

(a) that the decision of the Capacity for Membership Panel was manifestly unreasonable, or wrong in law; and/or

(b) that there was injustice because of a serious procedural or other irregularity in the proceedings before the Capacity for Membership Panel; and/or

(c) that significant and relevant new evidence has come to light which was not previously available to the Respondent and could not have become available to him on the making of reasonable enquiry.

21.5 The procedure and rules for any appeal under the Capacity for Membership Scheme shall otherwise be consistent with the procedure and rules for appeal against a determination of the Disciplinary Tribunal Panel under the Disciplinary Scheme. Rules 11.1 to 11.35 shall be read accordingly in that light and references to Disciplinary Tribunal Panels, in this context, shall be read as references to the Capacity for Membership Panel.

21.6 The Appeal Tribunal Panel shall have discretion to appoint hearings and conduct the appeal in such a manner as it considers appropriate consistent with the principles of natural justice.

21.7 The Appeal Tribunal Panel may decide the appeal by;-

(a) Refusing the appeal; or

(b) Granting the appeal in whole or in part, imposing such other decision or directions as it sees fit, provided that such decision or directions are consistent with the powers which would have been available to the Capacity for Membership Panel originally seized of the matter under rule 19.1.

21.8 The appeal shall be conducted in private. The Appeal Panel shall have discretion in deciding whether to publish its decision, and in what form.

SECTION IV – COMMENCEMENT, TRANSITION AND DEFINITIONS

22. Commencement and transitional provisions

Commencement

22.1 The provisions of this version of these Schemes shall come into force on ~~1 February 2018~~1 June 2021 and shall be applicable, as amended from time to time, to all matters arising from allegations received under rules 5.2 or 4.21, at or after that point in time.

Transitional provisions

22.2 Subject to rule 22.3, all matters arising from allegations received under rules 5.2 or 4.21 prior to the date on which this version of the Disciplinary Scheme comes into force shall be dealt with by the Institute and Faculty of Actuaries in accordance with the version of the Disciplinary Schemes (being the former Disciplinary Schemes of the Faculty and the Institute) in force and applicable at the date on which the allegation was received; and the provisions of all such versions of the Disciplinary Schemes shall continue in force for the purpose of the consideration and determination of any such matter. Such versions and schemes are for this purpose to be applied by the Institute and Faculty of Actuaries subject only to such changes as may be reasonable and necessary, consistent with their being applied as nearly as possible in the manner in which they required to be applied by the Faculty or the Institute.

22.3 Allegations received under rules 5.2 or 4.21 prior to the date on which this version of the Disciplinary Scheme comes into force may however alternatively be considered from that date in accordance with the provisions of the Disciplinary Scheme, subject to the consent of the respondent.

23. Definitions of terms used in these Schemes

In these Schemes, unless the context otherwise requires: 'Adjudication Panel' means a panel appointed under rule 2.22; 'Advisory Report' means a report referred to in rules 5.21 and 5.23;

'Allegation' means a statement in writing addressed to the Institute and Faculty of Actuaries containing an allegation or allegations to the effect that a named Member has or may have been guilty of Misconduct or a referral by the Executive Officer under rule 4.21, and includes such an Allegation relating to a person whose membership is suspended under the Disciplinary Scheme;

'Appeals Tribunal' means the Appeals Tribunal referred to in rule 2.32;

'Appeal Tribunal Panel' means a panel of the Appeals Tribunal appointed under rule 2.35;

'Applicant' means a former Member, who has been expelled or excluded from membership and is applying for readmission to membership;

'Appellant' means a Respondent who appeals against a determination of a Disciplinary Tribunal Panel, an Interim Order, and/or a refusal of readmission to membership, where leave to appeal is granted, all under Part 8;

'Application' means an application by a Case Manager and/or Investigation Actuary and/or Respondent to an Adjudication Panel, Disciplinary Tribunal Panel or Appeal Tribunal Panel to have a matter considered by a Capacity for Membership Panel

'Appropriate person' means a person of good character who is fit to carry out a role under the Disciplinary Scheme;

'Bye-laws' means the Bye-laws of the Institute and Faculty of Actuaries in force from time to time;

'Capacity for Membership Panel' means a panel referred to in rule 2.28;

‘Case Manager’ means a person appointed by the management of the Institute and Faculty of Actuaries to manage the investigation of an Allegation, and any subsequent referrals to an Interim Orders Panel, or Disciplinary Tribunal Panel or Appeals Tribunal Panel, with advice and assistance from an Investigation Actuary;

‘Case Report’ means a report referred to in rule 5.14;

‘Certificate’ means any certificate issued by the Institute and Faculty of Actuaries pursuant to its Practising Certificates Scheme;

‘Charge’ means a formal allegation that a Member has been guilty of Misconduct defined in the document prepared by the Investigation Actuary under rule 6.16;

‘Chief Executive of the Institute and Faculty of Actuaries’ means the person appointed by the Council for the purpose of submitting reports to the Disciplinary ~~Board~~ Committee ~~pursuant to rule 2.41(g)~~ on behalf of the Institute and Faculty of Actuaries;

‘Conduct Committee’ means the Conduct Committee of the FRC, established under the FRC’s articles of association.

‘Council’ means the Council of the Institute and Faculty of Actuaries;

~~‘Disciplinary Appointments Committee’ means the committee appointed in rule 2.1;~~
‘Disciplinary ~~Board’~~ Committee’ means the ~~board referred to in rule 2.36~~Disciplinary Committee of the Institute and Faculty of Actuaries;

‘Disciplinary Pool’ means the pool referred to in rule 2.8; ‘Disciplinary
‘Tribunal Panel’ means a panel referred to in rule 2.26;

‘Executive Officer’ means the Chief Executive of the Institute and Faculty of Actuaries or such other person as nominated by the Chief Executive;

‘Faculty’ means The Faculty of Actuaries in Scotland;

‘Fellow’ means a Fellow of the Institute and Faculty of Actuaries;

‘FRC’ means the Financial Reporting Council Limited, a company limited by guarantee incorporated in England and Wales, number 2486368.

‘FRC Scheme’ means the disciplinary scheme of the FRC for the Actuarial Profession, originally adopted by the Accountancy and Actuarial Discipline Board on and with effect from 13 September 2007, as amended from time to time.

‘Independent Examiner’ means the person appointed under rule 2.17;
‘Institute’ means the Institute of Actuaries;

‘Interim Order’ means an order provided for in rule 5.26;

‘Interim Orders Panel’ means a panel referred to in rule 2.20;

‘Investigation Actuary’ means an investigation actuary referred to in rule 5.3;

‘Lay member’ means a person who is not and has never been a Member, or an Overseas Fellow Equivalent;

‘Lead Investigation Actuary’ means a member of the Investigation Actuaries Pool nominated under rule 5.5;

‘Legal Advisers Pool’ means the pool of barristers, advocates and solicitors nominated under rule 2.45;

‘Memorandum of Understanding’ means an agreement entered into between, on the one hand, the Institute and Faculty of Actuaries and, on the other hand, the FRC which provides, amongst other things, for the FRC to issue standards and the Institute and Faculty of Actuaries to

recognise those standards in its Disciplinary Scheme;

'Member' means a member of the Institute and Faculty of Actuaries of any class other than an Honorary Fellow ***or an Affiliate whose current membership began on or after 27 January 2021***. For the purposes of any Allegations of a breach of the duty of a Member to co-operate, set out in rules 4.15, 4.16, 4.18, 4.19 and 5.11(a) – (c), the term 'Member' includes former Members of the Institute and Faculty of Actuaries who are currently the subject of disciplinary action under the Scheme.

'Misconduct' means misconduct under rule 4.2;

'Overseas Fellow Equivalent' means a person possessing a qualification which the ~~Disciplinary~~ Regulatory Appointments Committee considers to be the local equivalent of the Institute and Faculty of Actuaries' Fellowship obtained from an overseas actuarial regulatory body which is a full member of the International Actuarial Association;

'Party/Parties' means a Respondent or the Case Manager, as the case may be;

'Pool of Investigation Actuaries' means the pool referred to in rule 2.13;

'Primary Professional Regulator' means another actuarial regulatory body outside the United Kingdom which is a full member of the International Actuarial Association and has been properly nominated by a Member in accordance with regulations prescribed by the Institute and Faculty of Actuaries for this purpose;

'Regulatory Appointments Committee' means the Regulatory Appointments Committee of the Institute and Faculty of Actuaries

'Respondent' means the Member whose conduct is the subject of the matter of an Allegation or an investigation by or proceedings before an Interim Orders Panel, Adjudication Panel, Disciplinary Tribunal Panel, Capacity for Membership Panel or Appeal Tribunal Panel or an investigation or proceedings under the FRC Scheme.

'Rule' means a rule of these Schemes;

'Schemes' means the Disciplinary Scheme referred to in the Bye-laws and incorporated into the Rules of the Institute and Faculty of Actuaries, together with the Capacity for Membership Scheme.